



General rules for calls for tenders for fuel gas for delivery in 2022

General Rules for
Calls for Tenders Issued by Open Grid Europe GmbH
for 2022

1. The Tender Procedure

- 1.1 Open Grid Europe GmbH (hereinafter referred to as "OGE") is issuing this call for tenders to supply the fuel gas required for the operation of its gas pipeline system on its own behalf. Various lots of group H and group L gas are to be procured on the basis of these General Rules.
- 1.2 The tender procedure will consist of the prequalification procedure for inclusion in the bidders list (further details are given in Section 2 below) and the tendering and contract award procedure (for further details, see Section 4 below) for bidders included in the bidders list.
- 1.3 This call for tenders is being conducted in German and English and is subject to German law with the exception of international private law.
- 1.4 Each gas supplier interested in participating in the call for tenders (referred to in this document as "bidder") shall submit a separate application for prequalification to OGE. Such applications will be considered and accepted solely by OGE.
- 1.5 Documents submitted by bidders in connection with prequalification applications will be treated confidentially by OGE and will be used only for the purposes of the call for tenders and in accordance with these General Rules.
- 1.6 Following the completion of its review of the documents submitted, OGE will notify each bidder of its decision on prequalification. If any such application is not accepted, OGE will notify the bidder concerned in writing or by email, stating the reasons for its decision. If a bidder's prequalification application is accepted, the bidder will be included in the bidders list (list of prequalified bidders) and notified of this decision. Bidders who have been prequalified successfully in the last year don't have to pass a new pre-qualification in order to be re-listed on the bidders list.
- 1.7 Prequalified bidders will be requested to submit one or more tenders to supply the products required (hereinafter referred to as "lots") by a deadline set by OGE.

2. Prequalification of Bidders

- 2.1 Prequalification applications received by OGE will be reviewed and processed in accordance with the following deadlines set by OGE:
 - All the documents requested under Section 2.4 below shall be submitted and received at the offices of OGE at Bamlerstraße 1b, 45141 Essen or via e-mail to ralf.bernschein@oge.net by **12.00 o'clock, Local Time Germany on 17th August 2021**
 - OGE will review the prequalification applications received and notify the bidders of its decision by **20th August 2021**
- 2.2 A prequalification application shall only be deemed to have been submitted if and when OGE has received a complete application. Applications shall not be deemed to be complete unless they include the documents required under Section 2.4 below. Applications received which are not complete by the deadline set for submission shall be deemed not to have been submitted.

2.3 The following shall be exclusion criteria, which shall result in the immediate exclusion of the bidder from the call for tenders at any time:

- application for or opening of insolvency or similar proceedings against the bidder;
- any proven default of the bidder which casts doubt on the bidder's reliability;
- any final conviction of the bidder which casts doubt on the professional reliability of the bidder;
- the submission or forged or incomplete prequalification documents by the bidder;
- non-compliance of gas supplied or to be supplied by the bidder with the gas quality criteria for the lots to be supplied laid down in DVGW Code of Practice G 260 and/or
- non-acceptance of the delivery conditions by the bidder.

2.4 Parties wishing to be included in the list of bidders as prospective applicants must provide proof of their performance capability.

The performance capability and its proof is divided into a financial and a technical suitability test.

(a) The applicant must demonstrate a good credit rating as proof of his financial suitability. This is demonstrated when

- (aa) the applicant submits a declaration to the effect that no insolvency proceedings have been instituted, applied for or declined on grounds of insufficient assets.
- (ab) one of the following credit rating agencies has rated the applicant with at least the following index
 - Moodys (Baa3)
 - Standards & Poors (BBB-)
 - Fitch (BBB-)
 - Creditreform risk class II (<234 risk points)
- (ac) If the applicant is unable to provide the proof required in point (aa), then as an alternative or in addition to this he must put up a security deposit of at least EUR 1 million to cover the supply of gas.

The acceptable forms of security deposit include:

- bank guarantees or bank bonds,
- company guarantees / bonds, e.g. hard comfort letters and declarations of affiliation
- cash deposits or fixed-interest securities

The bond or guarantee declaration is payable on first demand and shall include a general waiver of the defences of prior proceedings, contestability and set-off or retainer,

Further requirements for the individual types of security deposits are defined below:

- Bank securities must be issued in the form of an unconditional, irrevocable and directly enforceable bank bond or bank guarantee. The bank issuing the security deposit must hold a minimum Standard & Poor's long-term rating of

A-, or a Moody's long-term rating of A3, or must belong to the German savings or co-operative bank sector.

- In the case of company guarantees and bonds, the company putting up the security must hold a Standard & Poor's long-term rating of at least BBB-, a Fitch rating of at least BBB-, a Moody's long-term rating of Baa3 or a Creditreform credit rating index of at least risk class II or better (according to Creditreform RatingMap,). The amount of the company guarantee or bond may not exceed 10 per cent of the liable equity of the credit support provider. The applicant must provide OGE with proof of this when putting up the security deposit.
- Where cash guarantees are provided, they must be remitted to an account nominated by OGE. They shall bear interest at the base rate published by the German Federal Bank on the first banking day of the invoice month.

(b) Self-certification for providing evidence of technical competence:

Within the self-certification as proof of technical competence the bidder engages to submit only the supplies which it can be able to deliver to virtual trading point Trading Hub Europe (THE) over the total delivery period.

Only original documents shall be submitted. Copies will not be accepted by OGE. Bidders from other countries shall submit documents issued in their home countries in German or English. The self certifications according to (aa) and (b) are to be handed over on a form, which is provided via internet by OGE. OGE will not reimburse to bidders the cost of obtaining any documents.

2.5. All the documents and information submitted by the bidder will be reviewed by OGE. Bidders which do not submit all of the documents and information required under section 2.4 above by the deadline set will be excluded from the prequalification procedure. All bidders shall be responsible for the correctness and completeness of the information and documents submitted by them.

Bidders whose prequalification applications have been rejected will be notified thereof in writing or by email. Prequalified bidders will be included in the bidders list and also notified thereof in writing or by email.

Hereby detailed information (data of the past) concerning OGE's gas consumption will be supplied to the prequalified bidders.

3. Validity of Prequalification

- 3.1 Prequalification shall be valid for this call for tenders. Prequalified bidders shall notify OGE of any change in the relevant information given in their prequalification applications promptly, within two weeks of the date of any such change, without it being necessary for OGE to request such information from prequalified bidders.
- 3.2 In individual cases, OGE reserves the right to cancel the prequalification of any bidder for reasonable cause and to delete said bidder from the bidders list.
- 3.3 OGE also reserves the right to change the criteria for prequalification and to request additional information and documents from bidders.

- 3.4 In order to extend prequalification, prequalified bidders will be requested to submit further prequalification documents when the prequalification period has expired.

4. Tendering and Contract Award Procedure

- 4.1 OGE will issue a call for tenders for the lots of fuel gas required starting with its publication of the general rules for tenders for the delivery period which runs between 01st. January 2022, 6 a.m until 01st. January 2023, 6 a.m.
- 4.2 Bidders will be required to submit one or more tenders for the lots covered by the call for tenders to OGE by **11.00 o'clock a.m., Local Time Germany on 24th August 2021**. This shall be sent by e-mail or fax to the following e-mail address or fax number:

E-Mail: ralf.bernschein@oge.net

Fax number: +49 (0)201 3642 8 14255

OGE will briefly confirm the receipt of tenders by email. Tenders not received before the set deadline will be rejected by OGE.

- 4.3 In each case, contracts for one or more lots will be awarded to the bidder submitting the most economical tender. The sole criterion for contract award will be the lowest price. In the event that two bidders quote the same price for any one lot, the contract will be awarded to the bidder which submitted the earlier tender.
- 4.4 The contract will be awarded not later than **11:30 a.m. on 24th August 2021**
- 4.5 Should any tender received not meet any of the mandatory requirements stated by OGE, OGE shall be entitled to reject such a tender for that reason.
- 4.6 Notification of contract award will be sent to the successful bidder by fax or email initially and shall be confirmed by the successful bidder on the same day for verification reasons. Any such confirmation shall not affect the validity of the tender submitted or contract award. Subsequently unsuccessful bidders will also be notified by OGE by fax or email. In limited cases this notification could be sent after 11:30 am.
- 4.7 Bidders selected for contract award shall be obligated to conclude gas supply contracts on the basis of their respective tenders and shall be bound to their tenders in this respect. Such natural gas contracts shall be concluded shortly after contract award in the version published by OGE. A specimen of the natural gas supply contract to be concluded is published on the OGE homepage and shall be an integral part of these General Rules. The acceptance by the bidder of said natural gas supply contract shall be a prerequisite for the prequalification of the bidder (see Section 2.3 above) and for the consideration by OGE of the tender submitted by the bidder.
- 4.8 Upon contract award, the conditions of the natural gas supply contract become binding.
- 4:9 This English language version is a courtesy translation. Solely the German language version of the contract shall be binding.