



Danish Energy Agency

# TENDER SPECIFICATIONS

Contract on subsidy for carbon capture,  
transport and Storage



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# Invitation to tender for Contract on subsidy for carbon capture, transport and Storage

## 1. INTRODUCTION

The Tender specifications provide guidelines for participation in the tender procedure, including information regarding the tender documents, communication between the tenderer and the DEA, information regarding the prequalification, submission of offers, information about the negotiations and the tender procedure in general.

Capitalised terms used in the Tender specifications shall have the meaning ascribed to them in Appendix 2, Definitions.

## 2. THE CONTRACT

With the agreement on a strengthened framework for CCS in Denmark (in Danish: "*Aftale om styrkede rammevilkår for CCS i Danmark*") of 20 September 2023, a majority of the Danish Parliament decided to merge the second phase of the CCUS fund<sup>1</sup> and the GSR fund<sup>2</sup> into one combined fund, the "CCS Fund". In June 2024, a political decision was made to deploy the CCS Fund through one single competitive bidding process.

This call for tenders concerns the deployment of the CCS Fund.

The purpose of the CCS Fund is to achieve CO<sub>2</sub> emission reductions and/or negative emissions by Storing Fossil CO<sub>2</sub> and/or Biogenic CO<sub>2</sub> or Atmospheric CO<sub>2</sub>. The overarching aim of the CCS Fund is thus to contribute to the realization of Denmark's climate targets as outlined in the Danish Climate Act (in Danish: "*Klimaloven*").

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<sup>1</sup> As established by the Danish Climate Agreement for Energy and Industry of 22 June 2020

<sup>2</sup> As established by the Agreement on green tax reform for industry of 24 June 2022



The DEA wishes to enter into one or more contract(s) pursuant to which the recipient(s) of the subsidies (each recipient “the Operator”) shall ensure and be responsible for achieving the CO<sub>2</sub> emission reductions and/or negative CO<sub>2</sub> emissions (“the Contract”).

As described in the tender documents, the Operator shall each year from 2030 until (and including) 2044 capture and Store a fixed quantity of CO<sub>2</sub> (“Annual Quantity”). The Operator may also offer to capture and Store CO<sub>2</sub> from 1 January 2029 at the earliest until (and including) 31 December 2029 (“2029-Quantity”).

These quantities are to be specified by the tenderer in the offer in Appendix 6, Offered Rate, Contracted Quantity & baselines.

The Operator may base their project on CO<sub>2</sub> capture from one point source or direct air capture plant, a combination of point sources or direct air capture plants or a portfolio of several point sources or direct air capture plants. The Operator may be any economic operator or a group of operators willing to assume the responsibility for achieving the CO<sub>2</sub> emission reductions and/or negative CO<sub>2</sub> emissions in accordance with the Contract by performing the Contract by itself and/or by engaging Sub-Suppliers.

The total maximum available subsidy of the CCS Fund is DKK 28,659,200,000 (2025-prices, including VAT and including potential derived tax losses (in Danish: “*afledt afgiftstab*”)) covering the period from (and including) 2029 to (and including) 2044. The CCS Fund shall cover potential derived tax losses that stem from the award of Contract(s) to tenderers who will avoid national CO<sub>2</sub> related taxes by capturing and Storing their CO<sub>2</sub> emissions. As such, the total available annual funds depend on the composition of the final contract recipient(s). The total available annual funds for the period 2029-2044 can, at most,<sup>3</sup> be DKK 1,791,200,000 (2025-prices, including VAT).

**CCS fund budget 2029-2044, DKK incl. VAT and potential derived tax losses in 2025-prices**

Annual fund budget, 2029-2044	1,791,200,000
The total fund budget	28,659,200,000

The Subsidy will be paid per tonne CO<sub>2</sub> captured and Stored in accordance with the Contract. The Offered Rate per tonne CO<sub>2</sub> will be adjusted throughout the contract period as described in Appendix 5, Subsidy and economy scheme.

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<sup>3</sup> If none of the contract recipient(s) are subject to national CO<sub>2</sub> related taxes.



The DEA will award one or more Contract(s) dependent on the available funds based on the received offers. The Contract is not divided into predefined lots. The DEA considers that the funds are deployed most efficiently with Contract(s) covering the full Value Chain, in order to realize the required CO<sub>2</sub> emission reductions and/or negative emissions, and by leaving the award of one or more Contracts to the market's ability to capture and Store different quantities of CO<sub>2</sub> (with a minimum of 100,000 tonnes annually from 2030-2044) within the available funds.

### **3. THE TENDER PROCEDURE**

The conclusion of one or more Contracts is conducted as a competitive bidding process, where all economic operators may apply for prequalification, and only the economic operators who have been prequalified by the DEA, are invited to submit first Indicative Offer (INDO) and to participate in the negotiation phase, i.e. as a negotiated procedure, and in accordance with the general principles of the Danish Public Procurement Act.

The granting of subsidy under the CCS Fund constitutes State aid for climate and environmental protection and is prepared following the European Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (CEEAG)<sup>4</sup>. The designation of the Contract(s) as a service contract in the contract notice etc. does not change this. The DEA will notify the CCS Fund to the European Commission as an aid scheme in accordance with the procedure prescribed by Article 108 of Treaty on the Function of the European Union (TFEU)<sup>5</sup>, and the granting of subsidy and conclusion of one or several Contracts under the CCS Fund is dependent on the European Commission's prior approval.

The DEA will cancel the tender procedure if the approval from the European Commission is not obtained, or if the European Commission stipulates conditions for the approval, which necessitate changes to fundamental elements of the tender documents. Reference is also made to paragraph 18 regarding a general reservation to cancel the tender procedure.

The basis for the choice of procedure is that the DEA considers that the needs of the DEA cannot be met without adaptation of solutions already available; that the Contract includes design or innovative solutions; that the Contract cannot be awarded without prior negotiation due to the special circumstances related to its nature and complexity, its legal and financial aspects and the associated risks; and that the DEA cannot define the technical specifications with sufficient precision by reference to a standard etc., see section 61(1), para a-d, of the Danish Public Procurement Act.

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<sup>4</sup> Communication from the Commission, Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01) (CEEAG).

<sup>5</sup> Consolidated version of the Treaty on the Function of the European Union of 9 May 2008 (2008/C 115/91) (TFEU).



In essence, the tender procedure encompasses a very significant and complex subsidy scheme on a market which is immature and under development. The DEA has conducted two previous tender procedures for subsidy schemes regarding CCS<sup>6</sup>, but both in terms of procedural and material aspects there are fundamental differences between those subsidy schemes and this subsidy scheme, and all three subsidy schemes are subject to their own separate state aid approval. At the same time, the tender is expected to attract attention from both private and public economic operators, and there are simultaneous and ongoing legislative processes regarding CCS. This necessitates that the DEA is able to negotiate various aspects of both the tender documents and the offers received and to make potentially significant changes to the tender documents in order to ensure an efficient deployment of the CCS Fund.

As stated in the contract notice, all requirements that are not Minimum Requirements may therefore be subject to negotiation and may be changed or withdrawn during the tender procedure according to the DEA's decision. Thus, the DEA encourages all economic operators who can comply with the Minimum Requirements (and fulfil the minimum requirement for participation, see the contract notice) to apply for prequalification, even if the economic operator cannot comply with all General Requirements.

Reference is also made to paragraph 14.2 below and Appendix B, Negotiation plan, regarding the expected topics for negotiation.

The number of candidates to be invited to tender is set to 10 as specified in the contract notice. The DEA has set the number of candidates to support an effective competition and taking into account that the DEA will award one or more Contracts based on the market's ability to capture and Store different quantities of CO<sub>2</sub> (with a minimum of 100,000 tonnes annually from 2030-2044) within the available funds.

#### 4. EXPECTED TIME SCHEDULE FOR THE TENDER PROCEDURE

The expected time schedule for the tender procedure is stipulated below:

Timing	Activity
7 October 2024	Date of the electronic transmission of the contract notice to Tenders Electronic Daily
21 November 2024	Information meeting prior to the deadline for submission of requests for participation, see paragraph 9.
10 March 2025, 23:59 Danish time (time zone CET)	Deadline for questions regarding requests for participation

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<sup>6</sup> The first tender procedure was published in June 2022 and the second tender procedure was published in August 2023



	Questions asked after this date will be answered if they are received in time for the DEA to communicate the answers within six days before expiry of the deadline for submission of requests for participation, see paragraph 8.
25 March 2025, 13:00 Danish time (time zone CET)	Deadline for submission of requests for participation, see the contract notice and paragraph 10.
9 May 2025	Estimated date of decision regarding selection of economic operators
27 May 2025	Information meeting prior to the deadline for submission of the first Indicative Offer (INDO), see paragraph 9.
6 August 2025, 23:59 Danish time (time zone CEST)	Requested time for submission of comments to the tender documents (Appendix C, Template for the tenderer's comments to the tender documents), see paragraph 11.
11 August 2025, 13:00 Danish time (time zone CEST)	Deadline for questions regarding submission of first Indicative Offer (INDO).  Questions asked after this date will be answered if they are received in time for the DEA to communicate the answers within six days before expiry of the deadline for submission of INDO, see paragraph 8.
26 August 2025, 13:00 Danish time (time zone CEST)	Deadline for submission of first Indicative Offer (INDO), see paragraph 12.
6 October 2025 – 14 November 2025	Negotiations and expected release of final tender documents, see paragraph 14.
TBD	Deadline for questions regarding submission of Best and Final Offer (BAFO), see paragraph 8.
17 December 2025, 13:00 Danish time (time zone CET)	Estimated deadline for submission of Best and Final Offer (BAFO), see paragraph 12.
April 2026	Estimated timing of decision regarding award of the Contract(s)

The expected time schedule is based on the DEA's expectation that only one negotiation round is conducted. However, if deemed necessary, the DEA may ask the tenderers to submit subsequent (new or revised) Indicative Offers (e.g. INDO2, INDO3 etc.) after the negotiation round based on the first Indicative Offer (INDO), see paragraph 14.

The actual time schedule may end up varying from the expected time schedule stipulated above.

The DEA will communicate any deviations to the time schedule to all economic operator / tenderers participating in the tender procedure.



## 5. THE TENDER DOCUMENTS

The tender documents form the basis of tenderer's submission of both the first Indicative Offer (INDO), any subsequent Indicative Offers (e.g. INDO2, INDO3 etc.) and Best and Final Offer (BAFO) and for conducting negotiations. The tender documents are available via the electronic tendering system.

The tender documents consist of the following documents:

- Contract notice
- Guide to the ESPD
- These Tender specifications
- Appendices to the **Tender specifications**:
  - Appendix A: Evaluation of offers
  - Appendix B: Negotiation plan
  - Appendix C: Template for the tenderer's comments to the tender documents
  - Appendix D: Template for offer submission letter
  - Appendix E: Letter of commitment
  - Appendix F: Notification of processing of personal data
  - Appendix G: Declaration of intent regarding a performance and warranty guarantee
- Draft of **Contract**
- Draft of Appendices 2-3 and 5-11 of the **Contract** which will become part of the Contract when the tender procedure is concluded:
  - Appendix 1: European Commission's Decision SA [no] of [date] [*draft is not part of nor enclosed the tender documents*]
  - Appendix 2: Definitions
  - Appendix 3: Requirements specification
  - Appendix 4: The Operator's Solution Description [*draft is not part of nor enclosed the tender documents*]
    - Sub-appendix 4.A: Project Description [*draft is not part of nor enclosed the tender documents*]
    - Sub-appendix 4.B: Project Schedule [*draft is not part of nor enclosed the tender documents*]
    - Sub-appendix 4.C: Authority Approval Plan [*draft is not part of nor enclosed the tender documents*]





- Sub-Appendix 4.D: Risk Management Plan [*draft is not part of nor enclosed the tender documents*]
- Appendix 5: Subsidy and economy scheme
  - Sub-appendix 5.A: Illustration of timeline for forecast, invoicing & Annual Settlement
  - Sub-appendix 5.B: Examples of Subsidy Rate & Annual Settlement Calculations
- Appendix 6: Offered Rate, Contracted Quantity & baselines
- Appendix 7: Code of conduct
- Appendix 8: Change management
- Appendix 9: Contact Persons
- Appendix 10: Information about Sub-Suppliers
- Appendix 11: Model performance and warranty guarantee
- Appendix 12: The Operator's offer submission letter [*template is enclosed the tender documents as Appendix D*]
- Appendix 13, Final performance and warranty guarantee [*draft is not part of nor enclosed the tender documents but model performance and warranty guarantee is enclosed the tender documents as Appendix 10*]
- Appendix 14, Letter of commitment [*template is enclosed the tender documents as Appendix E*]

If the tenderers should identify aspects of the tender documents that appear inappropriate, including matters that are assessed to constitute substantial risk or cost factors or are commercially inappropriate, the tenderers are requested to use the table in Appendix C, Template for the tenderer's comments to the tender documents, see paragraph 11 below.

The DEA may make changes and clarifications to the tender documents, see paragraph 14.2.

## 6. REQUIREMENTS METHODOLOGY

The DEA has divided the requirements in the tender documents into Minimum Requirements and General Requirements.

Minimum Requirements (MR) (*in Danish: "mindstekrav"*) refer to the DEA's fundamental needs. Minimum Requirements (MR) are mandatory requirements which cannot be changed during the tender procedure but see paragraph 14.2 regarding changes to the tender documents. It is stated in the tender documents, see Appendix 3, which requirements are Minimum Requirements.

General Requirements (R) mean all other requirements set out in the tender documents by the DEA that are not Minimum Requirements. All requirements that are not Minimum Requirements, such as the provisions of the Contract, may be subject to negotiation, and may be changed or withdrawn according to the DEA's decision, see paragraph 14.2 regarding changes to the tender documents.



Minimum Requirements (MR) and General Requirements (R) must be complied with by the tenderers in the offer, but see paragraph 13.2 and 15.3 regarding reservations in the first Indicative Offer (INDO) respectively the Best and Final Offer (BAFO). Minimum Requirements (MR) and General Requirements (R) are not included in the evaluation of offers.

## **7. COMMUNICATION**

All communication between the tenderer and the DEA in connection with the tender procedure, including questions regarding the tender documents, must be in English and must be submitted via Digital Tendering System (in Danish: "*Digitale Udbud*") (the electronic tendering system).

The electronic tendering system is accessed via the link: <https://eu.eu-supply.com/login.asp?B=KA>

The tenderer logs in with the same user profile as used for the prequalification application.

The tender procedure is accessed under the tab "Ongoing procedures". If not already registered as a user, the tenderer may do so under "Online registration". When the tenderer is logged on to the electronic tendering system, this procedure is accessed via "Public RFTs" (requests for tenders). The tenderer may sign up for alerts to receive e-mail notices when new information regarding the procedure is available, e.g. questions. However, the tenderer is advised to stay updated by regularly accessing the electronic tendering system.

If the tenderer should encounter problems with the electronic tendering system, the tenderer may contact technical support, either by e-mail [dksupport@eu-supply.com](mailto:dksupport@eu-supply.com) or telephone (+45) 70 20 80 14.

## **8. QUESTIONS**

The written questions of the tenderers, and the DEA's answers, will be regularly communicated in an anonymised form via the electronic tendering system to all tenderers participating in the procedure. Tenderers are encouraged to submit questions in anonymised form.

The following deadlines shall apply:

- Questions regarding submission of requests for participation must be submitted no later than at the time specified in paragraph 4.
- Questions regarding submission of first Indicative Offer (INDO) must be submitted no later than at the time specified in paragraph 4.

In the DEA's invitation to the tenderers to submit Best and Final Offer (BAFO), the DEA will set a deadline for questions regarding submission of BAFO.



Questions submitted after the specified date will be answered, if they are received in time for the DEA to communicate the answers within six days before expiry of the deadline for submission of requests for participation, respectively the deadline for submission of INDO or BAFO.

Questions received later than six days before expiry of the deadline for submission of requests for participation, respectively the deadline for submission of INDO or BAFO, cannot be expected to be answered, unless the deadline for submission of INDO is also postponed, see section 93(4) of the Danish Public Procurement Act.

## **9. INFORMATION MEETING**

The DEA expects to hold an information meeting prior to the deadline for submission of requests for participation on the date specified in paragraph 4. The information meeting is relevant for all economic operators interested in participating in the tender procedure. The specific time of the day for the information meeting will be communicated to all economic operators / tenderers via the electronic tendering system.

Further, the DEA expects that an information meeting will be held prior to the deadline of the first Indicative Offer (INDO) on the date specified in paragraph 4. The information meeting is only relevant to candidates who have been prequalified by the DEA and invited to submit an INDO. The specific time of the day for the information meeting will be communicated to tenderers via the electronic tendering system.

The information meetings will be held at Energistyrelsen (Danish Energy Agency), Carsten Niebuhrs Gade 43, 1577 København V. The DEA expects that it will be possible to participate in the meeting online.

For practical reasons, economic operators / tenderers interested in participating in the meeting in person are asked to sign up via the electronic tendering system by sending the DEA a message no later than 2 working days before the meeting with indication of name of business and number of participants. The economic operator / tenderer is also asked to inform if the economic operator / tenderer wishes to participate in the meeting online. If the economic operator/tenderer wishes to participate online, they may sign up until 1 working day before the meeting. The DEA may reduce the number of participants per economic operator / tenderer participating in the information meeting.

The DEA will draw up brief minutes of the information meeting, which will be published via the electronic tendering system. The economic operator / tenderer may ask questions during the information meeting. However, if the DEA considers that the question is not suited for a reply during the meeting, the DEA may ask the economic operator / tenderer to put the question in writing in accordance with the procedure set out in paragraph 8.



Any changes to the abovementioned information, including e.g. changes to when the meetings will be held, and any additional information regarding the meetings, will be communicated to the economic operators / tenderers via the electronic tendering system.

The DEA may conduct further information meetings than indicated above, which will be communicated to the economic operators / tenderers via the electronic tendering system.

## 10. PREQUALIFICATION

Information regarding the prequalification is stipulated in the contract notice, including e.g. how to participate in the tender procedure, the deadline for submission of applications for prequalification and the number of candidates the DEA will prequalify, i.e. invite to submit an offer.

Economic operators interested in participating in the tender procedure must apply for prequalification by submission of the ESPD. The ESPD must be completed as described in the contract notice. Reference is also made to Guide to the ESPD.

Applications must be submitted via the electronic tendering system, see paragraph 7. Applications may not be submitted in any other way.

The exclusion grounds applicable in the tender procedure are specified in the contract notice.

The DEA has in the contract notice specified a minimum suitability requirement regarding the candidate's:

- Economic and financial capacity, see the contract notice.

Further, the DEA has in the contract notice specified objective criteria for choosing the limited number of candidates to be invited to tender, see the contract notice.

The candidate must demonstrate fulfilment of the minimum suitability requirement, the objective criteria for choosing the limited number of candidates, and that they are not covered by the applicable exclusion grounds in the ESPD.

The candidate can rely on the technical and professional capacity and/or economic and financial capacity of other entities as further described in the contract notice.

As stated in the contract notice, the candidate is requested to submit a letter of commitment with its application for prequalification, if the candidate relies on the technical and professional capacity and/or economic and financial capacity of other entities, see Appendix E, Letter of commitment. The letter of commitment is to be completed and signed by the operator(s) who make/makes the technical and professional and/or economic



and financial capacity available to the candidate. The letter of commitment(s), if any, will be included in the Contract as Appendix 14, Letter of commitment, when the Contract is signed.

As stated in the contract notice, the candidate is obliged to submit a notification or declaration concerning any financial contributions received from third countries (i.e. non-EU-countries) as part of the candidate's application for prequalification, cf. article 29(1) of Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market.

The obligation to notify or declare foreign financial contributions applies to all economic operators and members of the group of operators (e.g. members of a consortium) if the offer is submitted by such, cf. article 29(5) of Regulation (EU) 2022/2560. Moreover, according to article 29(5) of Regulation (EU) 2022/2560, the obligation also applies to the main subcontractors and main suppliers known at the time of submission of the notification or declaration. A subcontractor or supplier is defined as main<sup>7</sup> if their participation ensures key elements of contract performance and, in any case, if their economic contribution exceeds 20% of the value of the offer, see article 29 (5) of Regulation (EU) 2022/2560. As such, if any of the operator's subcontractors or suppliers ensure key elements of the contract performance **and/or** the economic share of their contribution is expected to exceed 20 % of the value of the future offer, the operator must also submit a notification or declaration from these entities.

A notification is required if the threshold in article 28(1)(b) of Regulation 2022/2560 is exceeded. If the threshold is not exceeded, or if no financial contribution has been received, a declaration is required.

Following article 5(1)-(2) of Commission implementing regulation (EU) 2023/1441 of 10 July 2023 on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation 2022/2560, the notification or declaration must be submitted using the form in Annex II of the Implementing regulation (EU) 2023/1441, the so-called FS-PP form.

The DEA will not publish a template for the notification or declaration. However, the DEA notes that the European Commission Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG Grow) provides an online FS-PP form. A link to the online FS-PP form under the practical information tab on DG GROW's webpage on the Foreign Subsidy Regulation: [https://single-market-economy.ec.europa.eu/single-market/public-procurement/foreign-subsidies-regulation\\_en](https://single-market-economy.ec.europa.eu/single-market/public-procurement/foreign-subsidies-regulation_en).

The DEA encourages candidates to use DG Grow's online FS-PP form. When using the online FS-PP form, candidates can download a PDF version of the completed form, which may be submitted to the DEA as part of their application.

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<sup>7</sup> Please note that this definition is not congruent with definition of Sub-Supplier found in Appendix 2, Definitions.



For the sake of clarity, candidates shall only submit their notification(s) and/or declaration(s) of foreign financial contributions to the DEA. It is then the responsibility of the DEA to submit the notifications or declarations to the European Commission/DG GROW.

The DEA notes, that prequalified candidates will be obliged to update the notification or declaration upon submission of offer, see paragraphs 13.1.5 and 15.

## 11. COMMENTS TO THE TENDER DOCUMENTS

If the tenderers identify aspects of the tender documents that appear inappropriate, including matters that are assessed to constitute substantial risk or cost factors or are commercially inappropriate, the tenderers are requested to use the table in Appendix C, Template for the tenderer's comments to the tender documents.

In the table, the tenderers should state the reasons why the matter(s) concerned is/are identified as substantial risk or cost factors or is/are commercially inappropriate. The tenderers are also requested to suggest alternatives.

The tenderers are requested to submit the completed Appendix C, Template for the tenderer's comments to the tender documents, no later than at the time specified in paragraph 4, via the tab "Message" in the electronic tendering system.

The DEA will use the tenderer's comments to the tender documents as input for the negotiations. The DEA will not answer the tenderers' initial comments to the tender documents in Appendix C, Template for the tenderer's comments to the tender documents, as part of the process for questions and answers, see paragraph 8.

The tenderers may also enclose Appendix C, Template for the tenderer's comments to the tender documents, (e.g. a revised or supplemental version) together with the first Indicative Offer (INDO), see also paragraph 13.

Matters listed in the tenderer's comments to the tender documents (Appendix C, Template for the tenderer's comments to the tender documents) submitted earlier than at the time specified in paragraph 4, and/or enclosed together with the INDO, are not considered to be part of the offer (but a proposal for negotiations), and the list is therefore not considered a reservation either.

The tenderer's Best and Final Offer (BAFO) is not to include the tenderer's possible comments to the tender documents (Appendix C, Template for the tenderer's comments to the tender documents).



## 12. SUBMISSION OF OFFERS

The tenderer's first Indicative Offer (INDO) must be submitted no later than **Tuesday, 26 August 2025 at 13:00 Danish time (time zone CEST)**. INDOs received after this time will be rejected.

The deadline for submission of Best and Final Offer (BAFO) will be stated in the DEA's invitation to submit BAFO. BAFOs received after the deadline specified will be rejected. The deadline for submission of BAFO is expected to be **Wednesday, 17 December 2025 at 13:00 Danish time (time zone CET)**, but at this stage, this is only an estimated date.

The tenderer is only permitted to submit one INDO, and the tenderer is not permitted to submit variant INDOs. In the negotiation phase, however, the DEA may ask the tenderers to submit subsequent (new or revised) Indicative Offers (e.g. INDO2, INDO3 etc.) on the basis of the negotiations, see paragraph 14.1 and Appendix B, Negotiation plan.

The tenderer is only permitted to submit one BAFO, and the tenderer is not permitted to submit variant BAFOs.

The DEA will not award the contract on the basis of the INDO tender and, hence, the tenderers can expect negotiation meetings to be conducted, see paragraph 14.

All offers must be in English.

The tenderer must keep open its BAFO for acceptance for 6 months from the expiry of the deadline for submission of BAFO.

Offers must be submitted via the electronic tendering system, see paragraph 7. Offers may not be submitted in any other way, including by e-mail.

Offers are submitted by uploading the offer to the electronic tendering system. When the offer is uploaded and submitted, the tenderer may, until the expiry of the relevant deadline for submission of offer, change the content of the offer or withdraw the offer.

The DEA does not have access to the content of the offer until the expiry of the deadline.

If the offer contains several versions of the same document, the latest uploaded version will apply. The time indicated in the electronic tendering system will determine which version is the latest.



## **13. FIRST INDICATIVE OFFERS (INDO)**

### **13.1 Submission of INDO**

A first Indicative Offer (INDO) consists of the following documents:

- (a) Offer submission letter (Appendix D), see paragraph 13.1.2
- (b) Completed or finalised Appendices, see paragraph 13.1.3
- (c) Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan, see paragraph 13.1.4.
- (d) Information regarding the project budget, including, if relevant, other aid, see paragraph 13.1.5.

The tenderer does not have to include the Contract and the appendices of the Contract that are not supposed to be completed/finalised by the tenderer. The Contract and such appendices are deemed accepted by the tenderer.

The tenderer may enclose with the INDO Appendix C, Template for the tenderer's comments to the tender documents, which is not considered to be part of the INDO (but a proposal for negotiations), and the list is therefore not considered a reservation either, see paragraph 11.

#### **13.1.2 Offer submission letter**

The tenderer shall enclose in its offer an offer submission letter. Reference is made to Appendix D, Template for offer submission letter.

The offer submission letter should include the following information:

- Name of the tenderer submitting the offer, and for groups of operators/consortia, the names of all members.
- Exact name(s), and business registration number(s) of the tenderer/the group/the consortium, and for all members
- Contact details (e-mail address and telephone number) for the DEA's use in connection with the procedure.





- Information about parts of the offer that are confidential.

Further, the tenderer must submit the following declarations in the offer submission letter:

- A declaration stating that the tenderer has complied with any and each requirement to repay aid which the European Commission, in a previous decision, has declared illegal and incompatible with the internal market; and
- A declaration stating that the tenderer is not an undertaking in difficulty, as defined in point 20 in the Commission Communication on Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (Official Journal of the European Union, C 249, 31.7.2014, p. 1.)
- A declaration stating that the tenderer has made no firm commitments, for example, to order equipment or start construction, which would make the project irreversible at the time of submission of the tenderer's offer.
- A declaration stating whether or not the tenderer has received or applied for any aid – including other State aid, de minimis aid, and aid from centrally managed EU funding – for the same costs as those included in the project other than the aid to be paid under the Contract.

According to the CEEAG, aid must not be awarded to undertakings in difficulty, as defined by the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. Further, according to the guidelines, the Commission will, when assessing aid in favour of an undertaking that is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, take account of the amount of aid still to be recovered. The tenderer must therefore submit declarations regarding this with the offer, see above.

The tenderer's offer submission letter submitted with the Best and Final Offer will be included in the Contract as Appendix 12, The Operator's offer submission letter, when the Contract is signed.

### **13.1.3 Appendices**

The tenderer is requested to complete the following appendices:

- Appendix F, Notification and processing of personal data
- Appendix G, Declaration of intent regarding a performance and warranty guarantee
- Appendix 6, Offered Rate, Contracted Quantity & baselines



- Sub-appendix 6.A: Tax information [*template is not part of nor enclosed the tender documents*]

Each appendix provides instructions explaining how to complete the appendix.

### **13.1.4 Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan**

#### **13.1.4.1 General**

The tenderer shall enclose with its offer a:

- Project Description, which is to be completed in accordance with paragraph 13.1.4.2.
- Project Schedule, which is to be completed in accordance with paragraph 13.1.4.3.
- Authority Approval Plan, which is to be completed in accordance with paragraph 13.1.4.4.
- Risk Management Plan, which is to be completed in accordance with paragraph 13.1.4.5.

The Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan should reflect the status and planning of the tenderer's project. Information in the offer can be based on concluded contracts<sup>8</sup>, requirements requested (or expected to be requested) to Sub-Suppliers in a procurement or negotiation process, plan for a market dialogue, and processes needed for conclusion of contracts etc.

The DEA's evaluation of the sub-criteria "Project Maturity" will be based on the Project Description, Project Schedule, Authority Approval Plan, and Risk Management Plan. Reference is made to the further description of the sub-criteria in Appendix A, Evaluation of offers, paragraph 1.

If the tenderer is awarded a Contract, the Project Description, Project Schedule, Authority Approval Plan, and Risk Management Plan will collectively constitute Appendix 4, Operator's Solution Description, when the Contract is signed.

As stated in the Tender specifications, paragraph 12, the minimum time frame during which the tenderer must keep its offer open from acceptance is 6 months from the expiry of the deadline for submission of the Best and Final Offer. For the purpose of the Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan, the tenderer may assume that the Contract is signed on 30 April 2026. If the Contract is signed at a later date – within the minimum time frame as mentioned above – the tenderer (Operator) is not entitled to any postponement of any timing in the project, i.e., the tenderer (Operator) bears the risk of the exact timing of the signature of the Contract within the minimum time frame during which the tenderer must

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<sup>8</sup> The tenderer should be aware that the tenderer in the offer submission letter must submit a declaration stating that the tenderer has made no firm commitments, for example, to order equipment or start construction, which would make the project irreversible at the time of submission of the tenderer's offer. Reference is made to paragraph 13.1.2 and Appendix D, Template for offer submission letter.



maintain the offer. The tenderer (Operator) shall make the necessary adjustments in the Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan to cope with the time difference and, if relevant, deliver the adjusted Project Description, Project Schedule, Authority Approval Plan, and Risk Management Plan for the DEA's review and approval 30 days after Contract Signing, cf. R-1 in Appendix 3, Requirements specification.

#### 13.1.4.2 *Content of Project Description*

The objective of the Project Description is to provide an overall and collective description of the tenderer's project. This description should include the tenderer's strategies and arrangements towards successfully establishing and operating the Value Chain and ensuring a successful performance of the Contract.

Taking the overall objective of the Project Description into account, the Project Description should cover the following aspects:

- The tenderer's choice of Value Chain solutions, covering e.g. the basis for carbon capture (i.e. capture from point source(s) or direct air capture), and the carbon capture technology/technologies, the means of transport of the captured CO<sub>2</sub> for Storage (e.g. direct pipeline to onshore storage facility or transport by truck or ship to storage site etc.), the permanent Storage site and, if any, intermediate storage site(s).
- The tenderer's choices, strategies, and arrangements in order to ensure a successful and synchronized integration between the different elements of the Value Chain. The description should reflect the capacity of each element of the Value Chain and how the tenderer will ensure that the tenderer is able to capture and Store the Contracted Quantities.
- The status of the tenderer's project at the deadline for submission of offers, covering e.g. the status of contracts and dialogue with potential Sub-Suppliers (e.g. Sub-Suppliers providing the point source(s) or location of the direct air capture plant(s) for the performance of the Contract, Sub-Suppliers establishing the Carbon Capture Plant, Sub-Suppliers performing the transportation of the Contracted Quantity and Sub-Suppliers performing the Storage of the Contracted Quantity).

The Project Description should identify the point sources(s) and/or the location of the direct air capture plant on which the Operator will base the capture of CO<sub>2</sub> by including the below mentioned information.

- The address(es), cadastral number(s), and if possible, the registration number, and production unit (in Danish: "Produktionsenhed"/"P-nummer") for the point sources(s) and/or in case of direct air capture of atmospheric CO<sub>2</sub> such information for the location of the direct air capture plant; and



- The expected annual capture capacity of the Carbon Capture Plant(s).

If the information is not included in the offer, the information shall be provided in accordance with R-2, Appendix 3, Requirements specifications.

Furthermore, if the tenderer is not able identify the point sources(s) and/or the location of the direct air capture plant on which the Operator will base the capture of CO<sub>2</sub> in the offer, the tenderer should describe in its Project Description the strategy for obtaining such identification (e.g. by concluding a Sub-Supplier contract) in accordance with the requirements.

The tenderer's Project Description submitted with the Best and Final Offer will constitute Sub-appendix 4.A, Project Description, when the Contract is signed.

The Project Description shall not exceed 50 A4 pages (including illustrations, figures etc., but excluding the front page and the table of content). If the Project Description exceeds this page limit, only the first 50 A4 pages will be included in the evaluation.

#### 13.1.4.3 *Content of Project Schedule*

The objective of the Project Schedule (e.g. a Gantt chart) is to provide a detailed overview of how the Operator plans to reach the Commercial Operation Date on time.

Taking the overall objective of the Project Schedule into account, the Project Schedule should cover the following aspects:

- Timing of milestones and activities needed to establish the Value Chain, e.g., related to obtainment of necessary permits, licences, approvals, and certificates, conclusion of Sub-Supplier contracts (e.g. Sub-Suppliers providing the point source(s) or location of the direct air capture plant(s) for the performance of the Contract, Sub-Suppliers establishing the Carbon Capture Plant, Sub-Suppliers performing the transportation of the Contracted Quantity and Sub-Suppliers performing the Storage of the Contracted Quantity), establishment of the different elements of the Value Chain, and test and commissioning required for the commencement of the operation of the Value Chain. Milestones that are critical for the project in relation to achieving the Commercial Operation Date should be clearly identified and specified as "Key Milestones".

The tenderer should ensure consistency between the information provided in the Project Schedule and the Authority Approval Plan.



The Project Schedule shall specify the timing of the Commercial Operation Date as a specific date and preferably in the format DD.MM.YYYY.<sup>9</sup>

The tenderer should specify the timing for each milestone and activity and preferably in the format DD.MM.YYYY.

The tenderer's Project Schedule submitted with the Best and Final Offer will constitute Sub-appendix 4.B, Project Schedule, when the Contract is signed.

The Project Schedule is not subject to a page limit.

#### 13.1.4.4 *Content of Authority Approval Plan*

The objective of the Authority Approval Plan is to provide an overview of the necessary permits, licences, approvals, and certificates, that the tenderer needs in order to establish and operate the Value Chain, as well as a description of how the tenderer will obtain the necessary permits, licences, approvals, and certificates.

Taking the overall objective of the Authority Approval Plan into account, the Authority Approval Plan should cover the following aspects:

- An overview of the necessary permits, approvals, and certificates needed to establish and operate the full Value Chain, with clear indication of time of submission and expected approval from authorities and/or other third parties. It should also include permits, approvals, and certificates already obtained for the establishment and operation of the full Value Chain.
- A description of how the Operator plans to interact with authorities and other relevant third parties regarding the obtainment of necessary permits, approvals, and certificates.

The Operator should for each permit, licence, approval, and certificate specify the timing and preferably in the format DD.MM.YYYY, however, if the Operator instead provides a time span in the Authority Approval Plan, the last date in the time span will be considered as the time of submission and/or expected approval.

The tenderer should ensure consistency between the information provided in the Project Schedule and the Authority Approval Plan.

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<sup>9</sup> It is noted that as stated in the definition of Commercial Operation Date, see Appendix 2, Definitions, if the Operator's performance of the Contract is based on more than one Carbon Capture Plant, operation of the full Value Chain (i.e. COD) encompasses operation of all Carbon Capture Plants. Thus, only one Commercial Operation Date is to be specified in the Project Schedule.



The tenderer's Authority Approval Plan submitted with the Best and Final Offer will constitute Sub-appendix 4.C, Authority Approval Plan, when the Contract is signed.

The Authority Approval Plan is not subject to a page limit.

#### **13.1.4.5 Content of Risk Management Plan**

The objective of the Risk Management Plan is to provide a description of how the tenderer plans to manage project risks that – if remain unmitigated – may affect the Operator's performance of the Contract, including reaching the Commercial Operation Date on time and delivering the Contracted Quantity in every year of the Contract period.

Taking the overall objective of the Risk Management Plan into account, the Risk Management Plan should cover the following aspects:

- The tenderer's risk management framework and approach for assessing (identification, analysis, and evaluation), and managing risks in the project during the contract period.
- Identified risks in the tenderer's project, the likelihood and degree of negative impact of each identified risk, and the tenderer's planned mitigation measures for each identified risk

The Risk Management Plan should reflect relevant frameworks and concepts as established in ISO 31000 or an equivalent standard.

The tenderer's Risk Management Plan submitted with the Best and Final Offer will constitute Sub-appendix 4.D, Risk Management Plan, when the Contract is signed.

The Risk Management Plan is not subject to a page limit.

#### **13.1.5 Information regarding the project budget, including, if relevant, other aid**

If the tenderer in its offer submission letter declares that the tenderer has received or applied for any aid covering the same costs as those included in the project, other than the aid to be paid under the Contract, the tenderer must submit the information specified in paragraph 13.1.5.1 with the INDO.

If the tenderer in its offer submission letter declares that the tenderer has not received or applied for any aid covering the same costs as those included in the project, other than the aid to be paid under the Contract, the tenderer must submit the information specified in paragraph 13.1.5.2 with the INDO.



*13.1.5.1 Information to be submitted if the tenderer has received or applied for other aid*

According to points 56 and 57 of the CEEAG, the DEA may allow state aid paid under the Contract to be cumulated with other aid – including other State aid, de minimis aid, and aid from centrally managed EU funding – for the same costs. It must, however, be ensured that the total amount of public funding does not lead to overcompensation.

Therefore, if a tenderer declares in its offer submission letter that the tenderer has received or applied for any aid covering the same costs as those included in the project, other than the aid to be paid under the Contract, the tenderer must submit the following information with the INDO:

- (a) Information on the aid received or applied for – for example, a grant notification letter or an aid application – enabling the DEA to assess the type of aid, the aid amount and the planned payment date for the aid received or applied for.
- (b) A project budget that lists all main costs and incomes – including the aid applied under the CCS Fund and any other aid received or applied for – of the project, enabling the DEA to assess whether the total amount of public funding leads to overcompensation.
  - i) The budget must specify for each year of the project's lifetime:
    - i. The investment costs;
    - ii. The operation costs;
    - iii. Costs of financing the projects, reported in the following categories:
      - a) Equity; and
      - b) Debt
    - iv. Payments to Sub-Suppliers reported in the following categories:
      - a) Capture;
      - b) Transport; and
      - c) Storage
    - v. The aid applied for under the CCS Fund (i.e. the Offered Rate x 2029-Quantity, if relevant, respectively Offered Rate x Annual Quantity);
    - vi. The other aid received or applied for; and
    - vii. If relevant for the given tenderer, any incomes from, for example, the sale of surplus heating, carbon credits and/or excess EU ETS Allowances, as well as savings achieved through the projects, such as having to pay less in CO<sub>2</sub> tax or emissions tax or having to acquire fewer EU ETS Allowances.



- ii) The budget must also specify the weighted average cost of capital (WACC) of the project to discount future cash flows, as well as the net present value (NPV) of the project with the aid received or applied for.
- (c) An accountant's statement attesting, in accordance with ISAE 3400, the information in the budget mentioned above in 13.1.5.1(b).

If the tenderer submits an INDO with a budget where the NPV of the project, taking into account the other aid received and/or applied for as well as the aid applied for under the CCS Fund is above zero, the tenderer must adjust the tenderer's Offered Rate in BAFO downwards, such that the NPV of the project becomes zero to ensure compliance with points 56 and 57 of the CEEAG.

The project budget must be submitted as Appendix H [*template is not part of nor enclosed the tender documents*].

#### 13.1.5.2 Information to be submitted if the tenderer has not received or applied for other aid

If a tenderer declares in its offer submission letter that the tenderer has not received or applied for any aid covering the same costs as those included in the project, other than the aid to be paid under the Contract, the tenderer must submit the following information with the INDO:

- (a) A project budget that lists all main costs and incomes – including the aid applied under the CCS Fund – of the project:
  - i) The budget must specify for each year of the project's lifetime:
    - i. The investment costs;
    - ii. The operation costs;
    - iii. Costs of financing the projects, reported in the following categories:
      - a) Equity; and
      - b) Debt
    - iv. Payments to Sub-Suppliers reported in the following categories:
      - a) Capture;
      - b) Transport; and
      - c) Storage
    - v. The aid applied for under the CCS Fund (i.e. the Offered Rate x 2029-Quantity, if relevant, respectively Offered Rate x Annual Quantity); and
    - vi. If relevant for the given tenderer, any incomes from, for example, the sale of surplus heating, carbon credits and/or excess EU ETS Allowances, as well as savings





achieved through the projects, such as having to pay less in CO<sub>2</sub> tax or emissions tax or having to acquire fewer EU ETS Allowances.

- ii) The budget must also specify the weighted average cost of capital (WACC) of the project to discount future cash flows, as well as the net present value (NPV) of the project with the aid received or applied for

The project budget must be submitted as Appendix H [*template is not part of nor enclosed the tender documents*].

### **13.2 Reservations and conditions in the first Indicative Offer (INDO)**

The tenderer is advised to submit the first Indicative Offer (INDO) on the basis of no reservations being made. However, reservations or conditions in the INDO will not cause the INDO to be considered non-compliant, but will instead be included in the negotiations.

If the tenderer should identify aspects of the tender documents, which the tenderer finds inappropriate, the tenderer is advised to use the template in Appendix C, Template for the tenderer's comments to the tender documents, see paragraph 11.

## **14. NEGOTIATION PHASE**

### **14.1 Introduction**

The negotiation phase runs from receipt of the DEA's invitation to participate in the process until invitation to submit Best and Final Offer (BAFO) pursuant to paragraph 15.

The negotiations are conducted in accordance with the schedule in Appendix B, Negotiation plan.

The negotiations meetings are conducted in English or Danish as preferred by each tenderer. Feedback from the DEA will be prepared in English, and minutes of meeting will be drawn up in English regardless of whether the meeting was conducted in English or Danish.

After receipt of first Indicative Offers (INDO), the DEA will conduct individual negotiation meetings with all tenderers who, within the deadline stated, have submitted an INDO. The negotiations will be conducted in accordance with the principle of equal treatment, and all tenderers will be given the same amount of time for negotiations with the DEA.

If deemed necessary, the DEA may ask the tenderers to submit subsequent (new or revised) Indicative Offers (e.g. INDO2, INDO3 etc.) after the negotiation round based on the first Indicative Offer (INDO).



## **14.2 Changes to the tender documents**

On the basis of the negotiations or other circumstances the DEA may choose, with due compliance of the principles of equal treatment and transparency, to change the content of the General Requirements and/or waive one or more General Requirement(s). The DEA may also add new General Requirements during the tender procedure.

The DEA will not change Minimum Requirements (MR) or fundamental elements in the originally issued tender documents. However, linguistic clarifications, correction of obvious mistakes, inappropriateness, etc., may be made at all times, provided that this can be done without distortion of competition and discrimination of the tenderers.

All corrections to the tender documents will be marked with "track changes" and published in the electronic tendering system.

All tenderers participating in the procedure will, via the electronic tendering system, be given access, simultaneously, to the revised tender documents, and will be given the same amount of time to prepare offers.

The revised tender documents will provide the basis for possible subsequent Indicative Offers and the Best and Final Offers (BAFO), see paragraph 14.1 and 15.

## **14.3 Completion of the negotiation phase**

The DEA expects to submit the final tender documents in November 2025 provided that no more than one negotiation round is held.

After submission of the final tender documents, the negotiation phase is considered completed, and the DEA will ask tenderers to submit their Best and Final Offer (BAFO).

All tenderers participating in the tender procedure will, via the electronic tendering system, be given access to the revised tender documents at the same time, and the tenderers will be given the same amount of time to prepare their BAFO, see paragraph 15.

## **15. BEST AND FINAL OFFERS (BAFO)**

### **15.1 Submission of BAFO (BAFO)**

At the end of the negotiation phase, the tenderers are invited to submit their Best and Final Offers (BAFO).



The tenderer's BAFO consists of the following documents:

- (a) Offer submission letter (Appendix D), see paragraph 13.1.2
- (b) Completed or finalised Appendices, see paragraph 13.1.3
- (c) Project Description, Project Schedule, Authority Approval Plan and Risk Management Plan, see paragraph 13.1.4.
- (d) If relevant, information regarding the project budget, including other aid, see paragraph 13.1.5.1.

For the avoidance of doubt, the BAFO only consists of these documents, if the tenderer in its offer submission letter declares that the tenderer has received or applied for any aid covering the same costs as those included in the project, other than the aid to be paid under the Contract

If there have not been any changes in the information regarding the project budget, including other aid, submitted with the INDO, see paragraph 13.1.5.1, the tenderer is not required to submit the information submitted with the INDO again.

As specified in section 13.5.1.1, if the tenderer has submitted an INDO with a budget where the NPV of the project, taking into account the other aid received and/or applied for as well as the aid applied for under the CCS Fund is above zero, the tenderer must adjust the tenderer's Offered Rate in BAFO down-wards such that the NPV of the project becomes zero to ensure compliance with point 56 and 57 of the CEEAG.

If the tenderer has submitted a BAFO with a budget where the NPV of the project is above zero, the tenderer's BAFO will be rejected as non-compliant.

- (e) Updated notification(s) and/or declarations(s) regarding Regulation (EU) No. 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market.

According to article 29(1) of Regulation (EU) 2022/2560, in a multi-stage procedure tender, the notifications or declarations on foreign financial contributions submitted as part of the pre-qualification application must be updated with the final offer. Therefore, the tenderer must update the notification or declaration on foreign financial contributions, so that the



information in the notification or declaration reflects the state of affairs at the time of submission of BAFO. The DEA notes, that if the threshold in article 28(1)(b) was not exceeded at the time of submission of the pre-qualification application but is exceeded at the time of the submission of BAFO, the tenderer must include a notification in the BAFO instead of updating the previously submitted declaration. Furthermore, the tenderer shall submit declarations/notifications for new main subcontractors or main suppliers that are known at the time of submission of BAFO (i.e. which were not submitted with the application for prequalification).

To the extent that the BAFO does not include other personal data than those included in the first Indicative Offer, and the tenderer submitted a completed Appendix F, Notification and processing of personal data, in connection with the INDO, the tenderer may leave out submission of a (new) completed Appendix F, Notification and processing of personal data.

The tenderer's BAFO is not to include the tenderer's possible comments to the tender documents (Appendix C, Template for the tenderer's comments to the tender documents).

During the negotiation phase, including in connection with the invitation to submit BAFO, the DEA may change or add to the information/documents that constitute(s) or is/are to be enclosed with the BAFOs. If so, this will be communicated, via the electronic tendering system, to all tenderers participating in the procedure.

## **15.2 Final, complete, and legally binding**

The tenderer should note that the DEA is not permitted to negotiate the Best and Final Offer (BAFO) any further with the tenderer. The BAFO should therefore be drawn up, so that the Contract can be entered into without further discussions or negotiations between the tenderer and the DEA.

Therefore, when drawing up the offer, the tenderer shall ensure, that the offer is legally binding for the tenderer.

Submission of a conditional offer (e.g. conditioned upon fulfilment of certain conditions precedents) entailing that the offer is not legally binding for the tenderer, will entail, that DEA will be obliged to reject the offer.

Furthermore, when drawing up the offer, the tenderer should to the extent possible use wording of legal obligations and not wording such as "*this might pertain to ...*", "*one might also consider to ...*" or "*usually is used ...*", "*we have often successfully ...*", "*one might also envisage ...*", or "*this might be solved by ...*". Wording not suitable for legal obligations may, in the given circumstances, be treated as reservations with the ensuing consequences, see paragraph 15.3 below.



Wording etc. in the offer that derogates or in any way differs from the legal position according to the tender documents will be considered as reservations, see paragraph 15.3 below.

The tenderer should therefore, when drafting the offer, be aware of and ensure to not include any descriptions, wording etc. that will be seen or understood as reservations to the Tender specifications and/or the Contract, including the Appendices or conditions to the offer for being legally binding. Uncertainty and ambiguity in the offer will be interpreted to the detriment of the tenderer. The tenderer should therefore also be aware, that wording etc. in the offer that does not explicitly appear as reservations or conditions but entails that it is unclear or unambiguous whether the tenderer complies with the requirements of the tender documents, will be interpreted as reservations or conditions with the ensuing consequences.

It is the responsibility of the tenderer to ensure that the BAFO is complete and drawn up in accordance with the guidelines set out in the tender documents.

It is the responsibility of the tenderer to ensure that the offer is clear and unambiguous, so as to leave no doubt whether reservations are made to the tender documents, and whether conditions to the offer for being legally binding are included. Tenderers are therefore advised to seek clarification of any ambiguities and uncertainties in the final tender documents by submitting questions, see paragraph 8.

### **15.3 Reservations in the Best and Final Offer (BAFO)**

In relation to the submission of the Best and Final Offer (BAFO), it should be noted that offers with reservations to Minimum Requirements (MR) will be rejected as non-compliant.

When submitting the BAFO, the tenderers must also comply with all General Requirements. BAFOs containing reservations to General Requirements will be rejected as non-compliant if the reservation concerns fundamental elements of the procurement. "Fundamental elements" mean matters that cause competition to be distorted to a significant degree, if reservations are made. Several reservations to elements that are not fundamental may cause the reservations, overall, to constitute a reservation to fundamental elements.

If reservations to General Requirements do not concern fundamental elements, the DEA may choose - but is not obliged - to consider offers with reservations to General Requirements to be compliant, if the reservation can be quantified. If the DEA chooses to quantify the reservation, this will take place in the form of a supplement to the tenderer's Offered Rate evaluated under the sub-criterion "Subsidy". The supplement will correspond to the amount which, on the basis of a legitimate and objective assessment, with a high degree of certainty would cover the DEA's additional payment that may be caused by the reservation.

## **16. Confidential information in the Offers and during negotiations**

The DEA will ensure that all tenderers are treated equally and that they have access to the same information.



The DEA will not, without specific consent, during the tender procedure disclose to other tenderers any suggested solutions or other confidential information provided by a tenderer.

If the DEA finds that a tenderer's comment in Appendix C is relevant as input for the negotiations with one or more of the other tenderers, the comment may be used as input for the negotiations, but in an anonymised form. Further, the DEA may include a tenderer's proposed changes to the tender documents in the negotiations with the other tenderers. In the negotiations with the other tenderers, the precise wording of the proposed change will not be disclosed, nor will it be disclosed which tenderer proposed the change.

The tenderer should note that documents or information in the tenderer's first Indicative Offer (INDO), any subsequent Indicative Offers and Best and Final Offer (BAFO) may be subject to the rules on access to documents. This means that competitors, etc., may request access to offers submitted, since the right of access to documents pursuant to the Danish Act on Access to Documents in Public Files only applies to those with a legal interest in lodging a complaint with the Danish Complaints Board for Public Procurement (Klagenævnet for Udbud) relating to the case to which the request for access to documents applies and to mass media. According to the practice of the Danish Complaints Board for Public Procurement, requests for access to documents from other operators also participating in the tender procedure must be granted by the DEA. However, in the assessment of whether to grant access to documents, the DEA will include considerations as to whether the tenderer has asked that part of the offer/offers be treated confidentially and has indicated which information/elements of the offers must be kept confidential.

If there is information or elements in an offer, or information or elements emerge during the negotiations which for business reasons are desired to be exempted from access to documents, the tenderer is asked to state so in its offer or draw the DEA's attention to the matter during the negotiations. However, irrespective of the tenderer's requests for confidentiality, the DEA will be entitled and obliged to give access to documents to the extent required by law.

If the DEA receives a request regarding access to documents during or after the tender procedure, the DEA will hear the parties affected by the request.

After the award of Contract(s), the DEA will be obliged to publish certain information according to the transparency requirements laid down in points 58 to 61 of the CEEAG.

Point 58(b) of the CEEAG entails that the DEA must ensure publication of information on each individual aid award granted ad hoc, or under an aid scheme approved on the basis of these guidelines, and exceeding EUR 100 000. This means that the DEA after notification to all tenderers of the award decision – despite the tenderer's possible statements regarding confidentiality and without the specific consent from the tenderer(s) and/or hearing of the tenderer(s) – might publish the following information on the tenderer(s) who is awarded Contract(s), if necessary to comply with the transparency requirements:



- The name of the tenderer(s) who is awarded Contract(s)
- The tenderer's subsidy per tonne CO<sub>2</sub> excluding VAT, i.e. the Offered Rate stated in Appendix 6, Offered Rate, Contracted Quantity & baselines
- The tenderer's Contracted Quantity, i.e. the Annual Quantities and the 2029-Quantity, if any, stated in Appendix 6, Offered Rate, Contracted Quantity & baselines
- The total annual subsidy sum for the tenderer excluding VAT.

## **17. OPENING AND EVALUATION OF OFFERS**

The DEA will open the offers after the deadline for submission of offer in question has expired.

The tenderers are not permitted to attend the opening of the offers.

After opening the offers, the DEA will initially check whether the offers comply with the formal requirements of the tender documents. The DEA may use the procedure of section 159(5) of the Danish Public Procurement Act, if one or more offer(s) does/do not comply with the requirements of the tender documents.

Regardless of the use of the words "must" or "shall" in the tender documents, the DEA reserves the right to obtain further information within the scope of the above-mentioned provisions. However, the DEA is not obliged to obtain further information or documentation from the tenderers.

The DEA may furthermore clarify possible ambiguities in the offers within the scope of the Danish Public Procurement Act.

As for the tenderers' Best and Final Offer (BAFO), the DEA will assess, after the initial examination of whether the offer complies with the formal requirements of the tender documents, whether the offer contains reservations or conditions that will cause the BAFO to be non-compliant, see paragraphs 15.2 and 15.3.

If the DEA identifies reservations to Minimum Requirements (MR) or General Requirements in the BAFO, the DEA may either:

- 1) reject the offer, or
- 2) quantify reservations to General Requirements, if possible, see paragraph 15.3.

The offers will then be evaluated in accordance with the award criterion and sub-criteria as described in Appendix A, Evaluation of offers.

After deciding on the award of one or several Contracts, the DEA will notify all tenderers of the award decision. The notification of the tenderers who have submitted a compliant BAFO, but who are not awarded a Contract,



will include a brief explanation of the relevant grounds for the decision, including the characteristics and advantages of the successful offer(s) as compared to the unsuccessful offer, and the name of the successful tenderer(s), as well as information about the date of expiry of the standstill period. The notification will furthermore include an account of the course of the negotiations with the tenderers.

## **18. DOCUMENTATION AND FINALISATION OF THE TENDER PROCEDURE**

Before the award of one or several Contracts, the tenderer to whom the DEA intends to award a Contract must submit documentation of the information stated in the ESPD, see section 159(2) of the Danish Public Procurement Act, and the contract notice. If the DEA has received such documentation at an earlier stage of the tender procedure, the DEA may ask for updated documentation or confirmation that the submitted documentation is still valid.

The DEA may at any time during the tender procedure require that the candidate or tenderer presents documentation as stated in the Danish Public Procurement Act section 152, when that is necessary in order to ensure correct performance of the procedure, see section 151(2) of the Danish Public Procurement Act. Therefore, as stated in the contract notice, the candidate is requested with its application for prequalification to submit a letter of commitment if the candidate relies on the technical or financial capacity of other entities, see also paragraph 10. The DEA intends to ask the candidates to provide documentation for their fulfillment of the minimum requirement concerning financial and economic standing after prequalification.

In addition, the tenderer(s) to whom the DEA intends to award a Contract must submit a declaration regarding Article 2, section 2, of Regulation (EU) No. 269/2014 according to which payment of subsidies to the tenderer in relation to the Contract will not conflict with the prohibition.

For the sake of good order, the tenderer(s) may also be requested to submit a declaration regarding Article 5k, section 1, of Regulation (EU) No. 833/2014 according to which an award of the Contract to the tenderer will not conflict with the prohibition.

The DEA may at any time during the tender procedure require that the candidates / tenderers prove that they are not covered by the prohibition, for example by requiring a declaration to this effect and/or documentation regarding the candidate's / tenderers', and any subcontractors' place of establishment and ownership.

When the DEA has selected the offer(s) with the best price-quality ratio, see Appendix A, Evaluation of offers, and has obtained the above documentation and declarations, the DEA will decide on the award of one or several Contract(s).

The DEA is not obliged to award any Contract and reserves the right to cancel the tender procedure.





Even though a Contract has been awarded to one or several other tenderers, the tenderer is bound by its offer until the DEA has signed the Contract(s), but no longer than the date specified for the tenderer to keep open its offer.

The notification of the tenderers of the award decision does not mean that any Contract has been concluded.

A Contract is only considered to have been concluded when the Contract is signed.

The DEA does not consider the tender procedure completed until all Contracts have been signed.

The DEA requests that the content of press releases or other publication regarding the award decision be coordinated with the DEA.

According to the Contract, clause 17.1.7, the DEA shall decide how to publish the conclusion of the Contract. If relevant, such announcement shall be coordinated with the Operator in accordance with the market disclosure obligations under MAR ("market abuse regulation").

## **19. GUARANTEE TO BE PROVIDED PRIOR TO CONTRACT SIGNING**

The tenderers shall with their first Indicative Offer and Best and Final Offer submit a declaration of intent regarding a performance and warranty guarantee, see paragraph 13.1.3 and 15.1 and Appendix G, Declaration of intent regarding a performance and warranty guarantee.

Prior to the signing of the Contract(s) the tenderer(s) who is awarded a Contract shall provide the DEA with an unconditional and irrevocable on-demand Performance and Warranty Guarantee issued by a Guarantor in favour of the DEA.

The Performance and Warranty Guarantee shall be in the form of Appendix 11, Model performance and warranty guarantee, and otherwise in accordance with the provisions of the Contract, including clause 13.

All tenderers are encouraged, in due time during the tender procedure, to present Appendix 11, Model performance and warranty guarantee, to one or several banks and/or insurance companies and submit any comments or questions that these might have in the electronic tendering system in accordance with the procedure described in paragraph 8 or 11.