

REGULATION OF THE MINISTER OF ECONOMY AND LABOR
dated 15 November 2004
on tenders and negotiations as well as rating criteria of economic intents to be undertaken by
entrepreneurs in the area of a Special Economic Zone „Starachowice”.

Pursuant to art. 17 section 1a of the Act dated 20 October 1994 on special economic zones (Journal of Acts dated 2015, item 282) it is ruled as follows:

- § 1.** The Regulation sets out rules, terms & conditions as well as the way tenders and negotiations are to be held in order to select an entrepreneur, who shall be awarded a permit to run business in the area of the Special Economic Zone “Starachowice”, hereinafter referred to as the “zone”.
- §2.** 1. A goal of a tender and negotiations is choice of entrepreneurs, whose planned economic undertakings in the area of the zone will, to the largest extent, contribute to fulfillment of the zone development plan stipulated by Regulation of a minister competent for the economic issues, pursuant to art. 9 of the Act dated 20 October 1994 on special economic zones, hereinafter the “Act”.
2. Tenders and negotiations shall be held by the Specjalna Strefa Ekonomiczna „Starachowice” S.A. (*Special Economic Zone Joint Stock Company*), hereinafter the „Managing Party/Entity”.
- § 3.** 1. Tenders and negotiations shall be entered into on the basis of a public invitation.
2. In case an entrepreneur applies for a permit and purchase of a right to a real estate or other parts of assets situated in the area of the zone, the Managing Party shall organize a tender.
3. In case when an entrepreneur applies for a permit, the Managing Party arranges negotiations during which terms and conditions of running of the economic activity are determined, in particular, subject of the business and minimal value of capital expenditures as well as minimal number of vacancies as a result of the investment.
- § 4.** 1. The Managing Party invites (entities) to a tender or negotiations by making an announcement in daily all-Poland press and in the zone's website in Polish and in one of languages commonly used in international trade. The announcement can be made in foreign press.
2. Invitation to take part in a tender or negotiations includes in particular:
- 1) name and registered office of the Managing Party and the zone's name,
 - 2) the way terms of reference for a tender/negotiations can be obtained as well as a price of the specification provided that making it available is payable,
 - 3) place and date of lodging and opening of bids.
3. In case referred to in the § 3 section 2, the invitation to a tender includes also information on a real estate or other parts of assets situated in the area of the zone, which must be used to start up an economic undertaking in the area of the zone.
- § 5.** 1. Specification referred to in § 4 section 2 item 2, sets out in particular:
- 1) text of the Terms of Service effective in the zone,
 - 2) information on rating criteria of the economic undertakings referred to in the §11, planned in the area of the zone by entrepreneurs, who apply for a permit,
 - 3) description of the way the bids are to be prepared, in particular, information on documents to be served by bidders,
 - 4) substantial provisions of a contract (or contracts), to be concluded with the Managing Party or general terms & conditions or a sample contract if the Managing Party requires a bidder to conclude a contract under such terms & conditions,
 - 5) description of a way the Managing Party gives explanations regarding specification,
 - 6) specification of a property situated in the area of the zone, referred to in the art. 8 section 1 of

the Act, which must be used to start up economic activity in the area of the zone,

7) bid term.

2. In case referred to in §3 section 2 specification shall also include:

- 1) detailed description of a real estate or other assets subject of a tender,
- 2) information on the way of acquisition of rights to a real estate or other assets subject of a tender as well as amount of offered payment arising from the acquisition;
- 3) requirements regarding a deposit if it is to be paid,
- 4) information on a permit acquired by the Managing Party from a competent authority, to sell rights to a real estate.

§ 6. 1. A bid must contain, in particular:

- 1) an application for granting investment regional aid for economic undertaking to be completed in the area of the special economic zone, submitted in a form sample of which is enclosed to the Regulation;
- 2) amount of offered price for purchase of rights to the real estate or other assets posing subject of the tender - in case when a specification contains information referred to in § 5 section 2;
- 3) other documents required in a specification referred to in § 4 section 2 item 2.

2. The bid shall be made in writing, in Polish.

§ 7. 1. Bid submission deadline set out by the Managing Party must not be shorter than 21 days starting from date of an invitation to take part in a tender or negotiations.

2. A bid shall be rejected if it does not meet requirements stipulated in the §6. The Managing Party shall inform a bidder on rejection of its bid promptly.

§ 8. Immediately after a procedure has been completed, the Managing Party shall:

- 1) place, in the website of the zone, information on choice of the bid,
- 2) inform in writing a bidder selected in the course of the procedure on terms & conditions of decisions related to a tender or negotiations.

§ 9. 1. The Managing Party may invalidate a tender or withdraw from negotiations in case when:

- 1) substantial circumstances which could not be previously foreseen, which make, that keeping the procedure on is beyond public interest and,
- 2) a procedure is legally defective which disables (Managing Entity) to award a permit or to conclude valid contract to award a right to a real estate.

2. Information on invalidation of a procedure shall be served to all of the bidders at the same time, by the Managing Party, together with legal and factual justification.

§ 10. The Managing Party shall provide a minister competent for economy with results of the tender procedure or negotiations in order to issue a permit to run business in the area of the zone, unless the minister in question has not trusted the Managing Party the right to award permits.

§ 11. Assessment of intents related to economic undertakings to be commenced in the area of the zone must take place on the grounds of the following criteria:

- 1) subject and scope of previous economic activity of a bidder and a business, which is planned in the area of the zone,
- 2) values and terms & conditions of economic undertakings, including investments planned in the area of the zone,
- 3) participation in building and modernization of the economic infrastructure in the zone,
- 4) participation in economic relations, including cooperative ones, with entrepreneurs running business in the area of the country,
- 5) coherence of economic undertakings planned in the area of the zone with goals of the zone growth and economic undertakings already carried out or planned to be carried out in the area of

the zone by other entrepreneurs,

- 6) hazard rate for the natural environment and planned actions to be taken in order to protect the environment,
- 7) innovativeness rate of technology of undertakings and business planned in the area of the zone.

SAMPLE

**Application for granting an investment regional aid for economic undertaking
in the area of the special economic zone, submitted in the framework of a bid regarding
awarding a license**

I. Information and documents submitted by all of the entrepreneurs applying for the aid.
1. Bidder's company (in case of an entrepreneur, who is a natural person - also name and surname).
2. Bidder's registered office (in case of an entrepreneur, who is a natural person - also residing address).
3. Size of a bidder determined acc. to the appendix I to the Commission Regulation (EU) no. 651/2014 dated 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Journal of European Union UE, L 187 dated 26.06.2014, p. 1).
4. Nature of an economic undertaking (pointing out one of the following options): 1) establishing of a new mill; 2) increase in production capability of already existing mill; 3) diversification of the production in a mill by entering new products, which have not been manufactured previously in the mill; 4) substantial alteration of total process of production in an existing mill; 5) purchase of assets belonging to the mill, which was closed or it would be closed if the purchase was refused.

5. Business plan for the economic undertaking, including:

- 1) localization;
- 2) description of the undertaking;
- 3) planned commencement and completion date;
- 4) sum and a list of eligible costs;
- 5) no. of new vacancies;
- 6) in case of already existing mill, average annual employment rate from 12 months before the month on which an application is submitted, and in case the mill has not been existing so long - average employment rate for the entire period;
- 7) aid form and maximal estimated public aid;
- 8) financial plan, fund sources for the undertaking;
- 9) subject of the economic activity of the bidder acc. to Polish Classification of Goods and Services established by the Regulation of the Council of Ministers dated 29 October 2008 on Polish Classification of Goods and Services (PKWiU) (Journal of Acts no. 207, item 1293 as amended).

*)6. The bidder represents that:

- 1) it has not ended the same or similar business in the European Economic Area in the period of 2 years preceding the date on which the application for aid is submitted;
- 2) it has ended the same or similar business in the European Economic Area in the period of 2 years preceding the date on which the application for aid is submitted;
- 3) on the date of the application for aid submission it intends to end the same or similar business within 2 years from the end of subsidized economic undertaking;
- 4) on the date of the application for aid submission it does not intend to end the same or similar business within 2 years from the end of subsidized economic undertaking;
- 5) it is not in difficult situation in the meaning of 19-24 of European Commission's Guidelines regarding public aid intended for support and re-structuring of non-financial enterprises facing a difficult situation (Journal of European Union UE C 249 dated 31.07.2014, p. 1);
- 6) it had been provided with aid (both, *de minimis* and public aid) for other economic undertakings carried out in the recent 3 years, in the same sub-region at the third level (NTS 3), acc. to provisions issued pursuant to art. 40 section 2 of the Act dated 29 June 1995 on public statistics (Journal of Acts dated 2012 item 591, as amended), where the new economic undertaking shall be situated;
- 7) it had not been provided with aid (both, *de minimis* and public aid) for other economic undertakings in the recent 3 years, in the same sub-region (NTS 3), where the new economic undertaking shall be situated;
- 8) there is no an irrevocable consent between the bidder and contractors on execution of the economic undertaking.

II. Information and documents (to be) submitted by entrepreneurs applying for the aid, which requires consent of the European Commission.

1. Description of expected positive impact on a particular area, especially, showing a number of vacancies set up or protected by an entrepreneur in his/her business and cooperating companies, or determination of a type of business run in the framework of the economic undertaking, e.g. scientific, development, innovative, training activity.

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| <p>2. Information on funds of the economic undertaking:</p> <ul style="list-style-type: none">1) investments and other related costs, assessment of costs and advantages arising from applied aid;2) aid amount necessary to carry out the economic undertaking;3) intensity of the aid. |
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| <p>3. Information regarding necessity of the aid and expected impact, that is explanation of necessity of aid and its impact on decision on commence of the economic undertaking and decision regarding its location in case of no aid; in case of a large entrepreneur - additionally enclosed (to the application) documents regarding alternative economic undertaking developed on the grounds and facts and decision-making factors effective at the moment of decision on the economic undertaking.</p> |
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*) Delete if unnecessary

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signature of the bidder

List of appendices: