

TD1

Request for Tenders for the procurement of wave energy
research and development services through a pre-
commercial public procurement procedure

TURBOWAVE PROJECT

FILE NUMBER: DIRTEC/22/006

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1 Executive Summary

The purpose of this Request for Tenders is to inform and invite all interested parties to submit their bids to develop and accelerate the development of air turbine technologies that are adapted to the needs of the wave energy sector in general, and to the specific technical requirements of the Mutriku plant in particular. TurboWave is a Research and Development (hereinafter R&D) project that takes the form of a Pre-Commercial Public Procurement (hereinafter PCP). In accordance with the guidelines established by the European Commission for procurement documents, this Public Procurement of Innovative Solutions tender has the following structure:

Section 2: General context

Section 3: Contracting Authority, Legal Regime, Applicable Jurisdiction and other information on the Award Procedure

Section 4: Requirements and Conditions for Participation of Bidders

Section 5: Content of the proposals, Opening, Evaluation and Award of Offers, and Formalisation of Contracts

Section 6: Monitoring and Conditions of Contract Execution and Selection Criteria for Phases II and III

Section 7: Intellectual and Industrial Property Rights

Section 8: Miscellanea

This document should be read and interpreted in conjunction with the rest of the documents prepared for this PCP and their annexes, which make up a indissoluble set.

Documents that make up the Tender (TD)
TD1 – PCP Request for Tenders
TD2 – The TurboWave Challenge
TD3 – Content of the Proposals
TD4 – Framework Agreement
TD5 – Call-Off Contract
TD6 – Annexes
TD7 – Contract of use of the MWPP

In relation to TD3 - Content of the Proposals, the following is a list of the documents that comprise it and the envelope in which they must be included.

TD3 - Content of the Proposals	
Form 1: Multiple Declaration of Honour	Envelope A: Administrative Documents
Form 2: Technical Offer	Envelope B: Technical Documents
Form 3: Declaration of Honour in relation to Pre-existing Rights	Envelope B: Technical Documents
Form 4: Technological Risk Assessment	Envelope B: Technical Documents
Form 5: Economic Offer	Envelope C: Financial Proposal
Form 6: Economic Offer Breakdown	Envelope C: Financial Proposal

The annexes included in TD6 must be completed, signed and uploaded to the Basque Country Public Procurement Platform in accordance with the instructions contained in TD6 itself and in this Request for Tenders. The annexes requested in this PCP and the envelope in which they must be included are listed below.

TD6 - Annexes	
Annex 1: Declaration and information on subcontractors	Envelope A: Administrative Documents
Annex 2: Joint bidding declaration (Temporary Joint Venture / Consortium)	Envelope A: Administrative Documents
Annex 3: Declaration of Honour in relation to Economic and Financial Solvency	Envelope A: Administrative Documents
Annex 4: Declaration of Honour in relation to Confidential Parts of Technical Offer	Envelope B: Technical Documentation
Annex 5: Model of Bank Guarantee and Surety Bond	Pre-award documentation

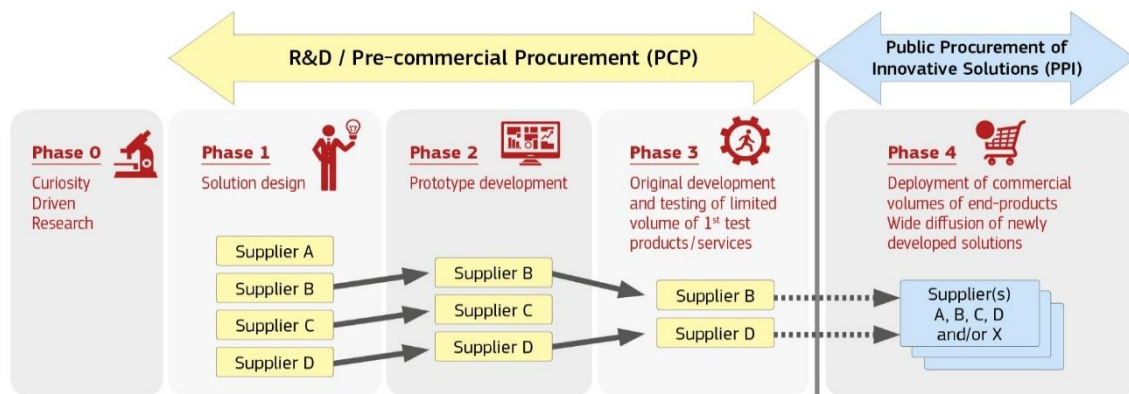
All the aforementioned documents can be downloaded directly from the Basque Country Contracting Profile: <http://www.contratacion.euskadi.eus>

2 General context

2.1 Pre-commercial Public Procurement

This tender shall be conducted through the Public Procurement of Innovation mechanism (hereinafter, PPI) known as **Pre-Commercial Public Procurement (hereinafter PCP)**.

PCP implies that public purchasers invite and encourage innovative market players, through an open, transparent and competitive process, to develop new solutions to a technologically demanding challenge in the medium to long term that is in the public interest and requires new R&D services.



Since we are dealing with a PCP, in order to provide maximum information to future bidders, the most relevant aspects of this Public Procurement of Innovation mechanism are detailed below:

2.1.1 Competitive development in several phases to identify the solutions that offer the best value for money

The PCP is focused on situations that require radical innovation or R+D for which there are usually no solutions on the market.

Different competing vendors may have different ideas for carrying out the solution to the problem. As R+D has not yet been carried out, there is still no evidence of which of these possible alternative solutions would best meet the needs of customers.

Therefore, through the PCP, R+D contracts are awarded within the same procedure to several contractors who compete with each other in order to compare the different approaches that address the problem. This way, it offers innovative companies an opportunity to demonstrate how their solution meets the public R+D needs contracted compared to the solution of other competitors. It also allows you to obtain a first test reference from the customer in the country of the procuring entity that will test the solutions.

R+D is divided into three (3) phases (solution design, prototyping, original development and testing of a limited set of the first products or services). Evaluations after each phase progressively identify solutions that offer the best value for money and meet customer needs.

This step-by-step approach allows contractors to improve their bids for the next phase based on lessons learned and feedback from EVE in the previous phase.

Using a phased approach to contracts facilitates the participation of smaller companies participating in PCPs and allows SMEs to grow their business step by step with each phase.

Depending on the outcome of the PCP, the EVE may or may not decide to follow up on the PCP with a public procurement to deploy the innovative solutions, through the Public Procurement of Innovative Technology (PPIT).

2.1.2 Public procurement of R+D services

PCP addresses medium and long-term public procurement needs for which either there are no commercially stable solutions on the market, or existing solutions have structural deficiencies that require more R+D to resolve.

PCP is a way for buyers to activate the market to develop new solutions that address these shortcomings. Likewise, the PCP focuses on specific identified needs and provides information to companies from the early stages of R+D. Therefore, this improves the probability of commercial exploitation of the new solutions developed.

PCP is explained in communication COM/2007/799 on PCP and associated working document SEC/2007/1668. R+D services can cover research and development activities ranging from the exploration and design of solutions to prototyping, through the original development of a limited set of first products or services in the form of a series of tests. The original development of a first product or service may include limited production or supply to incorporate the results of field tests and demonstrate that the product or service is suitable for production or supply in quantity with acceptable quality standards. R+D does not include production or supply in quantity to establish commercial viability or to recover R+D costs. It also excludes business development activities such as incremental adaptations or routine or periodic changes to products, services, production lines, processes or other ongoing operations, even if such changes may constitute improvements.

2.1.3 Open, transparent and non-discriminatory approach

The PCP is open to all operators on an equal footing, regardless of size, geographical location or governance structure.

Any subsequent procurement of innovative solutions, for the provision of commercial volumes of the solutions, shall, where appropriate, be carried out within the framework of a separate procurement procedure. Suppliers that have not participated in this PPI (or who have not been chosen to make it to the last phase) will be able to compete on a level playing field in the event that EVE decides to undertake the search for contractors to provide a commercial-scale solution.

2.1.4 Sharing of risks and benefits related to IIPRs under market conditions

The public entity that launches a PCP acquires R+D services at market price, thus providing contractors with a competitive and reliable transparent source of financing for the early stages of their research and development. The granting to each contractor of Intellectual and Industrial Property (IIP) linked to the results generated during the PCP means that it can widely exploit the new commercially developed solutions. In return, the price offered must contain financial compensation for maintaining ownership of the IIPRs compared to the case where the IIPRs were transferred to the procuring entity: in this PCP, such compensation shall be materialized through the payment of royalties. In addition, the EVE must receive rights to use the R+D results for internal use and license rights under certain conditions.

2.1.5 Exemption from EU public procurement directives, Public Sector Procurement Law, WTO Agreement on Government Procurement (ACP in Spanish) and EU State aid rules

PCP contracting is exempt from the EU public procurement directives, as well as Law 9/2017 of November 8 on Public Sector Contracts, given that there is a sharing of risks and benefits, since EVE does not keep all the benefits of R+D (contractors acquire ownership of intellectual and industrial property rights).

They are also exempt from the WTO Agreement on Government Procurement (GPA) because this Agreement does not cover R+D services (the PCP is limited to such services - and any subsequent procurement of Public Procurement of Innovative Technology (PPIT) relating to the commercial-scale supply of such solutions is not part of PCP procurement).

PCPs do not constitute State aid under EU State aid rules if it is applied as defined in the PCP Communication, i.e. following an open, transparent and competitive risk-and-reward sharing procedure at market price. The division of all rights and obligations (including intellectual property rights) and the selection and award criteria for all phases should be published from the outset; the PCP must be limited to R+D services and be clearly separated from any possible subsequent PPI contracting; PCP contractors may not receive any preferential treatment in a subsequent procurement for the supply of the final products or services on a commercial scale).

2.2 Preliminary Market Consultation

Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004, on the coordination of procedures for the award of public works contracts, public procurement contracts

and public service contracts, recognised the possibility that, prior to a contract award procedure, contracting authorities may seek and/or accept advice from the market through a process of "technical dialogue" and use the results of this dialogue to determine the terms and conditions of the PPI contract.

In the same vein, Directive 2014/24/EU of the Parliament and of the Council of 26 February 2014 expressly recognises in Article 40 the concept of preliminary market consultation (hereinafter, PMC), with a view to preparing the procurement and informing economic operators about their procurement plans and requirements prior to the start of the procedure.

Within this framework, it is convenient to contextualise the PPI in Spain, and the Preliminary Market Consultation phase within it. Law 9/2017, of 8 November, on Public Sector Contracts, transposing into Spanish law the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of 26 February 2014 (hereinafter, "LCSP"), maintains the same spirit of promoting PPI that arose in Law 30/2007, of 30 October, on Public Sector Procurement by promoting the public procurement of innovative solutions. Specifically, as a result of the transposition of the aforementioned Directive, Article 115 of the LCSP enables contracting authorities to conduct market consultations *"with a view to preparing the procurement and informing economic operators about their procurement plans and requirements"*.

On 3 December 2021 the resolution of the Call for PMC was published on the Basque Country Public Procurement Platform and on the SPRI website.

The objective of the process was to identify candidates potentially interested in the development of the TurboWave Project, in particular to identify that there could be competition during the tender; to contrast the existing state of the art in the market regarding the subject matter of the TurboWave Project; to clarify the most suitable mechanisms of Public Procurement of Innovation to offer a solution to the technical challenges raised; and to launch a process of dialogue on the scope, the expectations of the buyers, the budgets allocated, the deadlines and other aspects.

In addition, specific workshops were held, consisting of:

- A presentation of the PMC in Brussels following the Ocean Energy Europe 2021 conference, with 34 registered participants.
- A technical presentation of the PMC at the EVE headquarters on 3 February 2022, with interested parties able to participate in real time online.

Participation in the consultation could be on an individually or group basis with other potential partners.

A total of 14 companies participated in the Preliminary Market Consultation through proposals for innovative solutions. In addition, according to the proposals received, the average initial TRL in a future tender would be 3 relating to the state of Analytical and Experimental Critical Function and/or characteristic Proof of Concept. Both the publication of the PMC announcement and the final report prepared after receiving feedback from the participants are accessible at the following link: <https://www.spri.eus/es/innovacion-comunicacion/reto-undimotriz-proyecto-turbowave>

2.3 The PCP Objective

Object of the contract: This contract aims at accelerating the development of air turbine technologies that are adapted to the needs of the wave energy sector in general and to the specific technical requirements of the Mutriku Wave Power Plant (hereinafter **MWPP**) in particular, with the ultimate goal of building confidence in the wave energy sector and its ability to play a role as a competitive renewable energy source in the future energy mix on a regional and global scale (hereinafter, "**TurboWave Challenge**").

TD2 - The TurboWave Challenge - outlines the background and context of the initiative and identifies the required functional characteristics to be met by the solutions proposed for the challenge. In the same document, a breakdown is provided of the objectives and expected results for each of the phases of the project, identifying some reference activities that bidders can develop or increase at their discretion and need.

Code CPV: 73000000-2 (Research, development and related consultancy services)

3 Contracting Authority, Legal Regime, Applicable Jurisdiction and other information on the Award Procedure

3.1 About the contracting authority

Contracting Authority: Ente Vasco de la Energía (EVE), ID: Q-5150001E

Ente Vasco de la Energía (EVE) is the energy agency of the Basque Country. EVE was constituted as a Public Entity under Private Law by virtue of Law 9/1982 of 24 November 1982, approved by the Basque Parliament (modified by Law 7/1998 of 13 March 1998), and part of the Basque Government Department of Economic Development, Sustainability and the Environment.

Its aim is to propose the Basque Country's energy strategies, in line with criteria of guarantee of supply, cost competitiveness and sustainability, to participate in their development of those strategies and to contribute to the delivery of the objectives defined therein.

Address: Alameda de Urquijo 36, 48011, Bilbao

Telephone number: (+34) 944 035 600

Fax: (34) 944 035 699

Responsible for Contract: Endika Aldaiturriaga García

3.2 Legal regime of the contract

The entire award procedure developed in this document and the resulting contract(s) shall be governed by Spanish law.

This tender and the execution of the contracts resulting from it shall also be subject to the provisions of the Treaties of the European Union, the Treaty on the Functioning of the European Union and the acts established by virtue of these that are applicable, as well as to Law 39/2015 of 1 October 2015 on Common Administrative Procedure, and all other concordant regulations.

The contract constitutes the procurement of Research and Development Services in which:

- The proceeds shall not belong exclusively to the purchaser for use in the purchaser's own business.
- The service provided is not fully remunerated by the contracting authority.

Consequently, this procurement is excluded from the scope of application of Law 9/2017, of 8 November, on Public Sector Contracts (hereinafter LCSP), in accordance with the provisions of its Article 8 and Article 17 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

Being excluded from the scope of application of the LCSP, this document shall be governed by the clauses of this document, which contain the agreements and conditions defining the rights and obligations to be assumed by the contracting authority, the bidders, and in due course, the awarded company or companies, and where appropriate, the contractors.

However, in order to regulate specific aspects of contracting, an express reference may be made to the articles of the LCSP and its regulations establishing the conditions that are applicable, this reference being understood to be restrictive in nature, with only those articles that have been expressly referred to with regards to execution, effects and termination of the contract (in each of the phases) being applicable. The provisions of the LCSP will be understood as subsidiary to to resolve doubts and gaps relating to the preparation and award of the procurement procedure (including that of each of the stages that make up the PCP) in order to simplify the requirements and facilitate the submission of proposals by adapting them to usual practices in public procurement, even if no express reference has been made to the articles.

The contracting procedure must be developed, where appropriate, respecting the contracting principles established in Article 1.1 of the LCSP.

The competence of EVE to formalise contracts is governed by the provisions of Law 9/1982, 24th November, on the foundation of EVE, which specifically establish as its corporate purpose "the

planning, coordination and control of the current and future activities of the Public Sector of the Autonomous Community of the Basque Country in the field of energy".

The contract is of a private nature and, therefore, the applicable rules of private law shall apply to its performance, effects and termination. In the event of any discrepancy between this Request for Tenders and any of the other contractual documents, the order of prevalence established in Article 25 of the Framework Agreement shall be considered. The parties are expressly subject to the provisions of this Request for Tenders, which is of a contractual nature and must therefore be signed, as proof of conformity by the contractor(s), in the same act of formalisation of the contract. Ignorance of this Request for Tenders, of the contract, of its annexes and/or of the instructions or rules of any kind approved by EVE that may be applied in the execution of what has been agreed shall not exempt the contractor from the obligation to comply with them.

3.3 Applicable law and jurisdiction

Decisions, matters and/or discrepancies relating to, the preparation and the award procedure (including that of each of the phases that constitute the PCP), will be resolved by the competent contracting authority, whose agreements put an end to the administrative procedure and against them an appeal for reversal may be filed within a period of one month before the same contracting authority or contentious-administrative appeal within two months, counted from the day following its notification or publication. For these purposes, bidders expressly submit to Spanish legislation and to the jurisdiction of the courts and tribunals of the contentious-administrative order of Bilbao.

Likewise, issues or discrepancies relating to the execution, effects and termination of the contract (in each of the phases) and the research and development projects included in it, shall be subject to Spanish private law and, in particular, to the Spanish Civil Code, without prejudice to the application of those articles of Law 9/2017, of 8 November, on Public Sector Procurement referred to explicitly in the documents that constitute the PCP.

For these purposes, the bidders are expressly subject to Spanish law and to the jurisdiction of the civil courts and tribunals of Bilbao.

3.4 Deadline for submission of bids

All bids must be completed, electronically signed and submitted through the Basque Country Public Procurement Platform before 16 February 2023 at 12:00 CET.

No further submissions shall be accepted after this closing date and time. It is the bidder's responsibility to ensure that the proposal is submitted before the closing date and time referred to above.

3.5 Pre-commercial Public Procurement tender procedure

Firstly, PCP contractors shall be selected in accordance with the award criteria and the evaluation procedure set out in this Request for Tenders.

Once the bidding phase has been concluded and the successful bidders have been selected, the implementation of the proposals shall be taken forward in successive phases. For this reason, after the award, a global Framework Agreement (hereinafter, Framework Agreement) shall be signed with all the selected companies, on the basis of which contracts shall be drawn up for each of the three successive phases (hereinafter, Call-Off Contracts).

Once the bidding phase is completed, the Framework Agreement shall be awarded, together with the first Call-Off Contract for Phase I, to an expected amount of six (6) companies, provided they comply with the requirements of this Request for Tenders.

Once Phase I has been completed, a new Call-Off Contract shall be entered into for Phase II. The expected maximum number of contractors for this Phase II is four (4). Only contractors whose proposals successfully completed Phase I shall be invited to submit proposals for Phase II.

Finally, once Phase II is concluded, a final Call-Off Contract shall be signed which will start Phase III, the last phase of this project. The expected, number of companies for this phase is two (2). Phase III shall focus on field testing of the prototypes. As for Phase II, only contractors whose proposals successfully passed Phase II shall be invited to bid for Phase III.

The Framework Agreement, which shall be signed by all the companies selected through this Request for Tenders, shall set out all the terms and conditions for the implementation of the PCP, covering all the phases that comprise it. This Framework Agreement shall be non-negotiable and shall remain binding for all phases in which the contractors remain.

The following table details the tentative schedule for each of the TurboWave Project Phases.

Phase	Start date	End date	Duration
Submission of tenders	27 December 2022	16 February 2023 12.00h	56 days
Phase I	10 April 2023	18 October 2023	6 months
Phase II	January 2024	September 2024	9 months
Phase III	January 2024	June 2026	18 months

3.6 Budget and project phasing

The total budget of the PCP is EUR 3,200,000 (excluding VAT). Budget distribution is detailed in the following table:

Type	Phase I	Phase II	Phase III
Maximum budget per bidder	EUR 100,000	EUR 300,000	EUR 700,000
Expected number of proposals to be awarded	6	4	2
Total budget per phase	EUR 600,000	EUR 1,200,000	EUR 1,400,000
Duration of the phase	6 months	9 months	18 months

The total available amounts that EVE can spend for Phases II and III, shown in the table above, may be increased on the basis of any remaining budget based on the award of Phases I and II, but the maximum budget allocated per contractor for Phases II and III cannot be increased. Accordingly, for Phases II and III, the maximum number of successful tenderers may be increased to the maximum amount of resources allocated to these phases, composed of the surplus budget of the previous phases.

Therefore, taking into account the expected number of successful tenderers, tenders submitted by each tenderer may not exceed the maximum amounts per tenderer (VAT not included). Where tenderers submit tenders exceeding this maximum budget per tenderer, this shall automatically exclude the procedure.

3.7 Tentative schedule for the PCP

Date	Activity
Contract award (Framework Agreement and Phase I contracts)	
22/2/2022	Publication of Tender Notice in the TED
27/12/2022	Publication of the Call for Tender and Tender Documents on the Basque Country Public Procurement Platform
26/01/2023	Informative Webinar (date and time to be confirmed) and a possible technical visit to the MWPP facilities
08/02/2023	Deadline for submitting questions on the tender documents
13/02/2023	Deadline for EVE to answer questions
16/02/2023	Deadline for submission of bids and opening of proposals
09/03/2023	Pre-award documentation requirement
23/03/2023	Award of contracts and notice to bidders
	Downtime
03/04/2023	Signing of the Framework Agreement and Call-Off Contract for Phase I
05/04/2023	Publication of contract award notice in TED

Date	Activity
Phase I execution	
10/04/2023	Start of work on Phase I
	Phase I prepayment
Apr/2023	Phase I kick-off meeting
11/10/2023	Deadline for submission of the Phase I final deliverables
18/10/2023	Evaluation of Phase I milestones and deliverables
18/10/2023	Notification to Phase I contractors as to whether they have successfully completed Phase I
18/10/2023	End of Phase I
	Final payment of Phase I to contractors who successfully completed Phase I
Transition from Phase I to Phase II (call for Phase II)	
21/09/2023	Launch of call for Phase II (only bids from contractors who successfully completed Phase I are eligible)
20/10/2023	Deadline for submitting questions on tender documents for Phase II
24/10/2023	Deadline for EVE to answer questions
02/11/2023	Deadline for submission of proposals for Phase II
	Deadline for submission of proposals and opening of proposals
17/11/2023	Pre-award documentation requirement
01/12/2023	Awarding of Phase II contracts
	Downtime
14/02/2023	Signing of Call-Off Contract for Phase II
Phase II execution	
Jan/2024	Start of work on Phase II
	Phase II prepayment
	Phase II kick-off meetings with contractors
Mar/2024	Deadline for milestone M1 of Phase II
	Feedback of the Phase II Monitoring Committee on M1 of Phase II
	Interim Payments
Jul/2024	Deadline for M2 of Phase II
	Feedback of the Phase II Monitoring Committee on M2 of Phase II
Sep/2024	Deadline for submission of the final deliverable Phase II (M3)
	Evaluation of milestones and final deliverables of Phase II (M3)
	Notification to Phase II contractors as to whether they have successfully completed Phase II
Sep/2024	End of Phase II
	Final payment of Phase II to contractors who successfully completed this phase
Transition from Phase II to Phase III (call for Phase III)	
Sep/2024	Launch of call for Phase III (only bids from contractors who successfully completed Phase II are eligible)
Oct/2024	Deadline for submitting questions on tender documents for Phase II
Oct/2024	Deadline for EVE to answer questions
Oct/2024	Deadline for the submission of proposals for Phase III
Nov/2024	Pre-award documentation requirement

Date	Activity
Dec/2024	Awarding of Phase III contracts
	Downtime
Dec/2024	Signing of Call-Off Contract for Phase III
Phase III execution	
Jan/2025	Start of work on Phase III
	Phase III prepayments
	Phase III kick-off meeting with contractors
Mar/2025	Deadline for milestone M1 of Phase III
	Feedback of the Phase III Monitoring Committee on M1 of Phase III
	Interim Payment associated to M1
Jun/2025	Deadline for M2 of Phase III
	Feedback of the Phase III Monitoring Committee on M2 of Phase III
	Interim payment associated to M2
Jul/2025	Installation and commissioning of the Phase III prototype
Aug/2025	Start of installation and maintenance
	Visit of the Monitoring Committee to BiMEP facilities (MWPP) for demonstration of the prototype
Jul/2026	Conclusion of the operational period of the prototype at MWPP
Jul/2026	Decommissioning and recovery of the Phase III Prototype
Sep/2026	Deadline for submission of the final deliverable Phase III
	Notification to Phase III contractors as to whether they have completed Phase III successfully and successfully
Sep/2026	End of Phase III
	Final Phase III payment to contractors who successfully completed this phase

This schedule is merely estimated, so EVE reserves the right to adjust the calendar depending on the execution of the work, especially for Phases II and III. In case of modification of the schedule, it will be communicated to the contractors well in advance. Only the minimum milestones and deliverables required in the PCP have been included in the calendar, although tenderers may propose the provision of additional deliverables for each of the phases (not associated with payments) that may also receive feedback from the Monitoring Committee.

3.8 Payment Schedule

The payment schedule shall be as follows:

- **Phase I payment: 30% of the contract price at the beginning of Phase I and the remaining 70% to contractors who successfully completed this phase, in accordance with section 4.1.4 of DL2 The Turbowave Challenge.**
- **Payment of Phase II: 30% of the contract price at the beginning of Phase II and the remaining 70% distributed upon satisfactory completion of the different milestones defined for this phase, in accordance with the provisions of section 4.2.4 of DL2 The Turbowave Challenge:**
 - 20% at completion of milestone M1
 - 25% at completion of milestone M2
 - 25% at completion of milestone M3
- **Payment of Phase III: 30% of the contract price at the beginning of Phase III and the remaining 70% distributed upon satisfactory completion of the different milestones defined**

for this phase, in accordance with the provisions of section 4.3.4 of DL2 The Turbowave Challenge:

- **20% at completion of milestone M1**
- **20% at completion of milestone M2**
- **30% at completion of milestone M3**

Payments will be made to the bank account provided by the contractor (see DL3 Form 5 Economic Proposal) within 30 days from the date of receipt by EVE of a correct and approved invoice, and upon verification of the "satisfactory completion of deliverables and milestones related to a payment." Invoices will be issued subject to VAT in accordance with applicable legislation.

4 Requirements and selection of bidders

4.1 Capacity to contract, joint tendering and subcontracting.

Participation in the tender procedure is open on equal terms to all types of operators from any country, regardless of their geographical location, size or governance structure.

Bids may be submitted by a single entity or jointly, either through a Temporary Joint Venture (TJV), or groupings of companies (Consortium). In both cases it is possible to subcontract in compliance with the criteria established in this document.

Bidders **may not participate in more than one tender**, either as individual entities or as joint participants (TJV or Consortium). In other words, if participating individually, they may not participate in a TJV or Consortium or vice versa, nor may they form part of more than one TJV or Consortium. Any bid that infringes this provision shall be excluded.

For Phases II and III, participation in the tender is limited to only those bidders who were participating in the previous phase, although only the bids of bidders who successfully passed the previous phase shall be evaluated.

Participation in the Preliminary Market Consultation does not confer any advantage or benefit when bidding for this PCP.

4.1.1 Capacity to contract

Natural or legal persons, Spanish or otherwise, individually or jointly with others, with full capacity to act, who are not subject to any of the prohibitions on contracting established in Article 71 of the “Ley de Contratos del Sector Público” (LCSP), and who can accredit their economic and financial solvency, may opt to perform the contract. All bidders must accredit their legal personality and capacity to act. Legal persons may only be awarded contracts whose services fall within the aims, purpose and scope of action that, according to their articles of association or founding rules, are specific to them.

Foreign companies shall be subject to the provisions of Articles 67 and 68 of the LCSP.

Interested parties shall present a declaration of honour of not being subject to the prohibitions for contracting indicated in Article 71 of the LCSP, in accordance with the Multiple Declaration of Honour Annex (TD3, Form 1), (including the circumstance of being up to date with all tax and Social Security obligations imposed by the provisions in force, etc.).

Any declaration made for the purposes of this clause by the interested party shall imply authorisation for EVE to conduct, where appropriate, tax and social security and any other necessary enquiries with the corresponding Public Registers to conduct the relevant checks.

4.1.2 Joint tenders

Those companies that wish to participate jointly in this tender may do so through joint ventures, without it being necessary to formalise these in the form of a public deed until the contract has been awarded in their favour, or through consortia, for which it shall be necessary to provide a consortium agreement signed by all the companies participating in the consortium.

The companies that bid through a joint venture or consortium shall be jointly and severally liable and must appoint a sole representative or proxy of the joint venture with sufficient powers to exercise the rights and fulfil the obligations arising from the contract until its termination, without prejudice to the existence of joint powers that may be granted for collections and payments of a significant amount.

For the purposes of the tender, companies wishing to participate in a temporary joint venture or consortium must indicate the names and circumstances of those who form it and the participation of each one, as well as the following declaration:

- In the case of joint ventures: that they undertake to formally establish themselves as a temporary joint venture if they are awarded the contract;
- In the case of the Consortium: that they assume the commitment to convert the consortium agreement into a public deed.

For this purpose, TD6 Annex 2: Joint Declaration of Bidders shall be provided. In case of consortium participation, in addition to the above-mentioned Annex, they shall also provide the draft Consortium Agreement, which shall include, at least, the partners that will make up the Consortium, the participation of each one and the assumption of the responsibilities and obligations derived from the PCP in a joint and several manner by all the partners. The duration of the TJV and Consortia will coincide with the termination of the last current Call-Off Contract that was awarded. However, the obligations relating to the protection and commercial exploitation of the results and Intellectual and Industrial Property Rights (IIPR), as well as the monitoring and payment of Royalties, if any, will remain in force during the periods stipulated for this purpose in the Request for Tenders and the Framework Agreement for all the components of the TJV or Consortium in a joint and several manner. Changes in the composition of the TJV or consortium shall not be permitted, except in the event of insolvency of one of the members of the grouping of economic operators or in the event of a business restructuring operation affecting one or more of the members of the TJV or consortium, by merger, acquisition, transformation or transfer of the undertaking or business unit.

4.1.3 Subcontracting

Subcontracting refers to any contract or agreement between the bidder and a Third Party, whereby the Third Party agrees to provide services to the bidder to enable or assist the bidder in providing all or part of the services proposed in the tender.

Subcontracting is permitted at each stage of the procedure. Bidders must indicate in the tender the parts of the contract to be subcontracted and the identity of the subcontractors envisaged, wherever possible indicating the name or company profile of the subcontractors, defined by reference to the terms and conditions of the selection criteria. See Annex 1: Subcontractor.

In the event of intending to subcontract, or to replace any of the subcontractors, once the execution of the services has begun, this may be done provided that the intention to subcontract is communicated in writing to EVE, after the award of the Framework Agreement and/or the conclusion of a Call-Off Contract, , indicating the part of the service that is intended to be subcontracted and the identity, contact details and the legal representative or representatives of the sub-contractor, and justifying sufficient evidence to carry out the contract concerning the technical and human means at its disposal and their experience, and proving that they are not incurring a ban on hiring in accordance with Article 71. The new subcontractor shall provide a statement declaring knowledge of the provisions laid down in the tender documents (TD6_Annex 1),

The principal contractor shall also notify EVE in writing of any changes to this information during the execution of the main contract and of any necessary information concerning the new subcontractors.

Accreditation of the aptitude of the subcontractor may be carried out immediately after the conclusion of the subcontract if it is necessary to respond to an emergency situation or requires urgent action and is sufficiently justified.

The contractor remains fully responsible to EVE for the performance of the contract and shall be liable for the acts and omissions of its subcontractors as if those acts and omissions were its own. Therefore, the bidder must ensure that the subcontractors are aware of the provisions set out in the tender documents, including those related to Intellectual and Industrial Property Rights (hereinafter, IIPR). For the performance of services only one level of subcontracting is allowed, i.e. a subcontractor may not, in turn, subcontract the services entrusted to it.

4.1.4 Companies belonging to the same corporate group

Related companies shall be deemed to be such if they fall within one of the cases provided for in Article 42 of the Commercial Code.

The submission of different proposals by related companies shall lead to the exclusion from this contracting procedure, to all effects and purposes, of the proposals formulated.

When companies belonging to the same group, understood as those that are in any of the cases of Article 42.1 of the Code of Commerce, present different proposals to compete individually, in a TJV

or in a consortium for the award of the contract, this shall be cause for exclusion of the proposals formulated.

However, a single tender may be submitted by a temporary grouping of economic operators made up of several related undertakings.

For the purposes of the provisions of this section, the companies of the same group bidding for the same tender must complete the corresponding section in the Multiple Declaration of Honour (TD3, 1) on the aforementioned points.

4.1.5 Collusive practices

During the processing of the tender process, both the contracting authority and those attending the same shall ensure that free competition is safeguarded. Without prejudice to their communication to the National Commission on Markets and Competition (hereinafter, the CNMC) in accordance with the provisions of Article 132.3 LCSP, the appropriate measures shall be adopted to repress any collusive practices, understood as any indication of collective agreement, decision or recommendation, or concerted or consciously parallel practice among the bidders, that has the purpose, produces or may produce the effect of preventing, restricting or distorting competition in the contracting process.

Likewise, when there are indications of collusion between companies that compete together in a TJV or Consortium, the Procurement Committee will require they justify in an express and motivated manner the reasons for competing together, in accordance with article 69 of the LCSP. The “Agencia Vasca de la Competencia” (AVC/LEA) must be notified of cases in which, considering the justification made by the companies, there are well-founded indications of collusion.

In particular, the following alert indicators of possible collusion (Red Flags) shall be specifically analysed in the framework of this tender:

- Similarities in the format or text of proposals (e.g. the same typos or phrases in different proposals).
- Identical metadata in the documents.
- Cross-subcontracting (two bidders submit their tenders individually and subcontract each other).
- Tenders submitted by several companies, but signed by the same legal representative, with identical contact details, identical registered office of both bidders, or where there is a link between their management bodies.

The Red Flags are indications of collusion, which in no case determine the existence of any irregularity. Consequently, any possible exclusion of bidders shall only occur after hearing them, before the contracting authority takes the final decision.

Without prejudice to, optionally, requesting a prior report from the National Commission on Markets and Competition on the matter, the exclusion decision shall not necessarily require evidence of collusion, being possible to do so on the basis of the confirmation of such indications, which shall be immediately communicated to the “Comision Nacional de los Mercados y la Competencia” (CNMC), for the appropriate purposes. The CNMC itself, and not the contracting authority, shall be responsible for the definitive classification of a conduct as collusive, and the deduction of the consequences that such circumstance entails in accordance with Law 15/2007, of 3 July, on the Defence of Competition.

In any case, the possible exclusion of a bidder adopted by the contracting authority in view of indications of collusion shall not be in the nature of a sanction, but is part of its powers to ensure compliance with the principles of equal treatment and competition in the award procedure, as well as to guarantee the integrity, reliability and suitability of the future contractor to perform the contract.

4.2 Exclusion criteria

The exclusion criteria determine the status of bidders and subcontractors.

The exclusion criteria are as follows:

Exclusion criteria	Evidence
Grounds relating to criminal convictions	Multiple Declaration of Honour
Reasons relating to the payment of taxes or social security contributions	Multiple Declaration of Honour
Insolvency, conflict of interest or professional misconduct	Multiple Declaration of Honour

Bidders who do not meet these criteria shall be excluded.

Bidders must explicitly ensure that they are not subject to any of the exclusion criteria listed above by submitting the Multiple Declaration of Honour (Form 1) duly signed by a person with sufficient legal authority and the Declaration of No Conflict of Interest.

In the case of joint bids, all members of the TJV or the consortium must prove their compliance with the above criteria by providing the Multiple Declaration of Honour by each member.

In case of subcontracting, all subcontractors or whose capacity is used to meet the solvency criteria must also provide the Multiple Declaration of Honour signed by a legal representative with sufficient legal authority.

Bidders who do not meet these criteria shall be excluded.

4.2.1 Conflict of interest

Bidders who are subject to a conflict of interest may be excluded. If there is a potential conflict of interest, bidders must immediately notify the main contractor in writing.

A conflict of interest is any situation in which the impartial and objective implementation of the evaluation of tenders and/or the execution of the contract is compromised for reasons related to economic interests, political or national affinity, family, personal life (e.g. close family ties) or any other shared interest.

Note: If an actual or potential conflict of interest arises at a later stage (i.e. during the execution of the contract), the contractor shall contact EVE, who shall notify the CNMC and take steps to rectify the situation. The CNMC may verify the measures taken and require information to be provided and/or other measures to be taken.

4.2.2 Grounds for exclusion

4.2.2.1 Grounds related to criminal convictions

EVE shall directly exclude any bidder who has been convicted by final judgement for any of the following reasons:

- Participation in a criminal organisation, as defined in Article 2 of the Council Framework Decision 2008/841/JHA.
- Corruption, as defined in Article 3 of the Council Act of 26 May 1997, on the basis of Article K.3.2.c of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States United States and Article 3.1 Joint Action 98/742/JHA of 22 December 1998, adopted by the Council on the basis of Article K.3 of the Treaty on European Union, corruption in the private sector.
- Money laundering, as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on measures to prevent money laundering in the financial system, as amended by Directive 2001/97/EC of the European Parliament and of the Council.
- Fraud within the meaning of Article 1 of the Convention, drawn up on the basis of Article K.3 of the Treaty on European Union for the Protection of the Communities' financial interests.
- Terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of the Council Framework Decision of 13 June 2002 on combating terrorism.
- Child labour and other forms of trafficking in human beings, as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on

preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

The obligation to exclude a bidder shall also apply where the person convicted by final judgement is a member of the administrative, management or supervisory body of that bidder or has powers of representation, decision-making or control over them.

4.2.2.2 Cases relating to the payment of taxes or social security contributions

A bidder shall be excluded from participation in this procurement procedure when the contracting leader is aware that the bidder is in breach of its obligations relating to the payment of taxes or social security contributions, and when this has been established by a court judgement or administrative decision with final and binding effect, in accordance with the legal provisions of the country in which it is established or with those of the country of the main contractor.

In addition, the Main Contractor may exclude the bidder from participation in this procurement when the Main Contractor can prove by any appropriate means that the bidder is in default of its obligations regarding the payment of taxes or social security contributions.

This paragraph shall cease to apply where the bidder has complied with its obligations by paying or entering into a binding agreement with a view to paying taxes or social security contributions due, including, where applicable, any accrued interest or penalties.

4.2.2.3 Grounds for insolvency or professional misconduct

EVE may exclude a bidder in any of the following situations:

- Where the contracting authority can demonstrate by any appropriate means a breach of the applicable obligations referred to in Article 18(2) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014.
- When the bidder is bankrupt or is subject to insolvency or liquidation proceedings. The bidder shall be deemed to be in such a situation when its assets are being administered by a receiver or by a court, when it is in an arrangement with creditors, when its business activities are suspended or when it is in any analogous situation arising from a similar procedure governed by the national laws and regulations of its country of origin.
- Where EVE can demonstrate by appropriate means that the bidder is guilty of grave professional misconduct, which renders his/her/its integrity questionable.
- Where EVE has sufficiently plausible indications to conclude that the bidder has entered into agreements with other economic operators with the intention of distorting competition.
- Where the bidder has shown significant or persistent deficiencies in the performance of a substantive requirement under a previous public contract, a previous contract with a procuring entity or a previous concession contract which resulted in the early termination of that previous contract, damages or other comparable penalties.
- Where the bidder has been found guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or compliance with the selection criteria.
- Where the bidder has undertaken to unduly influence the decision-making process of the contracting authority, in order to obtain confidential information that may confer an advantage in the procurement procedure, or to negligently provide misleading information that may have a material influence on the exclusion, selection or award decisions.

4.3 Solvency Criteria

The purpose of the solvency criteria is to determine whether the bidders have the economic, technical or professional capacity to carry out and perform the R&D services to be contracted under this tender.

In order to prove solvency, bidders may rely on the solvency and resources of other organisations, irrespective of the legal nature of the links with them and provided that such resources are effectively at their disposal throughout the performance of the contract.

Bidders must fill out the "Form 1", in the section "Selection criteria" contained in TD3 to establish that they comply with the economic solvency criteria required in this PCP. In the case of TJV or Consortium, all members will provide the corresponding multiple responsible declaration individualized by each partner.

If there is any doubt as to any of these criteria, EVE may, at its discretion, ask bidders to provide additional information.

In order to comply with the economic or financial solvency criteria, bidders must accredit their solvency by means of one of the criteria indicated below. In addition, compliance with the solvency criteria of those companies that obtain the highest score and are selected to move on to the successive execution phases shall be verified once again, requesting the appropriate documentation together with the rest of the documentation prior to awarding the corresponding contract based on the following criteria.

Criterion	Accreditation
Professional Risk Liability Insurance	1) In "Envelope A" of each of the offers for Phases I, II and III: DL3_Formulario 1" (Multiple Responsible Declaration). 2) In the documentation prior to awarding each of Phases I, II and III: Civil liability insurance policy for professional risks that covers errors and omissions in which the professionals providing services for the contracting authority may incur in the performance of their work or in the exercise of their functions. This insurance must be taken out with an insurance company of recognised prestige and include a limit of indemnity for an amount equivalent to or greater than the maximum budget indicated for each of the phases to which it applies and which make up the PCP: Phase I: € 600,000 Phase II: € 1,200,000 Phase III: €1,400,000 This is without prejudice to the additional insurance that BiMEP, as the holder of the MWPP, may require from those contractors selected for Phase III who will carry out the tests of their devices in the MWPP facilities (see conditions established in the draft contract TD7). In any case, the receipt of proof of payment of the premium for each of the insurance policies provided must also be provided.
Ability to carry out R+D until the original development of the first products or services and to commercially exploit the results of the PCP, including intangible results, in particular IIPRs	The tenderer shall have the following solvency: • Previous experience of the bidder and subcontractor with the commercialisation of new products. • Previous experience of the bidder and subcontractor with the R+D processes and the management of the IIPR. • Provision by the bidder of accounting and organizational structures aimed at guaranteeing the management, exploitation and/or transfer of intellectual and/or industrial property rights (IIPR) derived from R+D. • Availability by the bidder of equipment, materials and technical equipment suitable to carry out the contracting of research and development services. • Ability of the bidder to successfully market the solutions developed during the PCP. The following documentation shall be submitted by way of proof: 1) In "Envelope A" of each of the offers for Phases I, II and III: TD3_(Multiple Responsible Declaration).

	2) In the documentation prior to being awarded for Phases I, II and III: EVE will be entitled to request all additional documentation it deems necessary to prove the aspects indicated above.
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In order to prove the solvency necessary to conclude this contract, the contractor may rely on the solvency and resources of other entities, irrespective of the legal nature of the links with them, provided that he demonstrates that, for the performance of the contract, he will actually have those means at his disposal.

With respect to Professional Civil Liability insurance, the following conditions apply:

- In the event that the bidder has submitted a joint venture to the tender, he must appear as the policyholder of the corresponding insurance policy in the contract. In the event that a group presents itself as a Consortium, regardless of which of the members of the Consortium is listed as policyholder, the rest of the members that make up the Consortium must appear as additional insured.
- If the contractor does not maintain the insurance provided for in the contract, or does not provide the corresponding certificates of validity of the insurance, with proof of its payment, the contracting authority shall be entitled to procure similar insurance cover, the costs of which shall be charged to the contractor and duly deducted from any sum owed to the contractor by the contracting authority.
- The insurance requirements established for the contractor must be transferred by the contractor in an appropriate manner and proportionate to his risk to all the subcontractors he hires for the execution of the contract, responding to the contracting authority or whoever corresponds to any fault that may occur in this regard.
- The contractor must inform the contracting authority of any modification, renewal or cancellation of the policies indicated above. Likewise, when required to do so, it will also provide a copy of the insurance contracts and the receipt supporting the payment of the premium.

Failure to send the corresponding accreditation or required complementary documentation will be considered as a breach of contract.

- The risks, obligations and liabilities foreseen by the contractor are not limited by the contracting of the insurance referred to in this paragraph, and, consequently, the amount of the obligations and liabilities arising from the assumption of such risks may not be reduced to the extent of the aforementioned insurance or for lack of contracting or sufficient coverage of them to the detriment of the contracting authority or third parties.
- The cost of all insurance specified in this section will be borne by the contractor.
- The non-observance by the successful bidder of the content of this clause will be considered as a breach of contract on his part.

4.4 Special criteria for the performance of the contract

The objective of these criteria is to determine whether bidders satisfy the principles of PCP, public funding, and applicability at test sites for Phase III, (criteria A) to C)).

Failure to comply with these criteria will result in the exclusion of the bidding company from the bidding company or the early termination of the Contracts in force (Framework Agreement and Call-Off Contract).

Special criterion for the performance of the contract	Accreditation
Compliance with the definition of R&D services	1) In "Envelope A" of each of the offers for Phases I, II and III: Multiple Responsible Declaration (TD3_1) section on Special Criteria for contract execution.

	2) In "Envelope C" of each of the offers for Phases I, II and III: Economic Offer (TD 3 Form 5). 3) In execution of the Call-Off Contracts of Phases I, II and III: end-of-phase deliverable and invoices issued.
Compatibility with other public funding	1) In "Envelope A" of each of the offers for Phases I, II and III: Multiple Responsible Declaration (TD3_1) section on Special Criteria for contract execution.
Implementation at Phase III test site	1) In "Envelope B" of each of the offers for Phases I, II and III: based on the evidence shown through the technical documentation provided. 2) In "Envelope C" of each of the offers for Phases I, II and III: based on the evidence shown through the economic documentation submitted (Economic Offer -TD 3 Form 5-). 3) In execution of the Call-Off Contracts of Phases I, II and III: based on the deliverables presented (intermediate and / or final).

4.4.1 Compliance with the definition of R&D Services

Tenders going beyond the provision of R&D services shall be excluded.

The contractor will provide R+D services (tasks, deliverables and milestones) to develop the solutions that meet the challenges established in the TD1 Request for Tenders Document, TD2 TurboWave Challenge, and Call-Off Contracts for each phase and the rest of the documents that regulate the PCP, in accordance with the rules established in the framework of state aid to R&D.

R&D encompasses fundamental research, industrial research and experimental development, as defined in the EU R&D&I State aid framework¹. It may include the exploration and design of solutions and prototyping up to the original development of a limited volume of first products or services in the form of a test series. The original development of a first product or service may include limited production or supply to incorporate the results of field trials, and to demonstrate that the product or service is suitable for production or supply in quantity at acceptable quality standards².

R&D does not include production or supply to establish commercial viability or to recover R&D costs. It also excludes business development activities such as incremental adaptations or routine or periodic changes to existing products, services, production lines, processes or other ongoing operations, even if such changes may constitute improvements. The purchase of commercial volumes of products or services is not permitted.

The TurboWave PCP shall not involve the purchase of any product.

To demonstrate compliance with the definition of R&D, bidders are required to provide evidence of the following:

- The financial offer must provide binding unit prices for all foreseeable categories of R&D personnel for the duration of the framework agreement, covering each and every phase.
- Proposals for the three phases may include only those elements necessary to address the challenge in question and provide the R&D services described in the PCP Request for Tenders.
- Bids for all three phases must propose services in line with the above definition of R&D.

¹ See paragraph 15 of the Commission Communication "State aid framework for research and development and innovation", C(2014) 3282.

² See Article XV(1)(e) of the 1994 WTO GPA and Article XIII(1)(f) of the 2014 revised WTO GPA.

The bidder must sign a declaration of honour stating that the services and activities proposed in the tender are solely for the purpose of R&D as defined above.

The binding unit prices and the breakdown of the financial offer for Phase I should provide sufficient information to enable an assessment of compliance with the requirements.

4.4.2 Compatibility with other public financial assistance

Proposals from bidders receiving public funding from other sources shall be excluded from this PCP if this leads to duplication or accumulation of different types of public funding which is not permitted by national or EU legislation.

As proof of double public funding, bidders shall be required to sign and provide a declaration of honour certifying the absence of other public funding incompatible with the implementation of the TurboWave project.

4.4.3 Application at Phase III test sites

The proposed conceptual design must be appropriate for the environmental conditions at the Phase III test sites at the Mutriku Energy Platform, as set out in TD2 PCP Challenge.

The evidence provided in the bidder's technical description of the proposed concept design provided in the Technical Offer shall be evaluated to determine its suitability for deployment at the Mutriku Energy Platform test sites.

For this special performance criterion to be deemed to be met, the bidder must obtain the minimum qualification set out in TD3 Form 2.

4.5 Guarantee

Where appropriate, a definitive guarantee corresponding to 5% of the price offered for each phase (excluding VAT) will be provided in favour of EVE, which will be provided together with the documentation prior to awarding the contract of the corresponding phase, and according to the model provided in TD6_Annex 5.

5 Content of proposals, opening, evaluation and award of tenders, and conclusion of contracts

5.1 Bodies involved in the evaluation procedure

5.1.1 Procurement Committee

The Procurement Committee is the competent body to qualify the documentation submitted by tenderers in envelope A, to require tenderers to correct the material defects observed in the documentation submitted, and, where appropriate, to agree to the exclusion of tenderers who do not demonstrate compliance with the requirements; it is also the responsible of the analysis of the Evaluation Reports issued by the Evaluation Committee in relation to the bids received, including the classification of an offer as abnormally low, decision to reject offers, and submission of the corresponding award proposal to the contracting authority.

It shall have the same functions in relation to the proposals to be submitted by the contractors selected in the phase transitions (proposals submitted for Phase II and Phase III).

The composition of the EVE Procurement Committee is published on the EVE website:

<https://www.eve.eus/Corporativo/Perfil-del-contratante/Comite-de-Contratacion-Reglamento-y-composicion.aspx>

5.1.2 Evaluation Committee

The assessment of the award criteria, relative to the documents that will be provided in Envelopes B and C, will be carried out by an Evaluation Committee, made up of experts with accredited knowledge in areas related to the object of the contract. The Evaluation Committee will be in charge of preparing the technical reports for the evaluation of the offers, and its composition will be published in the contracting party's profile after the opening of Envelope A, so that it can be validated that there are no conflicts of interest between the members of the Evaluation Committee and the bidding companies.

In this sense, the advisors must sign a responsible declaration guaranteeing the absence of conflicts of interest once the bidding entities are known after the opening of the Administrative documentation (Envelope A).

An Evaluation Committee will be formed for each phase transition, with the same functions, in order to assess the proposals submitted by the contractors selected for Phase II and Phase III.

5.2 Submission and format of tenders

All tenders must be completed, signed electronically and sent via the “Plataforma Publica de Contratacion en Euskadi” (PPCE) prior to the date and time indicated in Section 3.4.

No further submissions will be allowed after this closing date and time. It is the responsibility of the tenderer to ensure that he submits his proposal before this closing date and time.

The PPCE will be the online tool for bidding and is available at: <https://www.contratacion.euskadi.eus>.

The PPCE platform requires registration, which can be done according to the registration guide available on the home page. All tender documents will be published on this platform.

Tenders shall be submitted by electronic means through the application ELECTRONIC TENDER SYSTEM located on the platform:

<https://www.contratacion.euskadi.eus/acceso-a-la-licitacion-electronica-en-la-plataforma-kontratazioa-empresas/webkpe00-kpelicel/es/>

The requirements for their use are as follows:

- *Administrative requirements:*
 - i. Have a recognised electronic signature certificate approved for use by the CAE Administration for electronic processing purposes. The identification means supported

are available at the following link: <https://www.euskadi.eus/documentation/guia-for-la-identifiacion-electronica/web01-sede/es/>

ii. Be in one of these situations:

- a) Be discharged and have current certification in the Registry of Qualified Bidders and Companies of the Basque Country.
- b) Be discharged into the temporary enabling system.
- c) In the event that two or more economic operators are grouped together with the undertaking to formally become an TEU if they are awarded, one of the economic operators of the group which complies with the provisions of any of the above requirements "i" or "ii" shall submit the tender on behalf of the group in accordance with the procedure described in the manual "Bidding as TEU" which shall be published in the Contract Profile. This does not detract from the fact that the documents listed in the Request for Tenders should be signed by all components of the group.

• *Technical requirements:*

- i. Information on technical requirements is available at: <http://www.procuacion.euskadi.eus/informacion-general-licitacion-electronica/w32-kpelicel/en/>
- ii. IMPORTANT: Izenpe's Id@zki Desktop signature software must be installed and can be downloaded free of charge from: <https://www.izenpe.eus/idazki-tools-de-firma/webize01-cnsoluciones/es/>
- iii. Companies can prove if their certificates, even supported, have problems with the following Izenpe signing tool: <https://services.izenpe.com/toolsSignature/showWelcome.do>
- iv. IMPORTANT: It is recommended that those tenderers who have an interest in participating in the tender prove their certificates in the link indicated as soon as they are aware of the publication of the tender. In case of having a recognised electronic signature certificate, but problems are found when performing the signature test and/or identifying to bid with the Platform, contact the User Care Centre (CAU) of the electronic tender platform on the phone (+34) 945 016 298 and send to the email laguntzakpe@euskadi.eus at least one of the following documents:
 - a. the public part of the electronic signature certificate used.
 - b. A PDF document signed by the electronic signature certificate used.

For further details on this procedure, the manual **"Electronic certificate of foreign companies"** will be published in the Euskadi Contracting Profile in Spanish and English:

<https://www.contratacion.euskadi.eus/informacion-general-perfil-contratante/webkpe00-kpeperfi/es/>

With this, and provided that the electronic signature certificate is previously recognized by the Electronic Platform of the Basque Government, the certificate will be requested to be included in the repository of certificates accepted by Izenpe so that the tenderer can continue to submit his proposal.

It is also recommended, for greater traceability, to inform EVE, through email turbowave@eve.eus that a support ticket through the CAU of the electronic tender platform has been initiated and to include a reference to the ticket number or code that the CAU has provided to the bidder.

- *Support service for doubts or incidences on electronic tendering: (+34) 945 016 298.*

Presentation form:

- a) Tender documents should be annexed to the respective envelopes in the application.

- b) File formats supported by the electronic bidding platform can be found at <https://www.recruitacion.euskadi.eus/reviews-licitacion-electronica/w32-kpelicel/en/>
- c) The maximum allowed size of the files to be attached in the bidding process is 200 MB, so it is recommended to optimize the use of images and graphic contents that can increase their sizes.
- d) In order to minimize the impact that the presence of virus may have on the system's operability, it is recommended to send documents in the formats .pdf, .rtf, .sxw, .jpg and .tiff.
- e) The tender shall be deemed to have been received within the deadline for submission if the transmission begins within it and ends successfully. For this purpose, transmission of the tender shall be deemed to commence within a period of time if the tenderer's representation presses the button "signature and dispatch of the tender" within the prescribed period and the transmission shall be deemed to be successful with the entry into the electronic register of the documents constituting the tender submitted.

All tenders must be submitted as follows:

- Tenderers must register with the PPCE.

Tenders must be submitted electronically through the Public Procurement Platform in the Basque Country.

- Tenders must contain an Administrative Envelope (Envelope A), Technical Envelope (Envelope B) and Economic Envelope (Envelope C).

Each envelope has to be signed digitally and presented in the Public Procurement Platform in the Basque Country, in order to complete the submission of the bidding process they can follow the instructions contained in the said platform.

Note: Tender submission shall not be completed until the tenderer signs the tender electronically.

Each tenderer shall sign using a valid electronic signature issued by an Authorised Certification which guarantees the identity and integrity of the tender and the documents associated with it.

Only one tender shall be accepted for each tenderer.

Any questions concerning the submission of bids, tender documents or the tendering process should be sent to the email turbowave@eve.eus within no more than eight (8) calendar days before the end of the tender submission period.

EVE may request clarification in case of doubt during the evaluation process. In accordance with the principle of equal treatment, this clarification procedure cannot entail a modification of the tenders submitted. If the clarification provided does not comply with the request, or if the clarification requested by EVE is duly met, the tenderer shall be excluded.

5.3 Binding offer

A signed tender shall be deemed to constitute a firm, irrevocable, unalterable and binding tender of the tenderer.

The signature by an authorized representative shall be considered as the signature of the tender (and shall be binding on the tenderer or, in the case of joint tenders, on the members of the TJV or the Consortium).

Electronic signature is only supported by a certificate issued electronically by a Certification Authority and in any case accepted by the Public Procurement Platform in the Basque Country.

5.4 Envelope A: Administrative Documentation

5.4.1 Procedure for opening Envelope A

After the deadline for the submission of proposals, the Procurement Committee shall qualify the administrative documentation contained in the Envelope A submitted by the tenderers and, if it

observes any defects in the documentation submitted, it shall notify the relevant tenderer, stating that notice in the dossier, giving it a period of two (2) days for its re-submission to the Procurement Committee itself.

The need for rectification shall be communicated by electronic notification via the electronic tendering platform, with the tenderer having to provide the documentation completed by the same route and responding to that notification. In case of material impossibility of making notifications by the electronic tendering platform, such notifications shall be made by email or by any other means enabling the notification sent to be recorded (date, sender/receiver identity, content...). The circumstances outlined may be made public through the contract profile. However, if the documents of a tenderer contain substantial defects or material deficiencies which cannot be remedied, the tender shall be rejected.

5.4.2 Content of Envelope A

The Administrative Documentation shall contain information and evidence on the legal capacity, criteria for non-opt-out, the solvency of the tenderer, to be provided by means of the documents and forms described below:

Form 1. Multiple Responsible Declaration: In the case of TJV or Consortium, a copy completed and signed by each member of the group must be provided. A copy completed and signed by each subcontractor should also be submitted.
Annex 1. Declaration and information on subcontractors To be provided by the tenderer
Annex 2. Joint Tender Declaration (Temporary Union of Companies/Consortium): To contribute only by tenderers submitted in the form of TJV or Consortium. In the case of Consortium, a draft consortium agreement should also be attached.
Annex 3. Responsible declaration financial or economic solvency: To be provided by the tenderer

5.5 Envelope B: Technical offer

5.5.1 Procedure for opening Envelopes B

The Procurement Committee shall, after having qualified the administrative documentation and after the corrections have been made and, where appropriate, provided with the necessary clarifications or supplementary documents, or after the time limit which has been conferred for that purpose, initiate the technical proposals (Envelope B) at the place and time indicated in Section 3.5.

On the date indicated and at the place and time indicated in the contract notice, the Procurement Committee shall be set up by public act for the following actions:

- Count of the proposals submitted.
- Count of the number of proposals considered eligible and the identity of tenderers.
- Opening of B Envelopes for eligible tenderers.
- Minutes of the Committee meeting shall be written by the Committee Secretary and these shall be signed at least by the Chairman and the Secretary of the Procurement Committee.

Once Envelopes B have been opened, they shall be forwarded to the Evaluation Committee for evaluation of tenders submitted in accordance with the award criteria set out in this document.

The evaluation of the content of the Envelope B shall, in any case, be carried out before the opening of the Envelope C, with the PCPE platform providing access audit log capacities to evidence this.

5.5.2 Content of Envelope B

Tenders must include a detailed technical tender containing:

- A Technical Offer, the content and structure of which are described in the DL3_Form 2, including all technical details of the proposed solution to be implemented to address all the requirements and challenges set out in the DL2 – The Turbowave Challenge.

- DL3 Form 3 - Declaration of Pre-existing Rights. Updated list of pre-existing rights relevant to this project, both of the tenderer and its subcontractors.
- DL3 Form 4 - Technological Risk Assessment
- DL6 Annex 4 - Declaration of parts of its technical offer of a confidential nature, taking into account that such confidentiality concerns, inter alia, technical or commercial secrets, confidential aspects of tenders and any other information that may be used to distort competition, either in this tendering procedure or in subsequent ones. It will not be valid to indicate that the entire offer is confidential.

Tenders which do not meet these requirements shall be excluded.

The information provided in the technical section of the tender shall be used to assess the tenders, on the basis of the technical award criteria.

5.5.3 Envelope B Award Criteria

For the calculation of the score relative to the criteria subject to value judgment, the points obtained within each criterion described in the following table shall be taken into account. The DL3_Form 2 provides a description of each of the different sections of the technical criteria together with their justification.

Technical Award Criteria for Framework Agreement and Phase I				
Technical Criteria	Maximum points by criterion	Maximum points by section	Minimum section threshold	Detail of the criterion
1. Level of originality and innovation		10	5	i. Potential of innovation(s) proposed to significantly improve the state of the art (10 points)
2. Technical and economic feasibility		25	12.5	
2.1. Description of the technology	10			i. Credibility and soundness of the operational fundamentals described and the proposed conceptual design (8 points); ii. Credibility of the proposed O&M strategy (2 points).
2.2. Numerical and physical modelling	4			i. Relevance of previous numerical and physical modelling (2 points) ii. Suitability of simulation capacity (2 points)
2.3. Technological risk assessment	4			i. Diversity and suitability of the range of identified technological challenges and uncertainties; (2 points) ii. Appropriateness of impact and probability attributed, (1 point) iii. Suitability of mitigation measures (1 point)
2.4. Vision and strategy for technological development and marketing and management of IIPRs	7		3	i. Clarity and suitability of the identification of the target market, its size and characteristics (3 points) ii. Feasibility of the technological development plan. (2 points) iii. Feasibility of the IIPR marketing and management plan (2 points)
3. Capacity, degree of completeness and effectiveness of the proposed solution to meet the challenge		20	10	i. The clarity and completeness of the narrative, credibility and degree of compliance with the challenge posed in each evaluation area will be assessed • Performance: (4 points) • Controllability: (4 points) • Reliability: (4 points) • Maintainability: (4 points) • Affordability: (4 points)

4. R&D plan and methodology		25	12.5	
4.1. Project Team	7			i. Relevance of Project Team's competencies and skills for project development (5 points) ii. Clarity in role and task identification (2 points)
4.2. Scope of work for Phase I	9			i. Clarity of proposed activities and allocation of responsibilities. (3 points) ii. Appropriateness of the specific results proposed. (3 points) iii. Credibility of the justification for how the proposed activities and work packages will address the objectives of Phase 1, mitigate technological risks and deliver the specified results of Phase 1. (2 points) iv. Suitability of partner efforts to carry out the proposed activities. (1 point)
4.3. Proposal for deliverables	5			i. Suitability and clarity of the deliverable structure to evidence the work done and the results obtained. (5 points)
4.4. Working schedule	2			ii. Clarity of the structure and sufficiency in the detail in the project timeline (2 points)
4.5. Methodology Proposed	2			i. Clarity and effectiveness of the proposed strategy (1 points) ii. Clarity of responsibility in project management (1 points)
Total	80	80	40	

Each of the 'aspects to be assessed' of each criterion and/or sub-criterion shall be assessed according to the degree of adequacy established in the scale indicated in the following table:

Score	Degree of adequacy	Description
0	Unacceptable	No or inadequate response was sent. The answer does not address or demonstrate the ability to meet the requirements. The answer is not relevant.
1	Poor	Partially relevant but generally poor. It addresses some elements of the requirements. It contains insufficient details or evidence to demonstrate an adequate understanding of the requirements or how they will be met. One or more serious weaknesses identified.
2	Acceptable	Relevant and widely appropriate. It demonstrates a basic understanding of the requirements. It provides some general details on how the requirements will be met. In general, it lacks details or evidence to demonstrate how effective and/or credible the requirements will be.
3	Good	Relevant and good. It demonstrates a good understanding of the requirements. Provides appropriate details on how most of the requirements will be met. Some aspects lack details on how effective and/or credible the requirements will be.
4	Very good	Relevant and very good. It provides a high level of confidence that the requirements have been understood. It provides sufficient details on how the requirements will be met. Minor aspects could have been more complete and/or effective and/or credible.
5	Excellent	Completely relevant and excellent in general. It demonstrates deep knowledge of the requirements. Comprehensive detail that meets all requirements in full. No notable omissions.

The result of the evaluation of the technical criteria subject to value judgment shall be the result of adding for each of the criteria, the average of the experts' valuations multiplied by the maximum number of points per criterion, according to the following formulae:

$$PT = \sum PT_i$$

- PT = Total score of technical criteria subject to value judgment
- PT_i = Partial score by technical criterion *i*

$$PT_i = (P_{max,i}) \times PE_i / 5$$

- PT_i = Partial score by technical criterion *i*
- P_{max,i} = Maximum score for technical criterion *i*
- PE_i = Average result of the evaluators' average ratings, truncated to one decimal point accuracy.

Example:

Criterion	Evaluation1	Evaluator2	Evaluation3	Average Truncated evaluations	Maximum score by criterion	Final score
Numerical and physical modelling	2	3	3	2.6	5	2.6

At least the minimum score indicated by each section, which in turn must result in at least 50% of the total points allocated for the Technical Criteria (Envelope B) in order to be able to access the opening of the Envelope C on Economic Bid Criteria (criteria quantifiable by mathematical formula), will be required.

The maximum length of the documentation in the Envelope B as well as the rest of the requirements of that memory is contained in the DL3 Form 2.

5.6 Envelope C: Economic Offer

5.6.1 Procedure for opening Envelope C

After the evaluation of Envelopes B, all interested persons shall be notified of the date and place on which the opening of the economic tender (above C) will take place. The call must be made at least one (1) working day in advance and must also be published in the same time in the PPCE platform.

The following actions shall be taken in the public act:

- a) Reading the results of the evaluation of the tenderers' Envelope B content. Opening of Envelopes C of eligible tenderers.
- b) Reading of the offers.
- c) Minutes of the meeting shall be drawn up by the Secretary and shall be signed at least by the President and the Secretary.
- d) The Procurement Committee shall examine the documentation contained in the envelopes and may request any clarification it deems relevant for its evaluation.

After the opening of the economic propositions, the Procurement Committee shall determine the tenders which, where appropriate, result in abnormal or disproportionate values in accordance with this Request for Tenders.

Thereafter, the Procurement Committee shall carry out the evaluation of the economic offer, after issuing the any reports deemed appropriate.

5.6.2 Content of Envelope C

The envelope shall conform to the content of documents DL3 Form 5 (Economic Offer) and DL3 Form 6 (Economic Offer Breakdown) specifying:

- The standard price for Phase I of the project (expressed in euro, excluding VAT but including any other taxes and fees)

In addition, the economic offer should include:

- A price breakdown showing the price of R&D services and the price of product supplies (to demonstrate compliance with the definition of R&D services).

Unit prices quoted for each category (e.g. hourly rates for junior and senior researchers, developers and evaluators) remain binding for all phases (i.e. during the duration of the Framework Agreement).

EVE may reject a tender if it has determined that the price submitted, in combination with other constituent elements of the submission, is abnormally low in relation to the purpose of the procurement and raises doubts as to the ability of the tenderer to execute the contracts.

An offer shall be considered as incurring abnormal or disproportionate values if it is more than 20% below the average price of all tenders received. For the calculation of the abnormally low tender, only the price assessment formula shall be taken into account.

If, during the course of the procedure, it is identified that a tender has been presumed to be abnormal, the Procurement Committee shall request the relevant tenderer to provide, in writing and in accordance with Article 149 of the LCSP, those tender conditions which are likely to determine the low price or costs of the tender and, in particular, as regards the following values:

- Savings allowed by the manufacturing process, the services provided or the construction method.

- The technical solutions adopted and the exceptionally favorable conditions available to it for supplying products, providing services or carrying out works.
- Innovation and originality of the proposed solutions, to supply the products, provide the services or execute the works.
- Compliance with environmental, social or labor and subcontracting obligations, where prices below the market are not justifiable or do not comply with Article 201 of the LCSP.
- Possible state aid.

5.6.3 Envelope C: Economic criteria

For the calculation of the score related to the Economic Offer criterion, the following table is indicated.

Economic award criteria Framework Agreement and Phase I	
Economic criterion	Maximum points by criterion
Economic offer	20

The formula for the valuation of the economic offer is as follows:

$$PE = (P_{eco}) \times \left[1,5 - \frac{Of_i}{Of_{promedio}} \right]$$

Where:

- PE= Economic criterion score obtained by the bid assessed
- Peco= Maximum economic criterion score
- Ofi= Amount of the economic offer valued
- Ofaverage= arithmetic average among all valid offers submitted

5.7 Evaluation, Classification of tenders and award

5.7.1 Rejection of tenders

The Procurement Committee shall agree to reject tenders which:

- Include a document in an envelope other than that indicated and this compromises the secret of the offer.
- Present contradictions, omissions, errors or scratches that make it impossible to know their content with complete certainty.
- Do not agree with the documents examined and accepted.
- Exceed the tender budget or unit prices which are maximum for any of the PPP phases.
- The economic offer model (DL3 Form 5) is altered substantially.
- Indicate an erroneous amount.
- Suffer from error or inconsistency that makes it unfeasible to be recognized by the tenderer.
- Do not comply with the conditions or requirements set out in the PPP Request for Tenders or any other Tender Document comprising the TurboWave Project.
- Contains viruses that make it impossible to read or access its content.
- The tender has been submitted after the end of the period set out in the contract notice and/or after the deadline set out in this Request for Tenders has been announced.

The Procurement Committee may at any time prior to the formulation of the award proposal in the Tender Phase or in any of the successive Phases of Implementation of the TurboWave Project seek the necessary clarification for the compression of tenders. In no case shall it be admitted that, by submitting clarifications, tenderers vary the terms expressed in the tender.

5.7.2 Final classification of tenders

Tenderers shall be classified according to the award criteria for Envelopes B and C. The score to be obtained by tenderers shall be the result of the sum of the technical criteria (criteria subject to value judgment) and the economic criterion (criteria quantifiable by mathematical formula):

$$P_{total} = PT + PE$$

Where:

- P_{total} = Total score of the proposal
- PT = Total score of technical criteria subject to value judgment
- PE = Total score of economic valuation criteria

After the evaluation of Envelopes B and C has been carried out, the Procurement Committee shall raise to the contracting authority the classification of tenders and a reasoned award proposal it deems appropriate, accompanied by the minutes of its meetings and the documentation generated in its proceedings and, where appropriate, the reports elaborated. The name of the successful tenderers shall also be indicated among those who have obtained the best score on the basis of the award criteria identified for each Envelope in this document. That proposal does not create any right until the contracting authority issues the award decision.

5.7.3 Pre-award documentation

Once the award proposal has been accepted by the contracting authority, the services under the contracting authority shall require tenderers who have been nominated as successful tenderers to submit, within 10 (10) working days for Phases I and II, and within 20 (20) working days for Phase III, the following documentation:

- **Documentation demonstrating the capacity to act**

Legal persons shall submit a writing or a constitution document, or amending, where appropriate, statutes or founding minutes containing the rules governing their activity, entered in the relevant public register, depending on the type of legal person concerned.

Non-Spanish companies from Member States of the European Union or signatories to the Agreement on the European Economic Area shall demonstrate their ability to act by submitting a certificate or affidavit that they are registered in the register in accordance with the law of the State where they are established.

The other foreign business entities shall demonstrate their ability to act by means of a report by the Permanent Diplomatic Mission of Spain in the State concerned or in the Consular Office in whose territory the domicile of the company resides.

They shall also provide a report issued by the relevant Economic and Consular Office of Spain abroad on the fact that the State of their origin in turn accepts the participation of Spanish companies in contracting with the Administration, in a substantially analogous way, or, where appropriate, that State is a signatory to the Agreement on Public Procurement of the World Trade Organization.

Where the successful tenderer is a TJV, he shall provide public writing of the establishment of the TJV. If participating through Consortium, it shall provide the Consortium Agreement signed by all partners.

- **Documentary evidence of representation**

Where the proposed entity acts as a representative, a credible document demonstrating the existence of the representation and the scope of its tendering powers, to be evaluated by the EVE Legal Services, should be provided.

- **Solvency documentation**

The proposed entity shall provide documentation demonstrating its solvency in accordance with the provisions of **¡Error! No se encuentra el origen de la referencia.** this Document.

In addition, in accordance with Article 95 of the LCSP, the Contracting Administration may request clarification on the documentation submitted in order to demonstrate solvency, or require the submission of additional supporting documents.

- **Evidence of being up to date in the fulfilment of their tax and social security obligations**

The accreditation of being up to date in the fulfilment of tax obligations **shall be** carried out by presenting the following documentation:

Last receipt of the Economic Activity Tax or the discharge document in it, when it is recent and the payment obligation has not yet arisen. Discharge must in any case be attached where the item under the activity is not included in the receipt provided. This documentation must refer to the heading corresponding to the subject matter of the contract which empowers them to exercise it in the territorial sphere in which they are exercised, and must be supplemented by a responsible declaration by the tenderer that the registration of the tax has not been waived.

Certificate of being up-to-date on tax obligations to engage with the public sector. If the tenderer is to be taxed in several territories, it shall provide the certificates issued by each and every competent authority.

The accreditation of being up-to-date in the fulfilment of social security **obligations shall be carried out** by means of certification issued by the competent administrative authority. Where an exemption is to be taken into account, such a circumstance shall be demonstrated by a responsible statement.

Foreign persons, whether natural or legal, whether or not belonging to Member States of the European Union which do not have a tax domicile in Spain, shall submit certification issued by the competent authority in the country of origin, attesting that they are aware of the relevant tax obligations. They shall also be required to provide certification, also issued by a competent authority, demonstrating that they are aware of the social obligations required in the country of their nationality. All documentation relating to this paragraph shall relate to the last 12 months. Where an exemption is to be taken into account, such a circumstance shall be demonstrated by a responsible statement. If the above certifications are not issued in English, Spanish or Basque, an affidavit translation shall be provided to any of those languages.

- **Declaration and information on subcontractors:**

Contribution of the updated "DL6 Form 1". If new contractors are included, the "DL3 Form 1 - Multiple Declaration" must be provided for each of them.

- **Responsible Declaration on Pre-existing Rights:**

Contribution of the updated "DL3 Form 3". For Phases II and III, the update of both pre-existing and generated rights should be provided.

- **Final guarantee:**

Proof that the final security has been lodged either in accordance with the draft model indicated in the DL6_ Form 5 or by equivalent supporting document after agreement with EVE. In addition to providing a copy of the final guarantee through the electronic tendering platform, the original must be delivered at the following address:

Att. Legal services.

Ente Vasco de la Energía.

Edificio Plaza Bizkaia, C/Alameda de Urquijo 36 – 1st Floor
48011, Bilbao (Bizkaia) – Spain

All this without prejudice to the additional guarantees that BIMEP, as the owner of the MWPP, could require those contractors selected for Phase III to conduct the tests of their devices at the MWPP facilities (see conditions set out in the draft contract DL7).

- **Additional documentation for Phase III:**

Contractors invited to participate in Phase III shall provide the relevant contract for the use of the plant for the energy use of the waves of Mutriku (MWPP) signed with BIMEP as owner of the plant. The CPP documentation includes the DL7 with the draft contract to be signed between the Contractor and BIMEP, which may be negotiated between the parties.

If there are any defects or omissions in the documentation provided, it shall be agreed to grant a period of three (3) working days to provide the necessary documentation to correct the defect or omission detected. If the tenderer fails to comply adequately with the order within the prescribed period, it shall be understood that the tenderer has withdrawn his tender. In this case, the same documents shall be obtained from the following tenderer in the order in which their tenders are classified.

5.7.4 Award of the Contract

Once it has been verified that the documentation submitted prior to the award is considered to be correct, an Award Resolution shall be issued by the contracting authority informing the tenderers of its classification based on the best value for money determined in accordance with sections 3.5 and **¡Error! No se encuentra el origen de la referencia.** of this document.

5.8 Signing of the Framework Agreement and Phase 1 Call-Off Contract

The services under the contracting authority shall require the successful tenderers to sign, within 10 calendar days following the date of the notification of the award, the administrative document for the formalization of the Framework Agreement and the first Phase I Call-Off Contract, in accordance with models DL 4 and DL 5, which shall be annexed to the contract, the offer of the successful tenderer and a duly certified Request for Tenders.

The formalization of contracts shall be published no later than 15 days after the signature of the contract in the PPCE.

The document in which the contract is completed shall in any case be of a private nature and shall be valid for access to any public register. However, the contract will be formalized in public writing at the contractor's request, at the contractor's expense being the expenses derived from its bestowal.

For Phases II and III, contractors shall be required to sign a new Call-Off Contract Based for each of the phases.

The contracting authority may verify, both during the award procedure and after the contract has been awarded and formalized, the veracity of the documents submitted. The data falsehood may cause the contract to be void. The declaration of invalidity for this reason is deemed to be non-compliance attributable to the economic operator which shall indemnify the contracting authority for the damages it has suffered.

5.9 Withdrawal

If the EVE refuses to conclude the contracts for which it has made the relevant call, or decides to restart the procedure for its award, it shall notify the tenderers.

Likewise, the withdrawal to formalize the contracts or the withdrawal of the whole procedure may only be agreed by the contracting authority before the award. In both cases, tenderers shall be compensated for the expenses they have incurred in accordance with the general principles governing the responsibility of the administration, which shall be duly accredited by the tenderers and shall be limited only to the possible cost of submitting a proposal, which may in no case exceed 700 EUR. Contracts may also be withdrawn only for reasons of public interest duly substantiated in

the dossier. If the waiver is substantiated, this will prevent the promotion of a new invitation to tender.

On the other hand, the withdrawal of the procedure must be based on an unenforceable infringement of the rules for the preparation of contracts or of the regulators of the award procedure, and the case must be substantiated in the file. Withdrawal does not prevent the initiation of a new tender procedure.

6 Monitoring and conditions of contract performance and selection criteria for phases II and III

6.1 Bodies involved in the execution of the Contract: Monitoring Committee

During the execution of the contracts of each phase, the implementation of the contract will be periodically monitored and reviewed against the expected results (milestones, deliverables and outputs or results) for the phase.

There will be a Monitoring Committee, made up of external and/or internal EVC experts, to supervise the execution of each phase of the contract and make the necessary decisions and issue the precise instructions to ensure the correct fulfilment of the agreed results in each phase of the PCP and that will provide periodic feedback to the contractors after meetings or visits.

A primary contact person from the Monitoring Committee will be appointed to act as Project Manager TurboWave. There will be regular follow-up meetings between the contractor, the Manager and the Monitoring Committee. Online/remote meetings will be held whenever possible.

The number of follow-up meetings will be subject to the pace of implementation of the project and, in any case, to the decision of the Monitoring Committee. Contractors could be asked to discuss the results achieved in the previous period and submit their updated work plan. The Monitoring Committee, or any person designated by them, has the right to visit the premises of the contractor and its subcontractors. The contractor may also visit the facilities of the Mutriku Wave Power Plant and must cover its own costs and therefore provide personnel and travel budget in its bid. This visit request must be channelled through EVE through the email address turbowave@eve.eus

In accordance with all the above, the Monitoring Committee will perform the following functions:

- Evaluating the deliverables and milestones of each phase in relation to the criteria of satisfactory compliance and successful completion of the established phase.
- Presentation of the procedures, methodologies, schedules and actors involved in the Phase I Kick-off meeting.
- Agreeing on the action plan with each contractor at the start of Phase II and Phase III. Keep in touch with the contractor and hold regular follow-up meetings with them.
- They have the right to visit the premises of the contractor and its subcontractors if necessary.
- Providing regular written or electronic feedback to contractors after meetings or visits.
- Taking into consideration the comments made by the Project Manager before making each payment.
- Making proposals to the Procurement Committee in relation to the possible application of penalties, monitoring and control of IPRs as well as other issues related to the execution of the contract.
- Any other related to their competences.

During the execution of the Contracts, the Monitoring Committee, at its discretion, may validate the Phase II prototypes physically at the pilot site facilities or through demonstration meetings, which may be telematic with suppliers. Likewise, it will be able to validate the prototypes of Phase III physically in the facilities of BiMEP (MWPP).

6.2 Payments based on satisfactory achievement of phase milestones and deliverables

Payments for each phase of the PCP will be subject to satisfactory completion of the deliverables for the applicable Phase, specified in the "TurboWave Challenge TD2". Satisfactory completion shall be assessed by the Monitoring Committee. Successful completion will be assessed according to the following requirements:

- If the work corresponding to that milestone/deliverable has been performed in accordance with the TD2_TurboWave Challenge and in accordance with the provisions of the contract

(including, but not limited to, verification as to whether the contractor has properly protected and managed the IIPR generated in the relevant phase).

If a reasonable minimum quality has been delivered.

- If reports have been submitted on time.
- Whether resources have been allocated to the intended objectives.
- Whether resources have been allocated and work has been carried out in accordance with the award criteria.
- If the works have been carried out in accordance with the provisions of the contract.
- Whether the feedback provided by the monitoring team has been adequately addressed by the contractor making the required changes or improvements or giving sufficient justification for not having made them.

Successful completion in each of the phases does not mean successful completion. For a phase to be successful, all planned tasks must be carried out with the right effort and diligence, whether the results are positive or not. The results may indicate that innovation is not feasible, but the phase can be completed satisfactorily. The evaluation will consider the efforts made by the contractors. The deliverable submitted will be approved as "satisfactory" or rejected in accordance with the provisions of the TD2 TurboWave Challenge.

When the EVE judges that the completion of the deliverables or milestones is not satisfactory, it may agree to the application of the corresponding penalties, as well as withdraw payments for the deliverable in question and/or terminate the contract in accordance with Article 23 of the Framework Agreement.

In case of rejection of any deliverable, the contractor will receive in writing the reasons for the rejection including the deliverables categorized into three levels:

- **Approved:** The contractor may consider the item to be satisfactory.
- **Request for modifications:** the contractor has to analyse the report and the modifications requested by EVE and develop an appropriate response to comply with the request in order for this element to be approved and considered satisfactory.
- **Unsatisfactory:** the element has been judged to be unsatisfactory and there is no modification possible within a reasonable time to make this element satisfactory.

In the event that a request for modification elements is received, the contractor will have five (5) calendar days to resubmit the deliverables, or where appropriate within the period indicated in the request for modification.

Contractor invoices must provide:

- Number of units.
- Price breakdown showing the price of R+D services and the price of product supplies (to demonstrate compliance with the definition of R+D services).

6.3 Eligibility for the next phase based on successful completion of each phase

Eligibility to participate in the next phase will be subject to successful completion of the current phase. The Monitoring Committee shall assess the successful completion of a phase according to the following requirements:

- That all milestones along with their deliverables have been successfully completed
- That the R+D results meet the minimum functionality/performance requirements of the challenge description (that is, the minimum quality/efficiency improvements that EVE proposed in the innovative solutions to be achieved).
- That the results of R+D are considered promising.

In this context, "promising" means:

- For Phase I, convincing feasibility.
- For Phase II, the feasibility, applicability in an operating environment and potential impact of the product are compelling.

Likewise, 'Results' is understood as any tangible or intangible output, such as data, knowledge or information, generated in the PCP, whatever its form or nature, whether or not they are likely to be protected, as well as any associated rights, including intellectual property rights ('IIPR attached' or 'IIPR attached to the results').

Once the evaluation on eligibility has been completed, the Monitoring Committee will issue a reasoned report through which it will propose the corresponding companies as eligible for the next phase and will transfer it to the Procurement Committee for its acceptance and issuance of the corresponding minutes on the results obtained, thus determining their eligibility for successive phases.

6.4 Phase Change Selection Criteria

Once the company has been declared eligible for the next phase by the Procurement Committee, an invitation will be sent to these companies so that they can submit a proposal to continue with the next Phase of the PCP.

Interested companies must again submit an adequate offer to the corresponding Phase, including the corresponding Envelope A (administrative documentation), Envelope B (technical offer) and Envelope C (economic offer), and in accordance with the requirements established for each envelope in the Request for Tenders. Likewise, with regard to the procedure for opening, evaluating and awarding tenders, as well as formalizing the corresponding Call-Off Contracts of each phase, the provisions of Section 5 shall apply.

6.4.1 Envelope A: Administrative documentation

With regards to Envelope A for Phases II and III, the following shall be provided:

- Form 1 – Multiple Declaration of Honour:
 - In the case of a joint venture, a copy completed and signed by the TJV must be provided.
 - In the case of a Consortium, a copy completed and signed by each member of the group must be presented.
 - Likewise, a copy completed and signed by each subcontractor must be presented.
- Annex 1: Declaration of subcontractors
- Annex3: Declaration of Honour of Economic and Financial Solvency

6.4.2 Envelope B: Technical proposal

With regards to Envelope B for Phases II and III, the following shall be provided:

- A Technical Offer that includes all the technical details of the proposed solution to be implemented to address all the requirements and challenges exposed in the TD2 – The Turbowave Challenge. EVE will provide, well in advance, a Technical Proposal Template, where each of the technical award criteria will be elaborated with a greater level of detail, as well as the limits applicable to the format and length of the document.
- Updated list of pre-existing rights (background) and those generated as a result of the execution of this project (foreground) or other projects (sideground) relevant to this project, both of the bidder and its subcontractors (TD3 Form 3).
- TD3 Form 4 – Technology Risk Assessment
- TD6 Annex 4 - Declaration of parts of your technical offer that are confidential, taking into account that such confidentiality affects, among others, technical or commercial secrets, the confidential aspects of tenders and any other information that may be used to distort competition, either in this tender procedure or in subsequent ones. Not all technical offers may be confidential.

The technical proposal will be evaluated according to the criteria subject to value judgment set out below for Phase II and III respectively:

Technical award criteria Phase II				
Technical Criteria	Maximum points by criterion	Maximum points by section	Minimum section threshold	Detail of the criterion
1. Level of originality and innovation		8	4	i. Potential of innovation(s) proposed to significantly improve the state of the art (10 points)
2. Technical and economic feasibility		27	13.5	
2.1. Description of the technology	10			i. Credibility and soundness of the operational fundamentals described and the proposed preliminary design (8 points); ii. Credibility of the proposed O&M strategy (2 points).
2.2. Numerical and physical modeling	5			i. Relevance of previous numerical and physical modeling (3 points) ii. Suitability of simulation capacity (Tools and experience in modelling similar or equivalent systems) (2points)
2.3. Technological risk assessment	4			i. Diversity and suitability of the range of identified technological challenges and uncertainties; (2 points) ii. Appropriateness of impact and probability attributed, (1 point) iii. Adequacy of mitigation measures (1 point)
2.4. Vision and strategy for technological development and marketing and management of IIPRs	8		4	i. Clarity and suitability of the identification of the target market, its size and characteristics (2 points) ii. Feasibility of the technological development plan. (3 points) iii. Feasibility of the IIPR marketing and management plan (3 points)
3. Capacity, degree of completeness and effectiveness of the proposed solution to meet the challenge		20	10	i. The clarity and completeness of the narrative, credibility and degree of compliance with the challenge posed in each evaluation area will be assessed • Performance: (4 points) • Controllability: (4 points) • Reliability: (4 points) • Maintenance: (4 points) • Affordability: (4 points)

4. R&D plan and methodology		25	12.5	
4.1. Work Team	7			i. Relevance of staff key competencies and skills for project development (5 points) ii. Clarity in role and task identification (2 points)
4.2. Scope of work for Phase I	9			i. Clarity of proposed activities and allocation of responsibilities. (3 points) ii. Appropriateness of the specific results proposed. (3 points) iii. Credibility of the justification for how the proposed activities and work packages will address the objectives of Phase 1, mitigate technological risks and deliver the specified results of Phase 1. (2 points) iv. Suitability of partner efforts to carry out the proposed activities. (1 point)
4.3. Proposal for deliverables	5			i. Suitability and clarity of the deliverable structure to evidence the work done and the results obtained. (5 points)
4.4. Working schedule	2			i. Structure clarity and detail sufficiency in the project timeline (2 points)
4.5. Methodology Proposed	2			i. Clarity and effectiveness of the proposed strategy (1 points) ii. Clarity of responsibility in project management (1 points)
Total	80	80	40	

Technical award criteria Phase III				
Technical Criteria	Maximum points by criterion	Maximum points by section	Minimum section threshold	Detail of the criterion
5. Level of originality and innovation		6	3	i. Potential of innovation(s) proposed to significantly improve the state of the art (10 points)
6. Technical and economic feasibility		29	14.5	
6.1. Description of the technology	10			i. Credibility and soundness of the operational fundamentals described and the proposed preliminary detail design (8 points); ii. Credibility of the proposed O&M strategy (2 points).
6.2. Numerical and physical modeling	6			i. Relevance of previous numerical and physical modeling (4 points) ii. Suitability of simulation capacity (2 points)
6.3. Technological risk assessment	4			i. Diversity and suitability of the range of identified technological challenges and uncertainties; (2 points) ii. Appropriateness of impact and probability attributed, (1 point) iii. Adequacy of mitigation measures (1 point)
6.4. Vision and strategy for technological development and marketing and management of IIPRs	9		4	i. Clarity and suitability of the identification of the target market, its size and characteristics (2 points) ii. Feasibility of the technological development plan. (3 points) iii. Feasibility of the IIPR marketing and management plan (4 points)
7. Capacity, degree of completeness and effectiveness of the proposed solution to meet the challenge		20	10	i. The clarity and completeness of the narrative, credibility and degree of compliance with the challenge posed in each evaluation area will be assessed • Performance: (4 points) • Controllability: (4 points) • Reliability: (4 points) • Maintenance: (4 points) • Affordability: (4 points)
8. R&D plan and methodology		25	12.5	

8.1. Work Team	7			i. Relevance of staff key competencies and skills for project development (5 points) ii. Clarity in role and task identification (2 points)
8.2. Scope of work for Phase I	9			i. Clarity of proposed activities and allocation of responsibilities. (3 points) ii. Appropriateness of the specific results proposed. (3 points) iii. Credibility of the justification for how the proposed activities and work packages will address the objectives of Phase 1, mitigate technological risks and deliver the specified results of Phase 1. (2 points) iv. Suitability of partner efforts to carry out the proposed activities. (1 point)
8.3. Proposal for deliverables	5			i. Suitability and clarity of the deliverable structure to evidence the work done and the results obtained. (5 points)
8.4. Working schedule	2			i. Structure clarity and detail sufficiency in the project timeline (2 points)
8.5. Methodology Proposed	2			i. Clarity and effectiveness of the proposed strategy (1 points) ii. Clarity of responsibility in project management (1 points)
Total	80	80	40	

6.4.3 About C: Economic Offer

In relation to the Sachet C (the economic offer), the DL3 Form 5 and DL3 Form 6 must be provided again, according to the requirements indicated in section "5.6.2. Content of Envelope C", indicating the prices corresponding to the next phase for which the offer is submitted.

For the calculation of the score related to the Economic Offer criterion, the following table is indicated.

Economic award criteria Framework Contract and Phases II and III	
Economic criterion	Maximum points by criterion
Economic offer	20

The formula for the valuation of the economic offer is as follows:

$$PE = (P_{eco}) \times \left[1,5 - \frac{Of_i}{Of_{promedio}} \right]$$

Where:

- PE= Economic criterion score obtained by the bid assessed
- Peco= Maximum economic criterion score
- Ofi= Amount of the economic offer valued

Tenderers shall be classified according to the award criteria for Envelopes B and C. The score to be obtained by tenderers shall be the result of the sum of the technical criteria (criteria subject to value judgment) and the economic criterion (criteria quantifiable by mathematical formula):

$$P_{total} = PT + PE$$

Where:

- Ptotal= Total score of the proposal
- PT = Total score of technical criteria subject to value judgment
- PE = Total score of economic valuation criteria

After the evaluation of Envelopes B and C has been carried out, the Procurement Committee shall raise to the contracting authority the classification of tenders and reasoned award proposal as described in Section 5.7 of the Request for Tenders.

7 Industrial and Intellectual Property Rights

7.1 Definitions of Industrial and Intellectual Property Rights (IIPR):

"Pre-existing Intellectual and Industrial Property Rights": means any data, know-how or information - whatever its form or nature (tangible or intangible), including ancillary rights, such as intellectual property rights held prior to the signing of the Framework Agreement, and identified by the parties involved in the PCP as background and which are necessary to implement the PCP or exploit the results thereof.

"Not commercially exploiting the results" means not marketing the results (directly or indirectly, through a subcontractor, licensee or related company), or undertaking specific activities beyond development to commercially exploit the results, for example, solution certification or contribution to standardization, where appropriate.

"IIPR or foreknowledge" or "results" means any tangible or intangible product, such as data, knowledge or information, generated at any stage of the PCP, whatever its form or nature, whether or not protectable, and any rights associated therewith, including intellectual property rights ("accompanying IIPRs" or "IIPRs attached to the results").

"Intellectual Property Rights (IPR)": means any and all patent rights (including, but not limited to, divisional, extensions, improvement patents, supplementary protection certificates), inventions (whether or not patentable or registrable), trademarks, copyrights (including moral rights), surveying rights, design rights, database rights (including the right to prevent the extraction or re-use of information from a database), trade secrets and trust rights, know-how, trade names, domain names, whether they are registered or not or are not registrable and including applications for registration, renewal or extension of any of them, and other rights or forms of protection of a similar nature having an effect equivalent or similar to any of them that may exist now or in the future anywhere in the world.

"License": means a right granted by the holder of a IIPR to another person to use such rights ("Licensee") in exchange for an agreed payment (fee or fee). The license may be exclusive or non-exclusive.

"Exclusive license" means a license that no person or company other than the licensee can exploit the corresponding intellectual property rights.

"Non-exclusive licence" means a licence granting the licensee the right to use the intellectual property in which the holder of the intellectual property right of the right may continue to exploit the technology himself and may grant all licences he deems appropriate to third parties.

"Royalties": regular payments made by the Contractor, and where appropriate subcontractor or operators to whom the Contractor assigns the commercial exploitation rights, to the contracting entity, calculated on the net sales obtained through the commercial exploitation of the Innovative Solution or R+D results generated during the PCP.

"Innovative Solution" means a solution designed, developed, prototyped and tested by the Contractor as part of the Turbowave PCP.

"Results" or "Results generated" means the results of the research and development activity, i.e. any tangible or intangible goods, derived from the research and development activity that is the subject of the Turbowave pre-commercial procurement, regardless of the medium on which it is stored, including related preparatory materials and, therefore, by way of non-exhaustive example, any information, data, knowledge, idea, document, design, model, software, database, technical documentation, business plan, prototype, model or any other material of any nature and category, whether or not they are subject to protection through patent rights or may have legal protection under national and European legislation.

7.2 Ownership of results

The IIPRs referred to in this section include: (i) patents, utility models, industrial designs, copyrights, database rights, trademarks, trade names, and the right to register them, (ii) rights in domain names, (iii) know-how, (iv) applications and renewals of any of the foregoing rights, (v) any other rights

having a similar effect in any country in the world, (vi) licenses or contractual rights over any of the foregoing rights.

The risks and benefits of R+D will be shared between contractors and EVE to develop innovative solutions that exceed those available in the market, so that all parties have an incentive for commercialization and large-scale implementation of the solutions developed during this contract. EVE recognises that ownership of the pre-existing and acquired industrial and intellectual property rights that protect the solution to be developed corresponds to the contractors. Therefore, the contractor fully holds the exclusive exercise of the exploitation rights of the solutions developed in any form and modality worldwide. However, the Contractor will grant EVE and BiMEP (Biscay Marine Energy Platform, S.A., a public company owned by EVE, owner of the Mutriku plant "MWPP") rights to use the R+D results, and pre-existing rights if necessary, for internal use and license rights under certain conditions specified in the Framework Agreement.

In addition, EVE has the right to:

- Require contractors to grant non-exclusive licences to third parties to exploit the results on fair and reasonable market terms (without the right to sublicense), as set out in the Framework Agreement.
- Receive Royalties on net annual sales derived from the future exploitation of the commercial result of the Innovative Solution or R+D results generated during the PCP, under the conditions provided for in the Framework Agreement.
- Require contractors to transfer ownership of the generated IIPRs ("call-back"), or sublicense the right of the generated IIPRs to third parties free of charge, in the cases provided for in the Framework Agreement.

Each contractor is responsible for the management and protection of its IIPRs and bears the costs associated with them. However, EVE has the right to oversee the management of IIPRs. Contractors and subcontractors shall inform EVE of the results that may be exploited, whether or not they can be protected.

7.3 Pre-existing Rights

All pre-existing IIPRs used or supplied for the purposes of the contract shall be the property of the party who introduced them (or, as the case may be, the third party that licensed them to the party introducing them).

To ensure a clear distinction between the pre-existing rights and those generated throughout the PCP, bidders must provide within Envelope B of the bid for Phase I, as the corresponding update within the requested documentation prior to awarding the contract, "TD3_Form 3. Declaration of Honour Pre-existing Rights", in which the following information must be included and attached:

- Complete and comprehensive written information on the relevant and significant Intellectual Property Rights that the Contractor (and/or any of its subcontractors) owns or is using or has access to that belongs or may belong to the Turbowave PCP project or any part thereof.
- Declaration of honour with a list of the software necessary for the operation of the prototype and products of the first series of tests that will be developed during the PCP, specifying which software is closed source software.
- Declaration of honour of technologies and / or knowledge to be provided property of the bidding company.
- Declaration of honour of third-party licenses together with their conditions and limitations.
- Declaration of honour on the granting of rights of use and modification of the technologies provided in favour of EVE and BiMEP.
- Declaration of honour on the acquisition from the corresponding owners of any prior knowledge possessed by third parties as well as the licenses that are necessary for the execution of the R+D services or that the necessary modification has been made to any pre-existing licences required to enable the procuring entity to use the background for all uses

covered by this subparagraph, to the extent that they are supplied with or form part of the contract.

- Declaration of honour for the extension of the necessary third-party licenses to the contracting authority, free of charge and under the conditions established in the Framework Agreement.

The Contractor shall duly inform the Contractor of the generation or change of pre-existing rights and Sideground within fifteen (15) days of the generation or change.

In any case, the contractor will guarantee that the IIPR generated during this contract are original. Likewise, it will be liable for all claims that may be made by third parties in relation to its ownership, as well as for damages that may be caused to EVE for such reasons.

8 Miscellaneous

8.1 Language

All communications (relating to the tendering procedure or the execution of the contract) shall be made in Basque or Spanish. However, proposals submitted in Basque, Spanish or English will be accepted. In case of discrepancy between the governing documents of this Pre-Commercial Public Procurement, its Spanish version prevails.

Deliverables must be sent in Basque, Spanish or English, as long as the provisions of the previous section are complied with.

8.2 Communication – Frequently Asked Questions

The questions and answers of the open market consultation can be found at [Wave Challenge - TurboWave Project - SPRI](#).

All clarifications and doubts regarding the tender must be submitted in writing through the email turbowave@eve.eus before the deadline established for the receipt of clarifications.

The summary of all questions and answers will be provided in an anonymous document that will be published one week before the deadline for submission of tenders in English, Basque or Spanish.

8.3 Confidentiality

The duty of confidentiality, both on the part of the contractor with respect to the information to which he has access in the performance of the contract specified as confidential in the specifications or in the contract, or which by its very nature must be treated as such, and of the contracting authority with respect to the information provided by the contractor specified as confidential at the time of submitting the offer, shall be governed by the provisions of article 133 of the LCSP.

The contractor may not use for himself or provide third parties with any data on the contracted works or publish, in whole or in part, the contents thereof without the written authorisation of the contracting authority.

The contractor also acquires the commitment of faithful and careful custody of the documentation that is delivered to him for the performance of the work and, with this, the obligation that neither the documentation nor the information that it contains or to which it is accessed as a result of the work arrives, in any case, in the possession of third parties.

The contracting authority may not disclose information supplied by employers which they have designated as confidential, which concerns, in particular, technical or commercial secrets and the confidential aspects of tenders.

For these purposes, the contractor may designate as confidential some or some of the documents provided, a circumstance that must be clearly reflected (overprinted, in the margin or in any other way) in the document indicated as such.

The contractor and all personnel involved in the contractual provision are bound, in accordance with the provisions of the twenty-fifth additional provision of the LCSP, by the provisions of current regulations on the Protection of Personal Data and its implementing regulations. This obligation shall survive the termination or termination.

The breach of these duties by the contractor will generate, in addition to contractual liability, the liability of a civil, criminal or administrative nature that corresponds in accordance with current legislation. In any case, the contractor will be liable for damages arising from the breach of this obligation.

8.4 Protection of personal data

The personal data of the contractors will be processed by the person responsible for the Treatment Activity in order to process this contracting file, as well as for those other purposes identified in the corresponding Treatment Activity that follows:

Name of the processing activity: Corporate Relations

Responsible for the processing of personal data: Ente Vasco de la Energía

Contact email address: dpd@eve.eus

Purpose of the treatment: Management of collections and payments, management of contracting and compliance with tax obligations, as well as the management of corporate relations of the Basque Energy Agency.

Legitimation to carry out the processing of data: Contractual relationship

The data will not be communicated to third parties except to those entities or administrations to which it is necessary for the fulfillment of the purpose of the treatment of the legal obligations derived from this contract. You can exercise your rights of access, rectification, deletion and portability of data or the limitation and opposition to its treatment, as well as not to be subject to automated individual decisions, through the electronic headquarters of the Autonomous Community of Euskadi.

Further information can be obtained by contacting both the Framework Agreement and the contact email dpd@eve.eus.