

MARKET TESTING NOTICE

Construction of the Outer Port in the Port of Gdynia in the public-private partnership scheme

1. CONTRACTING AUTHORITY

Name of Contracting Authority: **Zarząd Morskiego Portu Gdynia S.A.**

Address of Contracting Authority: **ul. Rotterdamska 9, 81-337 Gdynia**

Web address (URL): **www.port.gdynia.pl**

Tel. + 48 58 627 40 02.

2. LEGAL BASIS

2.1 In order to ensure fair competition and equal treatment of potential contractors interested in the Project and the solutions they offer the market testing is conducted in the form of a technical dialogue pursuant to art. 31(a)-(c) of the Public Procurement Law of 29 January 2004 (consolidated text Journal of Laws of 2019, item 1843) and art. 58 Directive 2014/25/EU of the European Parliament and of the Council (OJ L no. 94, p. 243) and in accordance with the "Rules for conducting a market testing for an undertaking entitled "Construction of Outer Port in the Port of Gdynia in the public-private partnership scheme", hereinafter the "**Rules**", published on the Contracting Authority's website (hereinafter the "**Market Testing**").

2.2 The Market Testing will be conducted by the Contracting Authority in cooperation with a consortium of advisers: Ernst & Young Spółka z ograniczoną odpowiedzialnością Corporate Finance sp.k. with its registered office in Warsaw, Domański Zakrzewski Palinka sp.k. with its registered office in Warsaw, and WYG International sp. z o. o. with its registered office in Warsaw (hereinafter the "**Adviser**").

2.3 Contact persons for the Market Testing:

Adviser: Maciej Ziomek, Associate Partner EY, e-mail: maciej.ziomek@pl.ey.com, tel.: +48 22 557 62 36; or Jakub Adamski, Manager EY, e-mail: jakub.adamski@pl.ey.com, tel.: +48 22 557 89 03.

3. SUBJECT-MATTER OF PUBLIC-PRIVATE PARTNERSHIP AND AIM OF MARKET TESTING

3.1 The Contracting Authority announces a Market Testing connected with a planned procedure to select a private partner to implement an undertaking entitled "Construction of an Outer Port in the Port of Gdynia in the public-private partnership scheme", hereinafter the "**Project**".

3.2 The purpose of the Market Testing is, inter alia, for the Contracting Authority to gauge the interest of private entities in participating in the planned procedure and financial institutions in financing its implementation, and obtaining information on the grounds for the Project being implemented in the public-private partnership scheme and related benefits, boundary conditions (including Project scope, risk sharing), and also information enabling the optimum determination of the scope of the planned undertaking (including the possibilities and scope of commercial development of the Outer Port in the Port of Gdynia, hereinafter also the "**Outer Port**"), the conditions of participation in the procedure, criteria for evaluating tenders and other elements relevant for the initiation and conduct of the procedure.

- 3.3 Basic information about the Project is given in information on the Contracting Authority's website.
- 3.4 Detailed information about the Project and the questionnaire for participants in the Market Testing will be provided by the Contracting Authority to entities invited to participate in the Market Testing on the basis of the applications received.

4. MARKET TESTING RULES OF PROCEDURE

- 4.1 Documents drawn up in languages other than Polish or English should be accompanied by translations into Polish or English. The Contracting Authority does not require a sworn translation.
- 4.2 In view of the planned scope of the Project (covering design, build and operation of the Outer Port) and of the Contracting Authority's intention to transfer the risk of raising financing to a private partner, the Contracting Authority particularly encourages entities that have participated in similar projects (undertakings) to participate in the Market Testing.
- 4.3 Undertakings involving the following are understood to be similar to the Project:
- 4.3.1 for potential private partners, alone or in a consortium:
- (i) operating a maritime container terminal (or terminals) with a minimum capacity of 1 million TEUs per year (e.g. by commercial activities based on such terminal or terminals), or
 - (ii) operating a maritime LNG terminal (or terminals) with a minimum capacity of 5 billion Nm³ per year (e.g. by conducting commercial operations on the basis of such terminal or terminals), or
 - (iii) operating an other cargo maritime terminal (or terminals) with a minimum capacity of 10 million tonnes per year (e.g. by conducting commercial operations based on such terminal or terminals), or
 - (iv) constructing infrastructure in a functionally separate part of a seaport with minimum capital expenditure of EUR 250 million;
- 4.3.2 for financial institutions: financing, either alone or in a consortium, the implementation of an infrastructure investment in the public-private partnership scheme or a concession or other form of cooperation with public sector entities or project finance with capital expenditure of at least EUR 250 million.

5. APPLICATION TO PARTICIPATE IN MARKET TESTING

- 5.1 Entities interested in participating in the Market Testing ("**Applicant**") should submit:
- (a) an application to participate in the Market Testing on the form attached as Annex 1 signed by persons duly authorised to sign the application on the Applicant's behalf,

- (b) a list of credentials for projects (undertakings) similar in scope to the Project within the meaning of point 4.3 of the Notice (in accordance with Annex 2; the Applicant may attach one or both lists depending on its credentials).
- 5.2 Together with the application, the Applicant may submit other additional information that the Applicant may deem important for the preparation of the Project.
- 5.3 The Contracting Authority reserves the right to restrict the number of participants in the Market Testing by inviting to participate in the Market Testing – at its discretion – Applicants that show credentials that are most similar to the projects referred to in point 4.3 of the Notice.
- 5.4 Applications may be submitted by e-mail to the following address: gdynia.ppp@pl.ey.com.
- 5.5 All communication with the Contracting Authority during the Market Testing will be carried out using the address indicated in point 5.4. All correspondence should bear the reference: “Market Testing – Construction of an Outer Port in the Port of Gdynia in the public-private partnership scheme”.
- 5.6 The deadline for applications is 7 February 2020 at 12:00 (GMT).
- 5.7 The Market Testing will be conducted until the information needed to achieve the aims set out in point 3.2 of the Notice is obtained unless the Contracting Authority decides to close it early.

6. GDPR INFORMATION CLAUSE

- 6.1 As the personal data controller, the Contracting Authority will inform everyone at the Applicant who provides data for the purpose of applying to participate in the Market Testing that:
 - (a) providing data is voluntary but necessary in order to take part in the Market Testing;
 - (b) you have the right to request access to and rectification or erasure of personal data or restriction of processing as well as the right to data portability;
 - (c) you have the right to object to personal data processing;
 - (d) data provided will be processed pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of personal data (OJ L, no. 119 of 4.5.2016, hereinafter the “**GDPR**”), i.e. pursuant to art. 6(1)(f) of the GDPR [processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject] and generally applicable laws, particularly the Personal Data Protection Act of 10 May 2018 (Journal of Laws of 2018, item 1000) in order to prepare the procedure to select a private partner as part of Project implementation;
 - (e) in this case, the legitimate interests of the controller involve the preparation of the procedure to select a private partner as part of Project implementation;
 - (f) the Contracting Authority's Data Protection Officer may be contacted by e-mail at iod@port.gdynia.pl;

- (g) personal data will be kept for the period necessary to conduct the marketing sounding and for archiving purposes for at least 10 years, in accordance with the Contracting Authority's internal document storage and archiving standards;
- (h) a recipient of the personal data may be the Adviser and other entities providing advisory services to the Contracting Authority during the sounding and preparation of the Project;
- (i) you have the right to lodge a complaint with the President of the Competition and Consumer Protection Office if you consider that your data is being processed in breach of data protection regulations.

Annex 1 – application form

Application to participate in Market Testing

Construction of the Outer Port in the Port of Gdynia in the public-private partnership scheme

Acting on behalf of.....
in response to the Market Testing Notice, entitled “Construction of an Outer Port in the Port of Gdynia in the public-private partnership scheme” of organised by Zarząd Morskiego Portu Gdynia S.A. (hereinafter the “**Contracting Authority**”), hereinafter the “Market Testing”, I hereby apply to participate in the Market Testing.

Applicant:

Name.....

Address

Tel. e-mail.....

Details of person authorised by the Applicant as contact person:

Name and surname.....

Position

Tel. e-mail.....

With reference to the Application to participate in Market Testing, acting on behalf of the Applicant, I declare that:

- (j) I am/we are duly authorised to sign this application on the Applicant's behalf;
- (k) the Applicant has read the Rules for conducting the Market Testing in the form of a technical dialogue and the Market Testing notice published on the Contracting Authority's website and fully accepts their provisions;
- (l) the Applicant has read the GDPR information clause arising from the GDPR and placed in the Market Testing Notice.

On behalf of the Applicant

(a signature that identifies person that submit this application form)

Annex 2 – form for Applicant’s credentials

The table applies to Applicants that provide the credentials referred to in point 4.3.1 of the Notice.

The Applicant declares that it has the following credentials in the field of the projects described in point 4.3.1:

No.	Project name	Project scope	Location	Contract term	Contract value (including capital expenditure)
1.					
2.					
3.					

The table applies to Applicants that provide the credentials referred to in point 4.3.2 of the Notice.

The Applicant declares that it has the following credentials in the field of financing the projects described in point 4.3.2:

No.	Project name	Project scope	Location	Contract term	Contract value (including capital expenditure)
1.					
2.					
3.					