

Invitation to Tender

in the public procurement procedure under Article 98 (2)(c) of Chapter XV of Part Two of Act CXLIII of 2015 on Public Procurement (hereinafter referred to as “PPA”)

in the subject of the “*Service and supply contract for ACM Digital Library online database*”

1. Name, address, telephone and fax number of the Contracting Authority (central purchasing body):

Name: Library and Information Centre of the Hungarian Academy of Sciences
Registered seat: 1051 Budapest, Arany János u. 1.
Phone: +36-1-411-6325
Fax: +36-1-331-6954
Email: eisz@konyvtar.mta.hu
Contact person: Katalin Urbán
Homepage: <http://konyvtar.mta.hu/>

2. Acting on behalf of the Contracting Authority:

Name: Csendes Consulting Kft.
Registered seat: 9082 Nyúl, Szabadság utca 43.
Address: 1051 Budapest, József Nádor tér 5-6. Floor 3.
Postal address: 1396 Budapest, Pf. 468
Telephone: +36 70-323-5371
Fax: +36 1 700 2293
Email: kozbeszerzes@csendesconsulting.hu
Contact person: Diána Kaffka
Name of the accredited public procurement consultant: Diána Kaffka
Registration number of the accredited public procurement consultant: OO603

3. **Chosen procedure:**

Article 98 (2)(c) of the PPA: for reasons connected with the protection of exclusive rights, the contract may only be concluded with a particular economic operator, provided that no reasonable alternative or substitute exists to satisfy the purchasing need of the contracting authority and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

The circumstances which justify the use of the negotiated procedure:

1. **The absence of competition is not the result of an artificial narrowing down of the parameters of the procurement:**

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 (National Program for EDS) with the contribution of the Library and Information Centre of the HAS who functions as a budgetary public body under its control.

2. **No reasonable alternative or substitute exists to satisfy the purchasing need of the contracting authority:**

ACM (Association for Computing Machinery) is the oldest and largest scientific society of computer sciences. It is a forum for information, theories, exchange and publication of discoveries since 1947. The database of Association for Computing Machinery is published by ACM, contains bibliographic data on journals, conference documents and full-text articles since 1985.

The ACM Digital Library (DL) is a comprehensive collection of full text articles and bibliographic records in existence today covering the fields of computing and information technology. The full text database includes the complete collection of ACM publications, including journals, conference proceedings, magazines, newsletters, and multimedia titles.

In addition to the full-text database, the ACM Digital Library is heavily integrated with and includes unrestricted access to the Guide to Computing Literature bibliography.

The ACM Digital Library includes reference linking through CrossRef, integration with the ACM Computing Reviews database, index terms using ACM's Computing Classification Scheme (CCS), alerting and TOC services, and all export formats including BibTex, EndNote and ACM Ref, as well as OpenURL compliance, and COUNTER III and SUSHI Compliant usage statistics.

The ACM digital Library Platform is ACM's own proprietary system that is wholly developed, hosted and maintained by ACM. The system is built on open source technology in collaboration with volunteers from the scientific community and contains many of the most powerful search features available today.

One can browse by titles of magazines, reviews, congresses, or by member institutions. It's also possible to search by special fields. By the personal ACM WebAccount, the user can customize the services. Search is also aided by several inbuilt tools.

3. For reasons connected with the protection of exclusive rights, the contract may only be concluded with a particular economic operator:

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 reference to their research activities and studies from the current databases through articles based on leading international research. The works included in the current database may not be accessed through any other database, thus the scientific demands of all user institutions may exclusively be met via such database.

In consideration of the above, and that **Association for Computing Machinery** holds exclusive rights as to distribution, Contracting Authority intends to conduct a procedure pursuant to PPA § 98 (2) point c).

4. The manner, deadline, location and financial conditions of the availability of the Public Procurement Documents:

Public Procurement Document: shall mean all documents made by Contracting Authority in order to describe or define the subject or the procedure of the public procurement, or which is referred to for the same, thus specifically, the Invitation to Tender launching the procedure, the Technical Specifications, supplementary information, proposed contractual terms and conditions, templates for documents to be submitted by economic operators.

The Public Procurement Documents shall be made available free of charge.

Contracting Authority shall send the Public Procurement Documents direct, unrestricted and full access free of charge by electronic means, together with the Invitation to Tender to the economic operator invited to tender.

5. Title attributed to the contract by the Contracting Authority:

Service and supply contract for online database

6. Subject and quantity of the public procurement:

“Service and supply contract for ACM Digital Library online database”

List of Authorized Users:

Budapest University of Technology and Economics

University of Debrecen

University of Dunaújváros

Eötvös Loránd University

Óbuda University

Pázmány Péter Catholic University

Széchenyi István University

University of Szeged

Common Procurement Vocabulary (CPV):

MAIN OBJECT:

79980000-7 Subscription services

ADDITIONAL OBJECTS:

72320000-4 Database services

7. Duration of the contract or time limit for fulfilment:

The contract will become effective as of its conclusion and will be valid for a limited period of time until 31th of December 2017.

8. Place of performance/delivery:

Budapest University of Technology and Economics (1111 Budapest, Műegyetem rkp. 3.)
NUTS code: HU101

University of Debrecen (4032 Debrecen, Egyetem tér 1.) NUTS code: HU321

University of Dunaújváros (2400 Dunaújváros, Táncsics Mihály u. 1.) NUTS code: HU211

Eötvös Loránd University (1053 Budapest, Egyetem tér 1-3.) NUTS code: HU101

Óbuda University (1034 Budapest, Bécsi út 96.b) NUTS code: HU101

Pázmány Péter Catholic University (1088 Budapest, Szentkirályi utca 28.) NUTS code: HU101

Széchenyi István University (9026 Győr, Egyetem tér 1.) NUTS code: HU221

University of Szeged (6720 Szeged, Dugonics tér 13.) NUTS code: HU333

9. Collateral obligations securing the contract:

If the lack of service exceeds 2% during the subscription period and if this interruption of service is not beyond Provider's control and no excuse is provided for such breach, the Provider is obliged to pay penalty for faulty performance. The rate of the penalty for faulty performance is identical with the net sum of the Subscription Fee corresponding to the period when the service is not provided.

10. Terms and conditions of the financial consideration provided by the Contracting Authority:

The Contracting Authority shall not pay any advances. The contract to be concluded is a fixed price lump sum contract. The consideration is to be paid by wire transfer against invoice. The winning Tenderer is not entitled to submit partial invoices.

The Contracting Authority is obliged, upon the verification of contractual performance, to pay the invoice value within the payment deadline of 30 days as of the receipt of the invoice and in pursuance of Article 6:130(1) and (2) of the Civil Code.

Payment is governed by the stipulations specified in detail in Article 135(1) and (6) of the PPA.

Contracting Authority calls the attention to the fact that the provisions of Article 36/A of Act XCII of 2003 on the Rules of Taxation (hereinafter referred to as RTA) should be applied during the submission and the payment of the invoice in the cases of both the winning Tenderer and the subcontractor.

If the Tenderer does not fulfil its obligations under the above legislation, the Contracting Authority will not be liable for any legal consequences of late payments resulting therefrom. Default interest is governed by Article 6:155(1) of the Civil Code.

Detailed rules of the payment terms are included in the draft contract included in the Public Procurement Documents.

Tenderer is obliged to take into account the provisions of Article 142 of Act CXXVII of 2007 on value added tax.

The Contracting Authority shall not be obliged to pay default interest in connection with invoices that have been issued incorrectly or late and have been received late for reasons attributable to the winning Tenderer.

USD is the currency of the tender and the one used in contracting, accounting and paying the consideration.

11. Specification whether Tenderer may submit variants:

Tenderer may not submit variants.

12. Acceptance or prohibition of the division of the contract into lots.

Contracting Authority prohibits partial tendering.

Reasoning: The reason for acceptance of the division of the contract into lots is to increase the competition. But in case of this public procurement process the contract to be concluded can solely be performed by one economic operator in pursuant to the grounds for the use of this procedure. Regarding these facts, it would be unreasonable to have it severed into parts, and would go against cost-effectiveness and practicality.

13. Tender assessment criteria:

In case of the current public procurement procedure, the Contracting Authority shall assess the tender submitted according to the criterion of the lowest price in pursuance of Article 76(2)(a) of the PPA. According to Article 100(5) of the PPA Article 76(5) of the PPA shall not apply.

The tender price must include every cost to be incurred for the performance of the contract and arising in accordance with the Technical Specifications. Pursuant to Article 66(5) of the PPA the tender price is to be given on the Reading Sheet (Annex 1). The price is to be given in positive whole numbers and in USD currency.

14. Grounds for exclusion:

14.1. Grounds for exclusion:

Economic operator to whom any of the grounds for exclusion under Article 62(1) and Article 62(2) of the PPA apply may not be Tenderer, subcontractor and may not participate in the suitability verification.

14.2. Verification of grounds for exclusion:

As regards the Contracting Authority request tender from a Tenderer who is not established in Hungary, the non-existence of grounds for exclusion shall be verified by Article 10 and 12 and 14–15 of Government Decree No. 321/2015 (X. 30.).

In case if the Tenderer is not established in Hungary to verify the non-existence of grounds for exclusion Article 62(1)(a)-(g) and (k)(ka) of the PPA and Article 62(2) of the PPA the Tenderer shall declare which certification(s) can verify the non-existence of grounds for exclusion and by which competent authority or organization issues it (tehm) in the legal system of the country where the Tenderer is established.

According to Article 100(5) of the PPA by way of derogation from Article 69 of the PPA instead of using the European Single Procurement Document, the contracting authority requires that the certificates concerning the non-existence of the grounds for exclusion shall be submitted upon submitting the tender.

According to Article 67(4) the Tenderer shall make a statement in his tender that he does not employ for the performance of the contract any subcontractor subject to the grounds for exclusion specified in Article 62 of the PPA.

15. Suitability requirements:

15.1. Data necessary for the assessment of the economic and financial suitability of the Tenderers and the required form of verification:

The Contracting Authority does not prescribe any suitability requirement concerning the economic and financial situation.

15.2. Data necessary for the assessment of the technical and professional suitability and the required form of verification:

Having regard to Article 65 (2) of the PPA, the Contracting Authority does not prescribe any requirement concerning technical and professional suitability for tendering (“No separate justification is necessary if only an already specified economic operator may be invited to tender according to the legal basis of the negotiated procedure without prior publication of a contract notice.”)

16. Ensuring the possibility to supply missing information:

The Contracting Authority shall ensure the possibility of supplying missing information and to request information pursuant to Article 71 of the PPA.

17. Deadline for tender submission:

On the 15th day of the month of May in the year of 2017, at 16 hours and 00 minutes

18. Address of submission:

Csendes Consulting Kft.

1051 Budapest, József Nádor tér 5-6. III. em. (1396 Budapest, Pf. 468)

19. Language of tender:

Language of the procedure: Hungarian and/or English. Language of the tender application: Hungarian and/or English and/or German. The Contracting Authority shall make both the Invitation to Tender and the Public Procurement Documents available in English and Hungarian. Tenderer may elect to submit the tender in Hungarian and/or in English and/or German.

In case a document or a form is submitted in a language different from Hungarian and/or English and/or German, than the responsible Hungarian and/or English and/or German translation thereof is also required to be submitted. The responsible translation must include the declaration of the Tenderer stating that the translation is identical as to content with the document in the foreign language, and the due signature of the representative acting in the name of the Tenderer. Tenderer is responsible for the accuracy of the translation.

The Contracting Authority shall also accept the responsible translations by the Tenderer of the documents submitted in languages different from Hungarian and/or English and/or German. (Pursuant to Article 47(2) of the PPA)

20. Place and date of opening of tenders:

Csendes Consulting Kft.

1051 Budapest, József Nádor tér 5-6. III. em.

On the 15th day of the month of May in the year of 2017, at 16 hours and 00 minutes

21. Persons authorised to attend the opening of tenders:

By virtue of Article 68(3) of the PPA, it is the Contracting Authority, the Tenderer and the persons invited by them who may be present at the opening of the tender. These persons may inspect the reading sheet at the opening.

The opening procedure is otherwise governed by the provisions of Article 68(1)–(4) and (6) of the PPA.

22. Minimum time frame for the binding period of the tender:

By virtue of Article 100(4) of the PPA, the time frame during which the Tenderer must maintain the tender in this public procurement procure is 30 days as from its start (ending of the negotiations).

The time frame during which the Tenderer must maintain the tender is governed by the provisions of Article 70(2) and Article 131(5) of the PPA.

23. Date of sending the summary of the result of the procedure and the planned date and time of contract conclusion:

Date of sending the written summary about the assessment of the tender:

Pursuant to Article 79(2) of the PPA, the Contracting Authority shall inform the Tenderer about the result of the procedure in writing.

The Contracting Authority informs the Tenderer that it shall, in conformance with Article 70(1) of the PPA, assess the tender within the shortest possible time and shall complete the assessment within a time period so that the Tenderer is informed about the decision closing the procedure still during the time frame during which the Tenderer must maintain the tender.

By way of derogation from Article 69 of the PPA, the Contracting Authority may adopt the decision about the ineffectiveness of the procedure without assessing and evaluating the tender if the final price offer of the particular procedure exceeds the amount of the available financial resources adequately substantiated in conformance with Article 75(4) of the PPA.

Planned date and time of contract conclusion:

The Contracting Authority may conclude the contract only with the winner of the procedure.

The time frame during which the winning Tenderer must maintain the tender shall become extended by thirty days as from the sending the Tenderer the written summary about the assessment of the tender.

The Contracting Authority states that the Contracting Authority is obliged to conclude the contract, in conformity with the provisions in Article 131(6) of the PPA, within the time frame [given in Article 131(5) of the PPA] during which the Tenderer must maintain the tender.

Subject to Article 131(8)(e) of the PPA and by way of derogation from Article 131(6) of the PPA, the contract may be concluded even before the expiry of the ten days deadline specified therein, if the chair of the Public Procurement Authority does not exercise its right to launch a procedure for appeal within the deadline specified in Article 152(3) of the PPA, having regard to the fact that the Contracting Authority has launched this negotiated procedure without prior publication of a contract notice with inviting a single Tenderer on the basis of Article 98(2)(c) of the PPA.

24. Other information:

1. Formal requirements: the tender is to be submitted either directly or by mail in writing, in 1 paper original in a closed package and to the address given in this invitation until the expiration of the deadline for tender application, on working days until 9:00-17:00 o'clock and between 9:00-16:00 o'clock on the day of expiration of the deadline for tender application.

The tender must contain a table of content at the beginning of the document where the relevant documents may be found.

The followings are to be indicated on the package:

- Name of the Tenderer
- Name of the Contracting Authority
- And the following remark: **“Tender – Library and Information Centre of the Hungarian Academy of Sciences – in the subject of *“Service and supply contract for ACM Digital Library online database”* and *“Opening is forbidden before the expiration of the deadline for tender application”*”**

Every document (declaration) included in the tender application shall be signed at the end by the person(s) authorised to sign or by the person having been granted written authorisation therefrom.

Every page that has been amended prior to submission shall be signed at the place of amendment by the person signing the entire document as well.

Tenderer is obliged to attach its duly signed tender, which is fully identical to the paper version, on an electronic data medium (e.g.: CD or DVD) in a completely read-only format (without any password to open and in a non-editable form), put into the closed package containing the paper version.

The Tenderer is obliged to attach its express statement regarding the fact that the content of its tender submitted on the data medium in accordance with the foregoing is fully identical with the tender it has submitted and marked as original.

2. Requirements concerning the documents constituting the tender:

2.1. Subject to Article 47(2) of the PPA, the documents to be submitted within the context of the tender may be submitted in simple copies as well, unless otherwise required by the law.

The single original of the tender submitted in pursuance of Article 68(2) of the PPA is to contain the signed original of the declaration under Article 66(2) of the PPA.

2.2. Tenderer may elect to submit the tender in Hungarian and/or in English and/or German.

2.3. If the Tenderer intends to provide verification for a fact or data in pursuance of Article 69(11) instead of the verification required by the Public Procurement Documents or the Invitation to Tender, then the Tenderer is obliged to state in its declaration which fact or data it intends to verify in pursuance of Article 69(11) of the PPA and to indicate the web address of the free, electronic, official records containing such fact or data available in the language of the public procurement procedure.

2.4. Subject to Article 69(11) of the PPA, the Contracting Authority shall request the submission of the Hungarian and/or English translation of the relevant verification or information in case of records that are not Hungarian and/or English.

In Hungary, it is the official records and the records specified in separate legislation that may be considered suitable to substitute the submission of the verification.

3. Governing time:

The Contracting Authority informs the Tenderer that it is the Central European time (CET) that is applicable for every deadline related to the procedure.

4. Tendering costs: Every cost incurred in connection with the compilation and submission of the tender is borne by the Tenderer.

5. Joint tendering: Subject to Article 99(2) of the PPA, it is only the economic actor invited to tender who may tender in the procedure.

6. Project company: Taking the requirements in Article 35(8)–(9) of the PPA into consideration, Contracting Authority, with a view to the fulfilment of the contract to be concluded as a result of the public procurement procedure, does not require the winning Tenderer and does not allow it to establish an economic entity (project company), thus the requirements in Article 140 of the PPA are not applicable in this public procurement procedure.

7. Additional information:

Pursuant to Article 56(2) of the PPA, additional information is to be provided within a reasonable deadline after the receipt of the request, but 3 days before the expiry of the deadline for the submission of tender at the latest.

If the request for additional information is submitted later than 3 days before the deadline for replies in Article 56(2) of the PPA, then the Contracting Authority is not obliged to provide additional information.

If the Contracting Authority is unable to provide the information within the deadline specified in Article 56(2) of the PPA or if it modifies the public procurement documents together with the additional information, then Article 52(4) of the PPA shall apply.

If the Contracting Authority considers answering of the question to be necessary for appropriate tendering but the appropriate amount of time necessary to reply within a reasonable time and to consider the reply is not at hand, then it may use the option to extend the deadline for submission of tender pursuant to Article 52(3) of the PPA.

8. Applicable law: Issues not regulated in this Invitation to Tender and in the Public Procurement Documents are governed by the implementing regulations of Act CXLIII of 2015 on Public Procurement Act.

9. Schedule for conducting the negotiation and fundamental rules provided for by the Contracting Authority:

Place of the negotiation: **Library and Information Centre of the Hungarian Academy of Sciences (1051 Budapest, Arany János u. 1., Meeting Room No. 405)**

Date and time of the negotiation: On the 24th day of the month of May in the year of 2017, at 15 hours and 00 minutes

Contracting Authority shall negotiate with the Tenderer *in a single round*, but it reserves the right to make further negotiation round(s) if deemed necessary. The Contracting Authority shall inform each of the Tenderers about the date and place of the new negotiation round in writing or at the last negotiation round.

Persons authorised to sign for the Tenderer or holding full authorisation to make statements in the name of the Tenderer may make statements at the negotiations. In the latter case, the original authorisation is to be attached to the tender or handed over at the negotiations.

At each negotiation round, the Contracting Authority shall check the existence of the authorisation to represent held by each of the persons acting in the name of the Tenderer.

Pursuant to Article 88(4) of the PPA, the Contracting Authority shall draw up minutes about each of the negotiations and these are required to be signed by each Tenderer attending that negotiation until the commencement of the next round of negotiations (in case only one negotiation is held or it is the last negotiation, then within 2 working days after the completion of negotiations), a copy of the minutes is to be given to them or is required to be sent within 2 working days.

Pursuant to Article 100(4) of the PPA, Tenderer must maintain its tender as from the date of completing the negotiations.

Pursuant to Article 101(2) of the PPA, the subject matter and the terms and conditions of the public procurement may not be changed in a way that

(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) would make the terms and conditions indicated in the Invitation to Tender and in the public procurement documentation change or get amended in such an extent that it would make any of the Tenderers unable to submit a final tender upon closing the negotiations, or

(c) the award criteria or its method would be changed.

Subject to Article 88(9) of the PPA, the Contracting Authority shall clearly inform the Tenderer in advance when it is going to close the negotiations.

Upon closing the negotiations, the Contracting Authority shall invite the Tenderer to submit a final tender in writing.

25. Documents to be attached to the tender:

1. Reading sheet: Pursuant to Article 66(5) of the PPA, the tender should include a reading sheet, on which information provided for in Article 68(4) of the PPA is indicated:
 - name, address (registered seat, domicile) of the Tenderer,
 - and the main quantifiable data that shall be assessed on the basis of the assessment criterion.
2. Name, position, telephone, fax number and email address of the contact person appointed by the Tenderer for the procedure shall be specified in the tender. Any information disclosed to the above contact person in the course of the public procurement procedure shall be considered as legally effective information. Any message or document sent to the contact person's fax number or email address shall be considered as delivered in a legally effective manner at the time of confirmation.
3. Company documents:
 - Statements/documents in the tender are to be attached to the tender for the person signing in the name of the *Tenderer, subcontractor* (hereinafter referred to as: signatory):
 - (i) a document (e.g. Deed of Foundation, Articles of Association), that can ascertain the **power of representation** of the signatory, and

(ii) such a notarised specimen signature prepared by a civil law notary or a document countersigned by an attorney-at-law or a document witnessed by two witnesses that can unequivocally ascertain the signature of the **signatory** (“document attached for verifying the appearance of the signature”).

Should *Tenderer, subcontractor* fall within the scope of Act IV of 2006 on Business Associations or is a business association under Article 3:89 of the Civil Code, then it is not necessary to attach the **foregoing (i)** document verifying the **power of representation** of the signatory, as it can be checked for free pursuant to Article 69(11) of the PPA.

As regards Point (ii), the notarised specimen signature or the specimen signature issued by an attorney-at-law is to be attached for the **signatory** in case the *Tenderer* falls within the scope of Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings (hereinafter referred to as Public Company Information Act), with consideration of Article 9 of the Public Company Information Act.

Should the signatory appoint a procurator, then it is necessary to attach the authorisation for representation of the appointed persons signed by both the person entitled to represent and the procurator.

4. In case of an amendment procedure in process, the request for amendment submitted to the Court of Company Registration and the document certifying its receipt by the Court of Company Registration is to be attached. The declaration is expressly to be made in case of negative content as well and is to be attached to the tender.
5. Statement concerning the Tender: Pursuant to Article 66(2) of the PPA, the tender is to include the express statement of the Tenderer concerning the terms and conditions of the Invitation to Tender, the conclusion and fulfilment of the contract and the requested consideration.
6. Statement under Article 66(4) of the PPA: Tenderer is required to attach its statement made in pursuance of Article 66(4) of the PPA and concerning the fact whether it is qualified as a micro- or small- or medium-sized enterprise under Act on Small and Medium-sized Enterprises and the Support Provided to Such Enterprises to its tender.
7. Statement concerning subcontractors: Pursuant to Article 66(6) of the PPA, the Contracting Authority requires that there must be a reference in the tender to
 - (a) those part(s) of the public procurement for the fulfilment of which Tenderer intends to employ subcontractor(s),
 - (b) subcontractors intended to be employed for these parts and known at the time of tender submission.

The negative statement is also to be attached!

8. The contract is related to a project and/or programme financed by European Union funds
 yes no

9. If the Tenderer has any remarks concerning the technical specifications or draft contract, or has any proposals for modification, then it is kindly requested to attach these as specific written proposals in the tender (on an electronic data medium if possible and in an editable *.doc format, with change tracking) in order to accelerate negotiations. (It is not obligatory to attach these.)

26. **Date of sending the Invitation to Tender:** On the 25th day of the month of April in the year of 2017