

TENDER SPECIFICATIONS

for

Call for Tenders for Pharmaceuticals
(Amgros Tender 202X - 1.x.a/1.x.b)

ATC code(s):

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1. THE CONTRACTING AUTHORITY

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2. TIMETABLE FOR THE TENDERING PROCESS

XX/XX/202X Information meeting.

Further details about the information meeting, including sign-up for the meeting, are published on Amgros' Supplier and Tendering Portal <https://levportal.amgros.dk>. The time and place may change.

XX/XX/202X Questions, see paragraph 6, received before the expiry of this deadline will in any event be answered.

Questions received after this deadline will also be answered unless the nature of the question renders it unduly burdensome to answer within six days before the expiry of the deadline for submission of tenders.

Questions received later than six days before the expiry of the deadline for submission of tenders will not be answered, unless the deadline for submission of tenders is postponed at the same time, see section 93(4), para (1) of the Danish Public Procurement Act (*udbudsloven*).

XX/XX/202X

at 12:00 noon Deadline for submission of tenders.

Month

202X Expected award of contract. Before the award of contract, Amgros will obtain documentation for information provided in the ESPD from the successful tenderer(s), see Appendix B "Instructions for the European Single Procurement Document (ESPD) and documentation regarding absence of exclusion grounds".

Month

202X Expected conclusion of framework agreement.

The framework agreement cannot be entered into until the expiry of a standstill period. The standstill period begins on the day following the day when notice of the identity of the successful tenderer has been submitted to the tenderers. The standstill period is a period of 10 days when the notice has been submitted electronically. If the standstill period expires on a Saturday, Sunday or holiday, the expiry of the deadline will be postponed to the next working day. The date of expiry of the standstill period will be stated in Amgros' notice to the tenderers regarding the result of the tender evaluation.

XX/XX/202X Date of expiry of the period in which tenders must remain valid for acceptance, see paragraph 7.

XX/XX/202X Deadline for publication at "Medicinpriser.dk", see clause 2.3 of the framework agreement.

XX/XX/202X Commencement of the Purchase Period, see clause 8 of the framework agreement.

3. THE CALL FOR TENDERS

3.1 About the call for tenders

This call for tenders is conducted as an open procedure. The call for tenders covers a number of pharmaceuticals specified in a list of products. Each procurement number is a separate lot, see paragraphs 5.1 and 10.

Tenders for the pharmaceuticals are invited so that AmgroS can enter into framework agreements for the supply of pharmaceuticals to the hospital pharmacies of AmgroS' stakeholders (the regions). AmgroS may also purchase pharmaceuticals for its own stock for the purpose of subsequent resale to the hospital pharmacies.

The framework agreement is not exclusive to the supplier.

AmgroS organizes its calls for tenders for the purpose of entering into framework agreements that are assessed to be able to cover the hospital pharmacies' pharmaceuticals requirements, taking into account the nature and application of the individual pharmaceuticals.

Special circumstances may apply to pharmaceuticals, and medical and patient safety considerations may therefore require that specific pharmaceuticals will be used. For pharmaceuticals covered by this procurement group, AmgroS has estimated that the requirement is of moderate scale, and a framework agreement will therefore only be entered into with one single supplier.

3.2 The pharmaceuticals put up for tender

The pharmaceuticals put up for tender are primarily - but not exclusively - used for the treatment of This/these therapeutic area(s) has/have been considered by a specialist committee set up by the Danish Medicines Council (*Medicinrådet*). Treatment guidelines etc. are available at www.medicinraadet.dk.

One or more of the pharmaceuticals put up for tender are covered by the mentioned treatment guidelines. It is not unthinkable that the pharmaceuticals offered in the future will be included in new or updated treatment guidelines etc. concurrently with the Danish Medicines Council's continued work.

The various pharmaceuticals are put up for tender in separate lots for the purpose of concluding framework agreements for the supply of these pharmaceuticals. Framework agreements will be entered into separately for each procurement number, see paragraphs 5.1 and 10.

The use of some of the pharmaceuticals within the therapeutic areas mentioned above is explained in the treatment guidelines. The treatment guidelines may thus contain information stating how the pharmaceuticals covered by the framework agreements entered into by AmgroS are intended to be used within the scope of the guidelines.

The treatment guidelines may contain treatment cascades for different types of treatments where the pharmaceuticals put up for tender may be included as possible treatments. The position of the individual pharmaceutical in the treatment cascade is decided by the Danish Medicines Council on the basis of an assessment of the pharmaceutical.

The treatment guidelines may form the basis of recommendations for pharmaceuticals specifying certain specific pharmaceuticals. In treatment guidelines with several pharmaceuticals ranking equally therapeutically, the prices of the pharmaceuticals will have an effect on which of the pharmaceuticals ranking equally that will be recommended as the first choice.

The Danish Medicines Council may have decided on the use of new pharmaceuticals as standard treatment within some of the therapy areas mentioned above as well as the ranking of new pharmaceuticals in existing treatment guidelines where the changes have not yet been translated into new treatment guidelines. Such decisions are published on the website of the Danish Medicines Council, www.medicinraadet.dk, where the Danish Medicines Council is also expected to inform in future of any changes to the application of pharmaceuticals.

If, during the period of agreement, new contract prices for the products covered by the framework agreement are obtained through a price regulation mechanism, see clause 7.5 of the framework agreement, this may result in changes in the relevant pharmaceutical recommendation(s).

4. TENDER DOCUMENTS

The total tender material for procurement group **202X - 1.x.a/1.x.b** consists of the following documents:

These tender specifications with the following appendices:

Appendix A: List of products

Appendix B: Instructions for the European Single Procurement Document (ESPD)
and documentation regarding absence of exclusion grounds.

Contract notice (issued on [date]).

Framework agreement with appendices.

Amgros has also enclosed a table providing some brief information about the tender procedure. The table is part of Amgros' electronic preparation of the tender procedure and is made available to the tenderer. However, the table is not a part of the tender documents and is not legally binding. In case of discrepancy between the tender documents and the table, the tender documents will prevail.

The tender documents are available at Amgros' Supplier and Tendering Portal, see for more details paragraph 7, and tenders must be submitted via that portal.

Tenders must be submitted in accordance with the tender specifications for the relevant procurement group and the general guidelines for submission of tender provided in Amgros' Supplier and Tendering Portal, including the user guide. The user guide is a practical guide of a general nature, and in case of discrepancy between the tender documents, especially the tender specifications for the specific procurement group, and the user guide, the tender documents will prevail.

5. THE LIST OF PRODUCTS, INCLUDING REQUIREMENTS FOR THE PHARMACEUTICALS PUT UP FOR TENDER

5.1 The list of products in general

The pharmaceuticals put up for tender are sequentially numbered with a procurement number in the list of products. Each procurement number is a separate lot for the pharmaceutical indicated and is put up for tender independently of the other procurement numbers. This means that a tenderer may submit tender for one, several or all procurement numbers (lots), and that framework agreements will be awarded separately for each procurement number.

The list of products specifies the requirements for the products to be offered under each procurement number, primarily by indication of an ATC code, generic name, pharmaceutical form, strength and, if applicable, package. Under certain procurement numbers, a pharmaceutical may

be further specified, for example by a requirement for specific ingredients or pharmaceutical formulation.

A procurement number may comprise the active ingredient in different forms, for example different pharmaceutical forms/strengths/packages (indicated by multiple lines under the relevant procurement number). In such cases, the products are different products that must be delivered by the same supplier, and the tenderer is thus required to submit tender for the pharmaceutical in all the forms stated under the procurement number in question. This means that the tenderer's tender must include at least one product per line under a procurement number. Depending on the layout of the list of products, a tender may include several products in the same line under a procurement number, see in this respect the guidelines set out in paragraph 5.3 and/or 5.4 below.

The list of products thus specifies the specific requirements for the product to be offered under the individual procurement number, see for more details paragraphs 5.2 - 5.4. The framework agreement in general only covers the products offered (specified by product numbers in Appendix 1 of the framework agreement). However, Amgro may agree, on a case-by-case basis, to include other products under the framework agreement during the term of the framework agreement in accordance with the provisions of clause 24 of the framework agreement.

If a tender comprises multiple products in the same line under a procurement number, such products must have the same product name (trade name).

Where the product list is designed so that there are multiple lines under the same procurement number, the requirement that the products must have the same product name (trade name) applies to the products offered in all the lines under the procurement number, so that only products with one product name (trade name) are offered under the procurement number concerned.

For pharmaceuticals included in this procurement group, the special requirements set out in Appendix 1Y of the framework agreement also apply.

5.2 Pharmaceutical form

Requirements regarding a specific pharmaceutical form for the pharmaceuticals put up for tender are stated with the customary designation for the pharmaceutical form in question.

Appendix 1X of the framework agreement contains a description of how the various pharmaceutical forms are to be understood and thus indicates alternative designations for the pharmaceutical forms stated in the product list. This has an impact on which products may be offered under the individual procurement numbers.

5.3 Strength

a. No requirement as to a specific strength

Where under a procurement number no specific strength requirement is specified, the tenderer must offer the pharmaceutical in customary strengths. Customary strength means strengths that are customary in the trade of the pharmaceutical in question.

Where no strength requirement is stated, Amgros would prefer that the tenderer offers several strengths, but this is not a mandatory requirement.

Where the tenderer chooses under a procurement number to submit tender for the pharmaceutical in several strengths in the same line under the procurement number concerned, specific requirements apply to the pricing of such different products, see paragraph 8.2 of the tender specifications.

For all procurement numbers of this procurement group, the strength requirements are stated in the list of products, see below.

b. Strength indicated as a range

Strength is indicated in the list of products with the total quantity of the active ingredient in the container in question.

If the strength for a pharmaceutical under a procurement number is indicated as a range, the tenderer must submit tender for the pharmaceutical in at least one strength within the range stated.

Where strength is indicated as a range, Amgros would prefer that the tenderer offers several strengths within the range, but this is not a mandatory requirement.

If the tenderer chooses under a procurement number to submit tender for the pharmaceutical in several strengths within the range indicated (i.e. several products in the same line under a procurement number), specific requirements apply to the pricing of such different products, see paragraph 8.2 of the tender specifications.

The list of products of this procurement group does not contain procurement numbers with strength indicated as a range.

c. Requirement for specific strength

Strength is indicated in the list of products with the total quantity of the active ingredient in the container in question.

Where a specific strength requirement is specified in the list of products under a procurement number, the tenderer must offer the pharmaceutical in the strength indicated.

The list of products of this procurement group does not contain procurement numbers with specific strength requirements, see above.

5.4 Packages

a. No requirement as to a specific package size

Where under a procurement number no specific package size requirements are specified, the tenderer must offer the pharmaceutical in customary packages. Customary package means packages that are customary in the trade of the pharmaceutical in question, including bulk packages with several of the specified package sizes.

Where no package size requirement is stated, Amgros would prefer that the tenderer offers several package sizes, but this is not a mandatory requirement.

For all procurement numbers in this procurement group, the list of products specifies package size requirements, see below.

b. Package sizes indicated as a range

If the package size under a procurement number is indicated as a range, the tenderer must submit tender for at least one package within the range specified.

Where package size is indicated as a range, Amgros would prefer that the tenderer offers several packages within the range, but this is not a mandatory requirement.

The list of products of this procurement group does not contain procurement numbers with package sizes indicated as a range.

c. Requirements for specific package size

Where requirements for a specific package size are indicated in the list of products, the tenderer must submit tender for the pharmaceutical in a package of the package size specified (e.g., 100 ml) or in packages with several of this package size, however only in customary sizes of such bulk package (e.g., 5 x 100 ml, 10 x 100 ml or similar). The tenderer may choose to submit tender for a package of the package size specified and/or for one or several bulk packages of the pharmaceutical concerned.

The list of products regarding this procurement group does not contain procurement numbers with specific package size requirements, see above.

d. Several packages under one procurement number

Where, pursuant to the above guidelines, the tenderer chooses under a procurement number to submit tender for several different packages of a pharmaceutical in one specific pharmaceutical form and one specific strength (i.e. multiple products in the same line under a procurement number), specific requirements apply to the pricing of such different packages (same price per unit), see paragraph 8.2 of the tender specifications.

Similarly, paragraph 8.2 of the tender specifications specifies the pricing of several packages of the same pharmaceutical (i.e. the same pharmaceutical form and the same strength) under one

procurement number where, in case of several lines of the procurement number concerned, there is a requirement for different package sizes (indicated by several lines under the procurement number - and where the different packages are thus offered in different lines under the procurement number).

5.5 Units

For every procurement number in the list of products, a unit is specified by Amgros. The unit may correspond to DDD (Defined Daily Dose specified by WHO), or another unit specified by Amgros.

The unit is used by Amgros for comparison of prices offered under a procurement number, see paragraph 10 of the tender specifications. The unit specified in the list of products is used to ensure that products under the same procurement number (e.g., comparison of tender prices for two different package sizes) can be given a true and fair comparison of the package prices offered by applying a price per unit as a benchmark.

The unit of a pharmaceutical specified in the list of products furthermore serves as the basis for calculating the same price per unit for the products where that requirement applies, and for a possible correction of the prices quoted, see paragraph 10 of the tender specifications.

5.6 Estimated consumption

In the list of products, Amgros has under "quantity per unit" indicated an estimate of purchase under the framework agreement. The estimate corresponds to the historical consumption of the pharmaceuticals put up for tender for a corresponding purchase period as that of this procedure.

The number of units stated is used where Amgros, in order to compare prices under a procurement number, calculates a weighted average price, see paragraph 10 of the tender specifications.

It should be noted that the estimate is a non-binding estimate, and that the hospitals' requirements for pharmaceuticals and purchase of various pharmaceuticals to cover that requirement are influenced by a number of factors, including a possible change in patient base and a possible change of or new use of the pharmaceuticals during the period of the framework

agreement. The estimate is therefore non-binding, and the tenderers must expect that the actual purchase under the framework agreement may vary significantly from the estimate.

The Hospital pharmacies' purchase of pharmaceuticals may deviate significantly from the estimated consumption if Amgros at the beginning of the purchase period has stocked a substantial part of the specified pharmaceuticals or equivalent pharmaceuticals that may be used, in whole or in part, in the same way as the pharmaceuticals, due to Amgros' stock, and if Amgros wishes to reduce the amount of stock or completely cease to stock certain pharmaceuticals.

Where in the product list under a procurement number the "quantity in units" is stated to be 99 as the number of units of the pharmaceutical put up for tender, this is due to the pharmaceutical under that procurement number being a pharmaceutical with no consumption (or very limited consumption) over the last year. Amgros and the hospital pharmacies have no information that the consumption of the pharmaceutical will change significantly in the purchase period, but since the pharmaceuticals are for patients treated in the public hospitals, even small changes in patient treatment may change the consumption drastically, and the tenderer must therefore expect the consumption to vary significantly.

When entering into framework agreements, Amgros, after consultation with the hospital pharmacies, will prepare a new estimate of the expected purchase of the various pharmaceuticals, which is also a non-binding estimate, see clause 4 of the framework agreement. Amgros will make efforts during the term of the framework agreement, including during a possible extension of the framework agreement, to inform the supplier of adjustments, if any, of the estimate.

For pharmaceuticals in respect of which Amgros, on entering into the framework agreement, has indicated the expected purchase to be 0 (indicated by a 0 in Appendix 1 of the framework agreement), the framework agreement will be entered into without a delivery obligation for the supplier, see clause 4 of the framework agreement. For such pharmaceuticals, the supplier may choose to accept an order and deliver the pharmaceutical pursuant to the terms of the framework agreement. The supplier is not subject to any liability in damages pursuant to clause 19 of the framework agreement if the supplier chooses not to accept such an order.

6. COMMUNICATION AND QUESTIONS

All communication in connection with the tendering procedure, including questions to the tender documents, must take place via Amgro's Supplier and Tendering Portal or at the information meeting, see paragraph 2.

Written questions must be submitted in Danish, Swedish, Norwegian or English on Amgro's Supplier and Tendering Portal under the procurement group to which the question pertains. Questions will be answered in Danish.

Minutes of the information meeting will be published on Amgro's Supplier and Tendering Portal.

Written questions and answers to the questions will be published on Amgro's Supplier and Tendering Portal under the procurement group in question.

Amgro points out that notices will not be submitted on an ongoing basis to tenderers who have indicated an interest in a particular call for tenders. It is therefore the responsibility of the tenderer to keep updated on additional information about the call for tenders; such information may be published until six days before the expiry of the deadline for submission of tenders or later if the deadline for submission of tenders is postponed at the same time, see paragraph 2. Reference is furthermore made to the descriptions on Amgro's Supplier and Tendering Portal and the related guidelines.

7. SUBMISSION OF TENDER

Tenderers must submit tender via Amgro's Supplier and Tendering Portal before expiry of the deadline specified in paragraph 2. Tenders must be submitted in accordance with the tender specifications for the relevant procurement group and the general guidelines for submission of tender provided on Amgro's Supplier and Tendering Portal, see paragraph 4.

Submission of tenders under the individual procurement numbers and indication of price must be as specified in paragraph 8.1. In addition, the tenderer's tender must include the European Single Procurement Document (ESPD), see paragraph 8.3.

The tender must be in Danish, Swedish or Norwegian. However, the documentation for the information stated in the ESPD, see paragraph 8.3, may be in English.

By submitting its tender, the tenderer has accepted to keep valid its tender for acceptance until the expiry of the period set out in paragraph 2 in which the tender must remain valid for acceptance.

If a framework agreement is awarded to a group of tenderers, the participants must undertake joint and several liability and must appoint a joint representative in the European Single Procurement Document (ESPD).

The tenderer may only submit one tender under each procurement number.

8. CONTENT OF THE TENDERS

8.1 General

Tenders must include the information about the products offered that is requested in Amgros' Supplier and Tendering Portal.

Tenders for products under each procurement number, including the price of the individual products, must be submitted in accordance with the provisions of paragraph 5 and as stated below.

The tender must include a fixed net price in DKK exclusive of VAT for each of the products offered under the procurement number in question.

The price offered must not be made dependent on the turnover of the pharmaceutical or be based on the Pharmacy Purchase Price (referred to by its Danish abbreviation "AIP") as published by the Danish Medicines Agency (*Lægemiddelstyrelsen*) or similar. The price offered must not be dependent or based on offers of other products or services, nor must the prices offered under different procurement numbers be interdependent.

Amgros is not allowed to negotiate the tenders submitted with the tenderers. The tender should therefore be drafted so that the framework agreement may be entered into without prior negotiations between the tenderer and Amgros.

8.2 A tender comprising multiple products under one procurement number

Depending on the layout of the list of products, a tender must - or may - comprise multiple products under one product number, see paragraphs 5.1, 5.3 and 5.4. This means that the tenderer's tender must include at least one product per line under a procurement number and may, if appropriate, include multiple products in the same line under the procurement number.

If in one tender under one procurement number, a tender is submitted for multiple products, the requirements below regarding indication of price will apply.

It is furthermore a requirement that multiple products offered under the same procurement number must have the same product name (trade name), see paragraph 5.1.

Several strengths indicated by several lines under a procurement number

Where a procurement number covers a pharmaceutical in several specified strengths (indicated by several lines under the procurement number in question), it is a requirement that the tender covers the pharmaceutical in all the strengths specified. It is not a requirement that the tenderer's prices for the different strengths are determined so that the price per unit is the same for the pharmaceutical in the different strengths.

Several strengths in the same line under a procurement number

Where under a procurement number no specific strength requirement is specified, the tenderer may choose to offer the pharmaceutical in one or several strengths. If the tenderer chooses to offer several different strengths (i.e. several products in the same line under the procurement number in question), see paragraph 5.3.a, it is a requirement that the price for these different strengths is determined so that the price per unit is the same for these strengths.

Where under a procurement number strength is indicated as a range, the tenderer may choose to offer the pharmaceutical in one or several strengths within the range indicated. If the tenderer chooses to submit tender for several different strengths within this range (i.e. several products in

the same line under the procurement number in question), see paragraph 5.3.b, it is a requirement that the price for these different strengths within the range indicated is determined so that the price per unit is the same for these different strengths.

EXAMPLE

Several packages indicated by several lines under a procurement number

Where a requirement is indicated under a procurement number for tenders for several different packages of a pharmaceutical in one specific pharmaceutical form and in one specific strength (indicated by several lines under the procurement number in question), it is a requirement that the tender includes at least one package per line and a requirement that the price per package is determined so that the price per unit is the same for these different packages.

Where a requirement is indicated under a procurement number for tenders for several different packages of a pharmaceutical in one specific pharmaceutical form and in one specific strength (indicated by several lines under the procurement number in question), it is a requirement that the tender includes at least one package per line. For this procurement group, it is not a requirement that the price of different packages of the same pharmaceutical offered in different lines under a procurement number is determined so that the price per unit is the same for these packages.

Several packages in the same line under a procurement number

Where the tenderer under a procurement number chooses to submit tender for several different packages of a pharmaceutical in one particular pharmaceutical form and in one particular strength (in the same line under the procurement number in question, see the instructions in this respect in paragraphs 5.4.a, b and c), it is a requirement that the price per package is determined so that the price per unit is the same for these different packages.

Possible correction of prices indicated

Where the tender comprises multiple products under one procurement number, the tenderer must thus be aware that the price of certain of the different products must be determined so that the price per unit is the same for such products, and that Amgro will correct the tender price if the price per unit is not the same, see paragraph 10. As described above, this applies to all tenders offering multiple products in one line under a procurement number. This also applies where a tender under a procurement number covers several different packages of a pharmaceutical in the same pharmaceutical form and in the same strength for which there is a requirement, in the case of several lines under the procurement number, for different packages of the pharmaceutical.

If the tenderer should erroneously indicate prices for such different products without the required conformity between the converted prices per unit for the products, Amgros will correct the prices so that the requirement is complied with, see paragraph 10.

8.3 The European Single Procurement Document and documentation regarding absence of exclusion grounds

The tenderer must use the European Single Procurement Document (ESPD) for the declaration stated in section III.1.1 of the Contract Notice. Further information on the completion and application of the ESPD in the tendering process is available in the "Instructions for the European Single Procurement Document (ESPD) and documentation regarding absence of exclusion grounds" (Appendix B) drawn up by Amgros and included in the tender documents.

Specific requirements apply to the tenderer's documentation of the information on absence of exclusion grounds submitted by the tenderer in the ESPD. A tenderer with whom Amgros intends to enter into a framework agreement will before the award be requested to submit documentation of the information that the tenderer has submitted in the ESPD, see for more information Appendix B: "Instructions for the European Single Procurement Document (ESPD) and documentation regarding absence of exclusion grounds".

9. RESERVATIONS AND VARIANTS - FORMAL REQUIREMENTS

As stated in the Contract Notice, the tenderer is not entitled to submit variants.

Nor is the tenderer entitled to make reservations regarding provisions in the draft framework agreement or provisions in the appendices thereof.

Furthermore, the tenderer is not entitled to draw up its tender so that terms and conditions in the tender documents are derogated from, unless expressly provided for in the tender specifications.

As for the formal requirements for the content of the tender specified in the tender documents, Amgros may choose, on a case-by-case assessment, not to reject the tender for non-compliance with such requirements but instead choose to remedy or disregard the errors/defects to the extent provided for in public procurement law. In this context, Amgros will be entitled to obtain additional information, including a missing ESPD.

10. THE CONTRACTING AUTHORITY'S EVALUATION OF TENDERS IN ACCORDANCE WITH THE AWARD CRITERION

Each procurement number is a separate lot and will be evaluated separately. The award criterion is "price".

The price will be evaluated on the basis of the lowest tender price per unit. The price offered per package will thus be converted by Amgros to a comparable unit price. The unit price will be calculated as price per unit on the basis of the unit specified in the list of products for the procurement number in question.

Where the tenderer is required to submit tender for a pharmaceutical in several different forms under a procurement number, for example different pharmaceutical forms or strengths (indicated by several lines under the procurement number concerned), the lowest price will be calculated as the weighted average lowest price per unit. The weighted average price is calculated on the basis of the indicated expected consumption of the different forms. The tenderer offering the weighted average lowest price per unit is deemed to have submitted the lowest price.

Where the tenderer is required to submit tender under a procurement number for a pharmaceutical in several different package sizes indicated by several lines under a procurement number, it is a requirement, however, that the price of these different package sizes is determined so that the price per unit is the same for the package sizes, see paragraph 8.2, and the tenders are in such cases compared directly on the basis of the calculated unit price (price per unit).

As stated in paragraph 8.2, it is in certain instances a requirement that the price of multiple products under the same procurement number is determined so that the price per unit is the same for these products. If the offered prices per product in those instances entail that there is not the required consistency between the converted prices per unit for the products in question, the evaluation of the tender will be based on the lowest converted price per unit. If a framework agreement is entered into with the tenderer in question, Amgros will be entitled to purchase the products in question on the basis of the lowest converted price per unit.

If there are several tenders under a procurement number that have (exactly the same) lowest price, the tender will be decided by a drawing of lots functionality in Amgros' Supplier and Tendering system.

11. CONCLUSION OF AGREEMENT WITH ONE OR MORE SUPPLIERS

Under each procurement number in this procurement group, a framework agreement will only be entered into with one supplier.

For each procurement number, Amgros will enter into a framework agreement with X tenderers (i.e. agreements with several different suppliers regarding the delivery of the pharmaceutical under the procurement number concerned).

The framework agreement will be entered into with the tenderers who have submitted the most economically advantageous tender evaluated in accordance with the award criterion "price" on the basis of the lowest tender price per unit.

Under each procurement number, the order of priority will be such that framework agreement 1 will be entered into with the supplier offering the most economically advantageous tender, framework agreement 2 with the supplier offering the second most economically advantageous tender, etc.

Purchase under the framework agreements will generally take place from the supplier with the highest ranking framework agreement. Any derogation from this general rule may take place pursuant to the criteria stated in Appendix 5 of the framework agreement.

12. OTHER ELEMENTS OF THE PROCESS

The tenderers are not permitted to attend the opening of the tenders. Tenders will be registered upon receipt, and tenders received on time will be opened collectively at a specified time after expiry of the deadline for submission of tenders. With the notice regarding the tender evaluation, the tenderers will receive a comprehensive overview of the operators that have submitted compliant tenders. The overview may not be obtained at any earlier point in time.

Amgros will not consider the tender process concluded until the framework agreement has been signed, and reserves the right, in accordance with public procurement law, to cancel the tender process in whole or in respect of certain procurement numbers. On a case-by-case assessment, the tender process may be cancelled, if, for example, Amgros on the basis of the number of tenders and the prices received assesses that the order has not been the subject of sufficiently effective competition, including in the light of market conditions.

If, in particular, Amgros only receives tender from one tenderer, the level of the prices offered compared to the AIP price of the tenderer concerned will be included in the evaluation of whether competition has been sufficiently effective. Furthermore, the assessment of sufficient and effective competition may depend on a specific assessment of the level of the prices offered compared with the AIP prices from other suppliers.

There may, as the case may be, be such a connection in the use of different pharmaceuticals under several different procurement numbers that Amgros, on a case-by-case assessment, may choose to cancel several procurement numbers within the same therapy area if certain procurement numbers need to be cancelled. The cancellation of a procurement number may thus be based on the fact that a re-tender of the pharmaceutical at the time of a re-tender of other pharmaceuticals is assessed, on a case-by-case basis, to comply the most with fundamental procurement law principles.

Even though the framework agreement is awarded to another tenderer, the tenderer is bound by its tender, but not for any longer than the date specified in paragraph 2 for the tender to remain valid for acceptance.

The costs of the tenderer in connection with the call for tenders are of no concern to Amgros, including if Amgros may have to cancel the tender process or certain procurement numbers without conclusion of a framework agreement.

13. PUBLICATION OF PRICES - **CONFIDENTIALITY**

Amgros does not consider applicable contract prices to be confidential. By submitting its tender, the tenderer consents to Amgros' possible publication, at Amgros' discretion, after the tender

Kommentar [BR1]: I DK version er 'konfidentialitet' ikke nævnt i overskriften

procedure is completed, of the prices applicable under the framework agreements entered into on the basis of the call for tenders.

Amgros is subject to rules on access to documents, and Amgros is entitled and obliged to grant access to documents, including tenders received, to the extent stipulated by law.

This means that competitors, among others, may request access to the tenders submitted.

Amgros is only entitled to exempt documents or information from disclosure to the extent provided for by law, including for the purposes of protecting information about the business affairs of others.

The consent mentioned above implies that Amgros does not exempt applicable contract prices from access to documents after Amgros' publication thereof.

The tenderer may request, and mark accordingly, whether the tenderer wishes specific information and/or documents to be exempted from disclosure to the extent that the tenderer assesses that the disclosure thereof, on a case-by-case assessment, is likely to entail an obvious risk - typically for reasons of competition - of causing damage to the business, in particular significant financial damage.

However, in any event, Amgros will be entitled and obliged to grant disclosure of documents and information to the extent required by law, but the tenderer's request will be included in Amgros' assessment of whether or not documents or information may be exempted.