

REGULATION OF THE MINISTER OF THE ECONOMY AND LABOR ^{1/}
of November 15, 2004

concerning tenders and negotiations as well as criteria of evaluation of economic intentions to be implemented by entrepreneurs in the area of the Kostrzyn – Slubice Special Economic Zone

Pursuant to Art. 17 section 1a of the Act of October 201994 on special economic zones (Journal of Laws No. 123, item 600 as amended ^{2/}) the following is regulated:

- §1.** The regulation lays down principles, conditions and manners of conducting tenders and negotiations aiming at selection of the entrepreneur who will obtain a permit to run business activity in the area of the Kostrzyn – Slubice Special Economic Zone,” hereinafter referred to as “the zone”
- §2.** 1. The objective of the tender and negotiations is specifying the entrepreneurs whose intended economic enterprises in the area of the zone will to be the most conducive for the fulfillment of the zone development plan specified in the regulation of the minister competent for economic issues pursuant to Art. 9 of the Act of October 20, 1994 on special economic zones, hereinafter referred to as “the Act.”
2. Tenders and negotiations shall be run by the Kostrzyn – Slubice Special Economic Zone, hereinafter referred to as “the Manager.”
- §3.** 1. Negotiations and tenders are initiated on the basis of a public invitation to tender.
2. In the event an entrepreneur applies for a permit and acquisition of the property right to real estate or other assets located in the area of the zone, the Manager organizes a joint tender.
3. In the event an entrepreneur applies for a permit, the Manager conducts negotiations in the course of which they lay down terms and conditions of the business activity, in particular the subject matter of the activity and the minimum amount of outlay and minimum number of work positions developed as a result of the investment.
- §4.** 1. The Manager invites participants to a tender or negotiations by placing an announcement in a national daily as well as on the website of the zone, in the Polish language and one of the languages that are commonly used in international trade.
2. The invitation to a tender or negotiations shall specify in particular:
- 1) the name and registered office of the Manager and the name of the zone,
 - 2) the manner of obtaining the specification of essential terms and conditions of the tender or negotiations as well as the price of the specification if it is rendered available for a charge
 - 3) the venue, deadline for the submission and opening of tender bids.
3. In the event specified in par. 3 section 2, an invitation to a tender additionally includes information on the real estate or other assets located in the area of the zone that are to be utilized for the purposes of an economic enterprise within the zone.
- §5.1** The specification referred to in par. 4 section 2 item 2 shall include in particular:
- 1) the content of the by-laws of the zone,
 - 2) information on the criteria of evaluation of business enterprises referred to in per. 11 that are intended to be run in the area of the zone by entrepreneurs applying for a permit
 - 3) the description of the manner of development of tender bids including in particular information on documents to be submitted by bidders, also such documents that confirm their legal status and financial standing
 - 4) essential provisions of an agreement or agreements to be concluded by the Manager or general terms and conditions or a specimen of agreement in the event the Manager requires the bidder to enter into an agreement with them under such terms and conditions
 - 5) description of the manner in which the Manager offers explanations regarding the specification,
 - 6) specification of property located in the area of the zone referred to in Art. 8 section 1 of the Act

to be utilized for the purposes of the business enterprise within the zone
7) the deadline by which the bidder will be bound by the bid.

2. In the event referred to in par. 3 section 2 the specification shall additionally include:

- 1) a detailed description of the real estate or other assets that are the subject of the tender,
- 2) information concerning the manner of acquisition of rights to the real estate of other assets that are the subject of the tender and the amount offered with relation to that,
- 3) requirements concerning the amount of the tender guarantee, if applicable
- 4) information on obtaining by the Manager a permit from competent authorities to transfer the rights to the real estate.

§6. The bid shall be made in writing in the Polish language. It should specify in particular:

- 1) the name and registered office of the bidder or the first and last name and address of the bidder if it is an individual person,
- 2) the size, subject matter and economic nature of the business enterprises intended by the bidder in the zone as well as terms and conditions of their implementation (business plan, feasibility study),
- 3) the name and registered office of the entity acting on behalf of the bidder of the first and last name and the address if the bidder is represented by an individual person – if applicable,
- 4) documents referred to in per. 5 section 1 item 3,
- 5) the price offered in consideration of acquiring the right to the real estate or other assets that are the subject matter of the tender – in cases when the specification includes the information referred to in par. 5 section 2.

§7. 1 The deadline for submitting the bids specified by the Manager shall be no shorter than 21 days, starting from the date of the invitation to the tender or negotiations.

2. A bid shall be rejected if it does not comply with the requirements laid down in par. 6. The Manager shall without undue delay notify the bidder of the rejection of its bid.

§8. Without undue delay, on the conclusion of the proceedings the Manager shall:

- 1) position information concerning the selection of a bid on the website,
- 2) notify in writing the bidder selected in the course of the proceedings of the terms and conditions of implementation of the tender or negotiations conclusions

§9. 1 The Manager may cancel the tender or withdraw from negotiations in the following cases:

- 1) a significant change in circumstances has occurred rendering the proceedings no longer plausible for the public interest, which could have not been predicted,
- 2) the proceedings are inherently faulty and the fault makes it impossible to issue a permit or enter into a binding agreement concerning acquisition of the right to the real estate

2. The Manager shall notify all the bidders of the cancellation simultaneously in writing specifying the actual and legal justification for the cancellation.

§10. The Manager submits to the minister competent for the economy the results of the tender proceedings or negotiations for the permit to conduct business activity in the zone to be issued unless the minister competent for the economy entrusts the Manager with the duty to issue such permits.

§11. The evaluation concerning intended business enterprises to be initiated in the zone should take into account the following criteria:

- 1) the subject and scope of business activity so far run by the bidder and which is to be run in the area of the zone,
- 2) the value and conditions of the implementation of the business enterprises, including those intended to be implemented in the zone,
- 3) participation in the development and modernization of economic facilities in the zone,
- 4) participation in business relations, including cooperation with entrepreneurs operating in Poland,
- 5) compliance of business enterprises intended to be implemented in the zone with objectives of the zone development and business enterprises implemented or intended to be implemented in the zone by other entrepreneurs,
- 6) degree of hazard posed to the environmental and activities intended to protect the environment,

- 7) degree of innovativeness of the technology used in the enterprises and activity intended to be implemented in the zone.

§12. To proceedings initiated but not concluded as of the day of this regulation becoming effective, the provisions of the regulation referred to in par. 13 shall apply.

§13. The regulation of the Minister of the Economy of March 29, 2001 concerning the manner of conducting, principles and conditions of tenders or negotiations as well as criteria of evaluation of economic intentions to be implemented by entrepreneurs in the area of the Kostrzyn – Slubice Special Economic Zone (Journal of Laws No. 37, item 444) shall be rescinded.

§14. This regulation comes into effect 7 days from its announcement.

1/ Minister of the Economy and Labor manages the economy, that is a department of government administration, pursuant to par. 1 section 2 item 1 of the regulation of the Prime Minister of June 11, 2004 concerning a detailed scope of the activity of the Minister of the Economy and Labor (Journal of Laws No. 134, item 1428).

2/ The amendments to this Act were published in Journal of Laws of 1996 No. 106, item 496, of 1997 No. 121, item 770, of 1998 No. 106, item 668, of 2000 no. 117, item. 1228, of 2002 No. 113, item 984 and No. 240, item 2055, of 2003 No. 188, item 1840, of 2004 No. 123, item. 1291.