

Verfahren: 2024001759 - Klingenberg Biomass (KLBM)

## EIGNUNGSKRITERIEN

### 1 Disclaimer language

K.O.-Kriterium: Nein

For technical reasons, the award platform "Deutsche eVergabe" partly uses terms in German. The awarding authority has no influence on this, in order to avoid misunderstandings, you will find translations below:

Teilnahmewettbewerb - participation competition  
Verfahren - procedure  
Kriterienkatalog - criteria catalog  
Eignungskriterien - Suitability criteria  
K.O.-Kriterium: Ja - minimum requirement  
K.O.-Kriterium: Nein - no minimum requirement  
Mussangabe - mandatory information  
Nur eine Antwort wählbar - Only one answer can be selected

The passages in English are binding.

### 2 5.1.6 A) formalities B) tendering process and specs

#### 2.1 A) Formalities applying to tenders

K.O.-Kriterium: Nein

##### A) Formalities applying to tenders

1. The tender must be submitted in English and in written form electronically at: <https://root.deutsche-evergabe.de/portal/>. Use of the portal [deutsche-evergabe.de](https://root.deutsche-evergabe.de/portal/) is free of charge for Applicants and Applicants of Vattenfall projects. Requests to participate can be submitted there. Requests to participate by post, fax or email will not be accepted. Note on language: All supporting documents and documents must be submitted in English. Vattenfall reserves the right to accept German as a language in agreement with bidders.
2. All evidence of compliance with the conditions of participation must be uploaded at the appropriate location (section "Own Appendices") and with the name of the file for easier verification. The corresponding file names should start with "Reg\_" (Reg. = respective register), contain abbreviations on the content and company, do not exceed a length of 60 characters and a size of 20 MB. (For example: "Reg\_A\_UN-Praesent\_Fa\_XXX XXXXXXXX\_2021\_XX\_XX"). "K.O. criteria" are minimum conditions, while items marked "Mandatory" must be entered. The bid is to be divided in accordance with the numbering in Section 5.1.9 and should contain the information requested in the respective sections. The contracting entity reserves the right to disregard information not contained in the sections specifically provided for this purpose. References to previous tenders will not suffice for the purpose of verification.
3. The term "current" in 5.1.9. of this EU-notice means that the date of issue of the third-party confirmation in question must not be longer than 12 months prior to the date of publication in the Official Journal of the EU.
4. The obligation to submit third-party confirmation does not apply if and insofar as no such register is kept or registration is unnecessary. The onus is on the applicant to prove and explain this. In this case, the applicant must submit the required information for checking the register in the form of other documents or self-declarations. The awarding authority is free – without being obliged to do so – to request additional documents and information for clarification. This also applies to minimum conditions.
5. For the purposes of Point 4 above, foreign applicants are still required to submit such third-party confirmation. Their equivalence must be proven. To this end, exhaustive presentation is expected.
6. Even as part of a bidding consortium, an applicant may rely on the capabilities of other companies in proving their fitness: a) Bidders wishing to avail themselves of such borrowed capacity (not possible for reliability in accordance with Section 5.1.9 of the notice), must immediately name the subcontractors whose capacity they are borrowing and submit the relevant evidence for Section 5.1.9 of the notice for the subcontractors together with the request to participate, this submission requirement being limited to the part of the services to be provided by subcontractors. In this case, the applicant must prove that the subcontractor will provide them with the necessary resources (e.g. in the form of a letter of commitment). b) Any other subcontractors (whose capacity is not borrowed) need not be named in the request to participate initially and the proof in accordance with Section 5.1.9. of the notice need not be submitted initially for the subcontractor. The proportion contracted out alone must be indicated. However, the awarding authority reserves the right to require other applicants/Bidders who are shortlisted for further participation in the process and plan to use subcontractors, before the end of the competitive bidding or throughout the rest of the process, to name such subcontractors and to submit the aforementioned evidence in respect of their share of the services.
7. The awarding authority reserves the right – without being required to do so – to demand declarations and evidence (including for the minimum requirements) at a later date. Moreover, the awarding authority reserves the right to demand a personal introduction to an applicant or to inspect the applicant's business or a reference project, e.g. in order to verify the validity of the self-declarations. The applicant is not entitled to make any additional demands or demand a personal introduction.
8. The awarding authority reserves the right - without being obligated to do so - to conduct an audit of individual applicants/bidders within the scope of a so-called "sustainability risk assessment" even after the selection of applicants and submission of bids during the entire tendering procedure if there is a justified reason to do so. A justified reason exists in particular if the applicant/bidder has its registered office in a high-risk country or its production facilities are located there or the service is provided in or from such a country. Furthermore, the reasonable cause exists if the product or service category is classified as high risk. A list of high-risk countries and product and service categories can be found at: <https://group.vattenfall.com/de/wer-wir-sind/lieferantenbeziehung/en/lieferantenregistrierung> Should such an audit reveal that self-declarations made by the candidate/bidder in the award procedure pursuant to 5.1.9 Register B of this EU-notice do not apply, the awarding authority is entitled to exclude the candidate/bidder from further competition.
9. The Employer reserves the right to exclude applications which do not meet the minimum requirements and/or deadlines from the further process, without further checks.
10. By submitting the request to participate, the applicant declares that they agree to a change of awarding authority/Employer. The

possibility cannot be ruled out that a different company may become the awarding authority/Employer in the course of the tendering process.

11. Questions are to be submitted exclusively via the eVergabe question-and-answer tool. The awarding authority will endeavour to answer promptly.

12. If and to the extent to which it is permitted by law, qualification criteria may also be demonstrated using a standard European self-declaration.

13. The Applicant – each individual member in the case of bidding consortia – must sign a confidentiality Agreement, the applicant should use the form available from the contact point (see Point 1.1 of the notice) for this purpose.

## 2.2 B) Tendering process and specs

K.O.-Kriterium: Nein

The specifications for the tendering process can be found in the call for tenders. In the interests of ensuring maximum transparency, the awarding authority will nevertheless announce a number of general guidelines in advance, which cannot be required to be complied with and are therefore subject to clarification and change within the context of the call for tenders:

1. In the case of tenders to be submitted subsequently, which - based on the award criteria - prove to be significantly inferior to the competition financially speaking, following the submission of the tenders, the awarding authority may decide to exclude the bidder in question from further negotiations (elimination).
2. The awarding of contracts is subject to approval by the boards of the contracting entity.
3. The awarding of contracts is subject to existing official permits.
4. The awarding of contracts is subject to the performance of the services on economically feasible terms, to be established by the awarding authority.
5. Since the procurement project as a whole is of great importance for the functioning the supply of district heating to the population, the community and the complete publication of the documents would allow conclusions to be drawn about the functioning of critical infrastructure systems, the client refers within the EU announcement to §§ 5 para. 3, 41 Para.4 SektVO to maintain confidentiality and secrecy, and will only provide those bidders in the bidding process with further information about the project who have proven in the preceding participation competition that they are able to provide the required services (aptitude test).
6. The awarding authority reserves the right to announce options in the contract documents.
7. The awarding authority reserves the right to divide the contract into two phases (LNTP & FNTP). The first phase (LNTP) is a firm order with works focused mainly on permit engineering and other engineering works. The second phase, including all other works (FNTP) shall constitute an option to be drawn unilaterally by the Employer. Drawing of the option is subject to a positive decision of Employers internal approval boards, which depends, among other things, on an obtaining the final permit to erect and operate the plant, and a positive internal final investment decision. The second phase (FNTP) includes, among other things, engineering, procurement, manufacturing and construction up to commissioning.
8. The awarding authority reserves the right to announce further options in the contract documents.
9. The awarding authority reserves the right not to conduct negotiations with all bidders (per lot) but only with one or more bidders.

## 3 Suitability to pursue the professional activity including other requirements

### 3.1 Information and Formalities

K.O.-Kriterium: Nein

See further details in the attachment "5.1.6 A) formalities B) tendering process and specs".

Together with the participation request, the applicant must also submit proof of compliance with the following conditions (every applicant and every member of a bidding consortium must submit the documents mentioned in 5.1.9) Register A & B of the notice of the contract notice):

### 3.2 Register A) [Mussangabe]

K.O.-Kriterium: Nein

Covering letter presenting the company and its complete group structure (including ownership). Mention of the main contact person for this tender with name, function, mail address, mobile phone number.

- ☐ Keine Angabe (0)
- ☐ Ja (0)
- ☐ Nein (0)

Nur eine Antwort wählbar

### 3.3 Register B) [MINIMUM REQUIREMENT] [Mussangabe]

K.O.-Kriterium: Ja

All registers a), b) and c) must be fulfilled. For this purpose, the applicant must use the form provided at the contact point (see Section I.1) notice.

a)  
Declaration of mandatory and optional exclusion criteria within the meaning of Sections 123 and 124 of the Act against Restraints on Competition (GWB), Section 21 of the Act on Posting of Workers (AentG), Section 98c of the Residence Act (AufenthG), Section 21 of the Undeclared Employment Act (SchwarzArbG) and Section 19 of the Minimum Wage Act (MiLoG).

b)  
Declaration by the applicant that they have read and understood the Code of Conduct for Suppliers and Partners and Vattenfall

GmbH's policy statement in accordance with the Supply Chain Sourcing Obligation Act (LkSG). The Code can be found under "Code of Conduct for Suppliers and Partners" <https://group.vattenfall.com/who-we-are/suppliers> The policy statement can be found at: [www.vattenfall.de/lieferkettensorgfaltspflichtengesetz](http://www.vattenfall.de/lieferkettensorgfaltspflichtengesetz) The applicant further declares that they will perform their services in accordance with the UN Global Compact principles and the principles of the policy statement, and commits themselves to monitor both themselves and their suppliers/subcontractors constantly to ensure that performance is maintained and complies with these principles. The applicant states that none of the deviations from the UN Global Compact is valid for them or any suppliers/subcontractors used by them for the service provision.

c)  
Self-declaration Russia sanctions.

- ☐ ☐ Keine Angabe  
☐ ☐ Ja  
☐ ☐ Nein

Nur eine Antwort wählbar

## 4 Economic and financial ability

### 4.1 Information and Formalities

K.O.-Kriterium: Nein

See further details in the attachment "5.1.6 A) formalities B) tendering process and specs".

The evidence mentioned in 5.1.9) of the notice, Register C of the notice need only be submitted once by each applicant or bidding consortium. Every applicant and every member of a bidding consortium must submit the documents mentioned in 5.1.9) Register D of the notice.

### 4.2 Register C) [MINIMUM REQUIREMENT] [Mussangabe]

K.O.-Kriterium: Ja

Proof that the candidate meets an average annual turnover requirement over the three most recent years of a minimum of 400 MEUR.

- ☐ ☐ Keine Angabe  
☐ ☐ Ja  
☐ ☐ Nein

Nur eine Antwort wählbar

### 4.3 Register D) [MINIMUM REQUIREMENT] [Mussangabe]

K.O.-Kriterium: Ja

Submission of the complete consolidated Annual Reports (or similar) with an unqualified auditor's report including the management report, appendices, auditor's approvals and comments from the last 3 financial years with information on the profit and loss account (in particular on EBIT), the balance sheet (in particular on equity) and the cash flow statement. On the basis of the information requested, the awarding authority shall carry out a credit check to determine the financial and economic capacity of the applicant. The applicant is considered to be financially suitable if the credit check shows that the applicant company is financially sound and large enough in relation to the value and term of the contract to fulfil all contractual obligations. For this purpose, the applicant must have adequate profit margins and sufficient operating cash flows as well as an appropriate capital base with a generally acceptable (low) level of debt. The size and financial profile of the applicant must also be proportionate to the value of the contract and there must be a positive outlook that the applicant will be able to maintain its financial fitness during the term of the contract.

As far as the applicant wishes to prove financial suitability with borrowed capacity (see also 5.1.6 (6) of the notice), they must specify the third party on which they wish to rely (e.g. the parent company in the case of group companies) and also submit the following for this third party: (a) All documents referred to in 5.1.9 of the notice; (b) Documents in accordance with 5.1.9. according to Register C and D (c) Evidence that the third party will actually make the resources required for the contract available to the applicant in the event of an award (letter of commitment). In the case of Group companies, evidence can be provided, among other things, by: (aa) A declaration by the third party (e.g. the parent company) that, in the event of a contract being awarded, the latter is willing, in addition to 5.1.9) Register C (which is only to be provided by the applicant), to provide a guarantee for the entire scope of services of the applicant (Group guarantee) or (bb) Providing proof of a control and profit-transfer Agreement with the additional declaration by the controlling company that, in the event of a contract being awarded, they shall: (i) inform the Employer of forthcoming alterations to or termination of the control and profit-transfer Agreement in writing in advance and (ii) automatically provide the security in accordance with Section 303(1) of the German Companies Act (AktG), without notification being required from the Employer and (iii) provide the security in accordance with Section 303(1) AktG either in the form of a group guarantee where the parent company possesses sufficient financial fitness, or else in the form of an indefinite guarantee issued by a bank with a minimum rating of BBB with stable outlook (Standard & Poor's or Fitch) or Baa2 with stable outlook (Moody's).

The awarding authority reserves the right – without being obliged to do so – to request additional documents/information from the applicant (or from the third party in the case of borrowed capacity) and/or to conduct information discussions when examining the financial suitability of the applicant. This may be the case in particular – without being limited to this – if the awarding authority has information on the creditworthiness of the applicant from the market/generally accessible media, etc., which contradicts the documents submitted or requires clarification.

- ☐ ☐ Keine Angabe  
☐ ☐ Ja  
☐ ☐ Nein

Nur eine Antwort wählbar

## 5 Technical and professional capacity

### 5.1 Information and Formalities

K.O.-Kriterium: Nein

See further details in the attachment "5.1.6 A) formalities B) tendering process and specs".

The evidence mentioned in 5.1.9), Register E of the notice need only be submitted once by each applicant or bidding consortium. Every applicant and every member of a bidding consortium must submit the documents mentioned in 5.1.9) Register F of the contract notice.

## 5.2 Register E) [MINIMUM REQUIREMENT] [Mussangabe]

K.O.-Kriterium: Ja

Reference information on comparable services with the tendered service. Minimum two references are to be submitted that demonstrate experience with a comparable range of services as defined in Section 2.1 of the notice. The reference is acceptable if, in particular but not limited to, all of the following criteria apply:

The earliest reference shall be commissioned not earlier than 1st January 2009, while the latest reference shall not be commissioned after (later than) the 31st December 2023

For the successful implementation of the intended contract, the applicant is required to have a thorough experience with a corresponding scope (see project description chapter 2.1), i.e. as an EPC Contractor of a biomass plant or waste to energy plant  $\geq$  20 MW fuel input. Alternatively, references of combined heat and power plants with  $\geq$  120 MW solid or gaseous fuel input can be provided.

The awarding authority is entitled to take into account its own experience with the applicants from similar projects. If negative experiences demonstrably exist, the awarding authority may invite the applicant to a face-to-face meeting to discuss the situation. If the applicant is unable to demonstrate their fitness in the course of this meeting, despite the awarding authority's own bad experiences, the awarding authority is entitled to rule out the applicant as unfit. For each reference, the applicant must use the form provided at the contact point of the announcement. The data marked with "\*" are for information purposes only, but not necessary to meet the minimum requirement.

(Annex "KLBM\_ Reference form\_V01 ").

☐ ] Keine Angabe  
☐ ] Ja  
☐ ] Nein

Nur eine Antwort wählbar

## 5.3 Register F) [MINIMUM REQUIREMENT] [Mussangabe]

K.O.-Kriterium: Ja

The applicant shall fill in an H&S questionnaire. The list of questions is provided by the contact point (cf. Section I.1)).

The applicant must comply with the H&S exclusion criteria (1st spreadsheet) in full as minimum conditions. The contracting entity will also evaluate the answers in the HSE questionnaire (2nd spreadsheet) in accordance with the provisions listed in the questionnaire. Every applicant must achieve a minimum score of 10 points (= 30 percent) in order to be allowed to continue with the tendering process. The specific conditions for awarding the points available are set out in the questionnaire (3rd spreadsheet).

Notice: Despite the stipulated requirement of 10 points, the awarding authority retains the discretion, though not an obligation, to make exceptions in special cases. This is intended to foster competition and allow the consideration of applicants who may not meet the minimum requirement, possibly with certain conditions attached. Special cases may arise, for example, when a comprehensive assessment shows that the bidder has already improved its efforts in the area of H&S - in particular, but not limited to, those areas in which the minimum requirements are not met - and has introduced appropriate measures and can be expected to be able to fully meet all HS requirements of the awarding authority in the event of a contract. This must involve specific technical, organizational and personnel measures and the facts and circumstances relating to the failure to meet the minimum requirements must have been fully clarified through active cooperation between the various organizational units of the applicant company.

The awarding authority has the right to carry out audits at the applicant's premises and/or to agree further measures with the applicant. However, there is no obligation to do so.

Applicants who do not meet the minimum requirements are requested to submit a separate document in which they describe the reasons for not meeting the minimum requirements and also state which improvement measures have already been initiated and which additional measures are planned for the future.

☐ ] Keine Angabe  
☐ ] Ja  
☐ ] Nein

Nur eine Antwort wählbar

## 6 Description of financial security

Gewichtung: 0,00%

### 6.1 Guarantees

K.O.-Kriterium: Nein

In the event of a contract, the applicant shall provide guarantees, a) amounting to at least 10% of the value of the contract in the form of a contract performance guarantee (b) for all advance payments; c) amounting to at least 5% of the value of the contract in the form of a warranty bond issued by a bank with a minimum rating with stable outlook of BBB (Standard & Poor's or Fitch) or Baa2 (Moody's). For the purposes of the qualification check, the phrase "value of the contract" shall mean the full agreed net remuneration of the future Contractor, disregarding any subsequent adjustments to such remuneration, which may arise from the performance or amendment of the contract. In the case of multiple ratings, the lowest rating applies.

### 6.2 Insurance

K.O.-Kriterium: Nein

In the event of a contract, the applicant shall provide a public liability insurance policy (insurance event: damage event), including product liability and environmental liability insurance, which covers the Contractor's statutory liability for personal injury and/or property damage and environmental damage to third parties with an insured sum of at least EUR 10 million per insurance event and twice in the insurance year. In addition, environmental damage insurance with a coverage of EUR 3 million per insured event and year must be in place and proven.

## 7 Legal form which the consortium to which the contract is awarded must have

Gewichtung: 0,00%

### 7.1 Legal form

K.O.-Kriterium: Nein

Bidding consortia are permitted provided that the Applicants declare that the formation of the bidding consortium does not constitute an offence under Section 1 of the Act against Restraints of Competition (GWB) (self-declaration). Bidding consortia can only be formed between applicants already determined to be suitable until the submission of the first offer.

The application must be signed by all members of the bidding consortium. A lead member is to be appointed. Their powers must be specified. The consortium declaration shall include that the members of the consortium are jointly and severally liable.

## 8 Information on the review deadlines

Gewichtung: 0,00%

### 8.1 Information on the review deadlines

K.O.-Kriterium: Nein

In accordance with Section 160 (3) clause 1 Nos 1 to 4 of the GWB, requests for a review are not permitted a) if the requester has identified the alleged violation of procurement rules before lodging the request for a review and has not notified the contracting entity within 10 calendar days; the expiry of the time period according to Section 134 (2) remains unaffected (Section 160 (3) clause 1 No. 1 GWB). b) where violations of procurement rules, recognised on the basis of the notice, are not reported by the deadline for submitting offers or application to the contracting entity specified in the notice (Section 160(3) clause 1 No. 2 GWB). c) where violations of procurement rules, first recognisable in the tender documents, are not reported by the deadline for submitting tenders or application to the contracting entity specified in the notice/call for tenders (Section 160(3) clause 1 No. 3 GWB). d) where more than 15 calendar days have elapsed after receipt of notification from the contracting entity that they do not intend to remedy a complaint (Section 160(3) clause 1 No. 4 GWB).

## 9 Formal query

### 9.1 Evidence [Mussangabe]

K.O.-Kriterium: Nein

Have you digitally submitted all the evidence required in the EU notification for all registers A) to F) in sorted order?

- ☐ Keine Angabe (0)
- ☐ Ja (0)
- ☐ Nein (0)

Nur eine Antwort wählbar

### 9.2 Non Disclosure Commitment [Mussangabe]

K.O.-Kriterium: Nein

The confidentiality agreement is accepted.

- ☐ Keine Angabe (0)
- ☐ Ja (0)
- ☐ Nein (0)

Nur eine Antwort wählbar