

INVITATION TO TENDER

to a negotiated public procurement contract award procedure without prior public notice
by virtue of Chapter Two of Act CXLIII of 2015 on Public Procurement (hereinafter PPA)
on "Subscription for the Access to de Gruyter Journals online database (2018)"

1.	Contacts for Contracting Authority
	<p>Name: Library and Information Centre of the Hungarian Academy of Sciences Address: H-1051 Budapest, Arany János u. 1 Phone: +36 1411 6325 Fax: +36 1331 6954 E-mail: kozbeszerzes@konyvtar.mta.hu Website: http://konyvtar.mta.hu/</p>
2.	Acting on behalf of Contracting Authority
	<p>PUBLIC CONSULTING Kft. Postal address: 1055 Budapest, Szalay u.2. III. em. 2. Phone: +36 704505971 Fax: +36 17002256 E-mail address: office@publicconsultingkft.hu PUBLIC CONSULTING Kft. shall provide the assistance of a liable and accredited expert in public procurement in respect of this public procurement procedure. Accredited expert in public procurement: Diána Kretter dr., registration number: 00373</p>
3.	Legal basis of the negotiated procedure
	<p>PPA § 98 (2) c): due to the protection of exclusive rights the contract may only be concluded with one specific economic operator, and there is no real alternative to meet the demand for the procurement, and the absence of competition is not a result of the fact that Contracting Authority would have defined the subject matter of the public procurement in an unreasonably restrictive manner.</p> <p>Reasoning for the relevance of the legal grounds pursuant to PPA § 98 (2) c):</p> <p style="padding-left: 40px;">1. The absence of competition is not a result of the fact that Contracting Authority would have defined the subject matter of the public procurement in an unreasonably restrictive manner:</p> <p>The objective of this public procurement is that through a national program of Electronic Data Supply (EDS) the Library and Information Centre of the Hungarian Academy of Sciences may provide access to the services under this public procurement to the circle of authorized users.</p> <p>The EDS is a national program established by Government Decision 2249/2001. (IX. 12.) (on the approval of the report of the Chairman of the Hungarian Scientific Research Fund and on the tasks in developing principles and requirements for a uniform electronic data supply) whose aim is to acquire electronic sources of information indispensable for higher education and academic research centrally on the basis of a national licence. In such a manner considerably more information may be accessed to for a wider range of users and for a relatively more favourable price.</p> <p>The EDS is a remarkable element of the higher education development program and our Euro-Atlantic integration as at the same time it substantially enhances the competitiveness of Hungarian higher education, and promotes the democratic expansion of access to information.</p> <p>Those state and ecclesiastical higher education and scientific research institutions (the most significant are those of the Hungarian Academy of Sciences) may join the national program of EDS which have been designated in the Higher Education Act.</p> <p>The electronic content services of the EDS may be accessed via the Internet. Identification is primarily through IP addresses, thus the service is only available on computers which share the IP-addresses of the authorized user institutions.</p> <p>The Government has called upon the Hungarian Academy of Sciences (hereinafter HAS) in its Government Decision 1079/2012. (III. 28.) on the tasks related to the financing and operation of the National Program for Electronic Data Supply to cater for the operation of the National Program for Electronic Data Supply with the contribution of the Library and Information Centre of the HAS who functions as a budgetary public body under its control. The decision for the range of databases (the database of the current public procurement included) to be acquired under the National Program for EDS has been made by an</p>

independent body (EDS Program Council). Therefore it may be concluded that Contracting Authority has not determined the subject matter of the current procedure in an unreasonably restrictive manner, but subject to the determination of the EDS Program Council.

2. No other alternative exists to meet the demand for the procurement:

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De Gruyter Journals is an online collection of peer-reviewed scientific journals covering all the fields including classical studies, history, law, linguistics, theology, sociology and many others. The high-quality journal portfolio offers more than 900 journals covering all areas of scientific research. Out of these journals more than 380 is available only for subscribed institutes.

95% of the journals are published in English, however some German-titles are also available in the collection. 163 of the journals have received an Impact Factor for 2016.

The database offers access to all volumes since 1995 for subscribers, and also free access for newly launched titles. Users can download, print and store contents for personal use. One can browse or search by titles of journals, subject, author, date etc.

The latest issues of journals are available online exclusively in this database.

The database which are the subject of this public procurement procedure are highly significant which solely meets the professional and scientific requirements of the user institutions as described above. Solely the content of this database covers the scientific and professional requirements of the user institutions. Domestic institutions of tertiary education and research centers may exclusively gain exhaustive and well-grounded information with references for their research activities from the current database through articles based on leading international research.

All the above support the exquisite nature of the subject of the current public procurement procedure, and that it may not be replaced by any other database.

The uniqueness of the database is also supported by it being of copyrighted quality which is manifested in its singular and original nature.

3. The contract may solely be concluded with a specific economic operator due to the protection of exclusive rights:

This particular procurement award procedure type has been chosen for the following reason. The volume of this procedure is the provision of access to a copyrighted database via subscription. Subscription enables the Hungarian Academy of Sciences (MTA) to provide its contractual services related to the National Program for Electronic Data Supply. Walter de Gruyter GmbH has been selected to participate as the only Tenderer capable of providing rights of access to the database.

In consideration of the above Contracting Authority intends to conduct the procedure as per PPA § 98 § (2)c), so that American Walter de Gruyter GmbH who is exclusively authorised to provide access is called for tender.

4. Manner of availability of public procurement documents

Except for the Invitation to Tender the public procurement documents (hereinafter Documentation) are directly available in full without any restrictions at the following internet link: <http://b-t.hu/dokumentum/index.php/s/PE4PgKrzq935HID>

The Documentation shall also be sent directly to Tenderer by Contracting Authority. The receipt / electronic access of the Documentation is a precondition for participation in the procedure. At least one Tenderer or Sub-contractor designated in the Tender shall receive/have access to the Documentation per Tender. Documentation is non-transferable.

5. The subject-matter and quantity of the public procurement

The subject of the procedure: "Subscription for the Access to de Gruyter Journals online database (2018)"

Quantity:

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	<p>De Gruyter Journals is an online collection of peer-reviewed scientific journals covering all the fields including classical studies, history, law, linguistics, theology, sociology and many others. The high-quality journal portfolio offers more than 900 journals covering all areas of scientific research. Out of these journals more than 380 is available only for subscribed institutes.</p> <p>95% of the journals are published in English, however some German-titles are also available in the collection. 163 of the journals have received an Impact Factor for 2016.</p> <p>The database offers access to all volumes since 1995 for subscribers, and also free access for newly launched titles. Users can download, print and store contents for personal use. One can browse or search by titles of journals, subject, author, date etc.</p> <p>The latest issues of journals are available online exclusively in this database.</p> <p>Subscriber Institutions in 2018:</p> <p>de Gruyter Journals Complete Package</p> <ol style="list-style-type: none"> 1. Eötvös Loránd University <p>de Gruyter Journals Social Sciences and Humanities Package</p> <ol style="list-style-type: none"> 1. Károli Gáspár University of the Reformed Church in Hungary 2. Library and Information Centre of the Hungarian Academy of Sciences 3. Lutheran Theological University 4. Pázmány Péter Catholic University 5. Pentecostal Theological College <p>Common Procurement Vocabulary (CPV): Main subject: 79980000-7</p>
6.	Subject of the contract
	Online database subscription agreement
7.	The term of the contract or the time limit for performance
	As of the conclusion date of the contract until 31 December 2018.
8.	Place of performance
	The seat(s) of user institutions as specified in the relevant Appendix of the contract.
9.	Conditions for settling the consideration and reference to applicable legislation
	<p>No advance shall be paid by Contracting Authority.</p> <p>Contracting Authority enables Tenderer to issue a single invoice within the scope of the contract pursuant to the terms set forth in the Draft Contract included in the Documentation.</p> <p>Contracting Authority shall make payments by transfer in compliance with PPA § 135 (1) and (6), as well as Section 6:130 (1)-(2) of the Civil Code and Section 36/A of Act XCII of 2003 on the rules of taxation. The method of payment is transfer. The invoice shall be issued in EUR by the winning Tenderer following certified contractual performance.</p>
10.	Acceptance or prohibition of variant (alternative) offers, the possibility or ruling out of partial bidding
	<p>Contracting Authority prohibits variant (alternative) offers.</p> <p>Partial tendering is not rendered possible due to the following reasons: the significance of enabling partial tendering is to ensure competition in as wide a sphere as possible. However, the subscription agreement to be concluded as a result of this current public procurement - related to its grounds - may solely be fulfilled by one economic operator. Therefore enabling partial tendering in relation to this current public procurement would be unreasonable and entail unnecessary administrative work.</p>
11.	Award criteria of the Tender
	<p>The lowest tender price subject to PPA § 76 (2) a).</p> <p>Subject to PPA § 100 (5) in case of a single Tenderer called for tender PPA § 76 (5) shall not apply.</p>
12.	Grounds for exclusion
	<p>No Economic Operator may participate in the procedure as Tenderer, or Sub-contractor, and may not contribute to the certification of suitability either who fall under any of the points defined in PPA § 62 (1) and (2).</p> <p>Due to the fact that the economic operator called for tender is not established in Hungary, therefore the non-existence of grounds for exclusion shall be certified pursuant to Sections</p>

	<p>10, 12, and 14-15 of Government Decree 321/2015. (X. 30.).</p> <p>In case of Tenderers not established in Hungary they shall declare as regards grounds for exclusion pursuant to PPA § 62 (1) a)-g), and sub-point ka) of point k), as well as PPA § 62 (2) as to what kind of certifications are suitable to certify the non-existence of grounds for exclusion in the country in which they are established and as to what kind of authorities, organizations issue them. Such declaration is not suitable to certify the non-existence of grounds for exclusion, but it identifies the means of certification. The Tender shall contain certifications of such authorities, organizations which provide truthful evidence as to the non-existence of grounds for exclusion.</p> <p>Subject to PPA § 100 (5) Contracting Authority requires that the certifications on the non-existence of grounds for exclusion shall be filed simultaneously with the submission of the tender.</p> <p>Tenderer is required to make a statement in the Tender pursuant to PPA § 67 (4) that it shall not involve any sub-contractors to contribute to the performance of the contract which would fall under the grounds for exclusion as set out in PPA § 62.</p>
13.	Suitability criteria are dispensed with
	Due to the legal grounds of this public procurement Contracting Authority fails to determine any financial or economic, technical or professional suitability criteria with regard to PPA § 65 (2).
14.	Request for the supply of missing information
	Contracting Authority allows full scope to supply missing information without any restrictions with respect to PPA § 71.
15.	Deadline for submission of Tender and date of Tender opening:
	19 (day) January (month), 2018, at 12 (hr) 00 (min) noon.
16.	Address to which Tenders shall be sent
	PUBLIC CONSULTING Kft. H-1055 Budapest, Szalay u. 2. III/2. The Tenders shall be submitted on working days from 10 a.m. to 5 p.m., on the day of the time limit for submission of Tenders from 9 a.m. to 12 p.m. (noon).
17.	Language
	The language of the procedure is Hungarian and / or English. Contracting Authority provides the Invitation to Tender as well as the Documentation in Hungarian and English. The Tender may be submitted in Hungarian and / or English. Contracting Authority shall accept the liable translation of those documents by Tenderer which were not submitted in Hungarian and/or English pursuant to PPA § 47 (2).
18.	Tender opening venue
	PUBLIC CONSULTING Kft. H-1055 Budapest, Szalay u. 2. III/2. (Meeting Room)
19.	The parties authorized to be present at the opening of Tenders
	Pursuant to PPA § 68 (3)
20.	The process of negotiations and related fundamental rules prescribed by Contracting Authority
	<p>Contracting Authority intends to negotiate once, but it reserves the right of holding further negotiation(s) if it is required. Tenderer shall be informed of the date and venue of the further round of negotiation(s) in writing (by being sent the negotiation minutes) or at the previous negotiation.</p> <p>Contracting Authority draws up minutes of each negotiation with respect to PPA § 88 (4) which shall be signed by Tenderer, provided it attends the negotiation in person.</p> <p>At the negotiations only persons with due authorization, or full proxy for declarations shall make any statements. In the latter case a copy of the proxy (power-of-attorney) shall be enclosed in the Tender or presented at the negotiation.</p> <p>Persons acting on behalf of Tenderer shall be verified at every negotiation whether they are authorized to do so.</p> <p>Tenderer is responsible for authorizing a suitable person having the required legal and technical expertise to represent him at every round of negotiations and who is thus empowered to make declarations and - if necessary - submit a new Tender offer on behalf of Tenderer.</p> <p>In the course of negotiations the subject and conditions of the public procurement may not be altered in such a manner that</p> <ol style="list-style-type: none"> a) the difference in the subject or conditions of the contract concluded subject to the procedure originally would not have allowed the launch of a negotiated procedure without prior contract notice, b) the conditions laid down in the Invitation to Tender and the Documentation would

	<p>change to such an extent that as a result Tenderer could not be able to make a Final Tender by the close of the negotiations, or</p> <p>c) the award criteria or its method would be changed.</p> <p>Contracting Authority indicates the following terms to be negotiated related: full scope of the Technical Specifications, full scope of the circle of Authorized Users, all clauses of the Draft Contracts.</p> <p>Contracting Authority shall inform Tenderer when the negotiations are to be concluded (thus when the binding period of the Tender offer commences). The conclusion of the negotiations is deemed to be the "time limit for submission of Final Tenders". The time limit for submission of Final Tenders, that is of the "Final Tender" or the statement on upholding the original Tender shall be given at the negotiation/final negotiation by Contracting Authority. Contracting Authority shall inform Tenderer of the time limit for submission of Final Tenders also in writing by handing over the negotiation minutes at the negotiation, or by sending it.</p> <p>If the technical specifications or contractual terms are not amended at the negotiations and Tenderer does not submit a Final Tender up until the deadline for such submission or does not make a statement on failing to uphold its Tender, then the original Tender is deemed to have been upheld and it will be evaluated as a „Final Tender". A Tender is deemed original which was submitted within the original time limit for submission of Tenders. If Tenderer fails to attend the negotiation Contracting Authority shall proceed according to the foregoing nevertheless.</p> <p>At the conclusion of negotiations, that is, by the expiry of the deadline for submission of Final Tenders the binding offer period commences which shall take 30 days.</p> <p>The method and form of submission of Final Tenders shall be specified during the negotiations.</p>
	<p>21. Venue and date of the first negotiation:</p>
	<p>Venue: Library and Information Centre of the Hungarian Academy of Sciences 1051 Budapest, Arany János u. 1 (4th Floor Room 405)</p> <p>25 (day) January (month), 2018, at 14 (hr) 00 (min)</p>
	<p>22. Additional criteria and information:</p>
	<ol style="list-style-type: none"> 1. Contracting Authority provides the name of those organizations in the Documentation pursuant to PPA § 73 (4) which could supply Tenderer with information on requirements under PPA § 73 (4) which must be met during performance. 2. With respect to PPA § 47 (2) any document enclosed in the original Tender may be submitted in a simple copy. Contracting Authority prescribes the submission of originals or certified copies of such statements only that serve directly as the basis for the enforcement of a claim. Contracting Authority prescribes the original of the statement pursuant PPA § 66 (2). 3. The Tender shall be submitted in 1 single copy on paper in a sealed envelope to the address provided herein up until the expiry of the deadline in person or by postal service. The Tender shall contain a Reading Sheet which contains all the information specified in PPA § 68 (4) (the names and addresses (seat, permanent residence) of Tenderers, as well as the main quantifiable particulars related to each Part to be assessed based on the evaluation criteria). 4. Tenderer shall make a statement in the Tender with respect to PPA § 66 (2) and (4). 5. Statements as per PPA § 66 (6) are not required. 6. Contracting Authority calls Tenderers' attentions to the fact that for any time limit in the procedure the Central European Time is authoritative. 7. Contracting Authority neither allows nor requires the setting up of a business organization (project company) for the performance of the contract. 8. Subject to Section 13 of Government Decree 321/2015. (X. 30.) if an amendment notification proceeding is in progress, then the Tender shall contain the amendment notification submitted and the document in which the Court of Registration has confirmed the receipt of such amendment notification. 9. Supplementary information shall be transmitted electronically pursuant to PPA § 56 (1)-(5). 10. Contracting Authority does not require tender security as a prerequisite for finalized tenders. 11. The Tender shall contain the sample signature countersigned by an attorney-at-law or the specimen signature of the person who is to sign the Tender documents on behalf of and representing the Tenderer. If the Tender is not signed by the duly

	<p>authorized person (duly authorized representative in case of companies), then a power of attorney (proxy) shall also be enclosed. The power of attorney shall contain the sample signature of the person thus empowered by the duly authorized person or representative to sign the Tender. Contracting Authority uses the terms specimen signature / sample signature within the meaning of Section 9 (2) of Act V of 2006. If Tenderer does not fall under the scope of Act V of 2006, then a document which include the following shall be submitted: 1) name of Tenderer, 2) name of the representative, and 3) the grounds for representation (e.g. executive officer), 4) signature of the representative, and 5) bearing notarial authentication or is countersigned by an attorney.</p> <p>12. If Tenderer has any comments or amendment requests regarding the Technical Specifications or all clauses of the Draft Contracts, please enclose them as specific suggestions as to each Part in a text like manner (as far as possible on an electric data carrier, in an editable *.doc form with a track changes version) in order to facilitate negotiations.</p> <p>13. Also, please enclose your Licence Agreement in your Tender if applicable. If no such Agreement is enclosed, or delivered to Contracting Authority up until the close of the negotiations, it shall be deemed that no Licence Agreement is to be applied.</p>
23.	<p><i>Date of dispatch for the Invitation to Tender</i> <i>On the 20th December, 2017</i></p>

On behalf of Contracting Authority:

PUBLIC CONSULTING Kft.

PUBLIC CONSULTING Kft.
represented by Diána Kretter dr.
managing director