

This document is non-binding but only serves as assistance for tendering. Matters of law will only be ruled upon based on German-language documents (courtesy translation).

General Bidding Terms - as of 18 March 2022
(for electronic participation via the e-tendering platform)

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1 General explanatory notes

1.1 Introduction

Bidding terms are composed of these General Bidding Terms and the Special Bidding Terms. As far as the Special Bidding Terms are worded differently, this wording will take precedence over the General Bidding Terms.

Should you consider that the contract award documents contain ambiguities, you are required to immediately notify the Procurement Office of the Federal Ministry of the Interior (BMI). You must use the German Government’s e-tendering platform for communication.

1.2 Language

You must prepare documents, means of proof and declarations in German, and also correspond in German with the BMI Procurement Office.

1.3 Form of request to participate/form of tender

This award procedure will be conducted exclusively in electronic form via the e-tendering platform (see clause 1.6.1). Submitting requests to participate or tenders in any other way (also via e-mail) is not permitted as a rule and will lead to exclusion of the tender.

The electronic submission of a request to participate or a tender requires registration on the e-tendering platform under www.evergabe-online.de. Please refer to the enclosed appendix “Info E-Vergabe” (Information on e-tendering) for more information.

The text form according to Section 126b of the German Civil Code (BGB) will suffice to submit a formally valid request to participate/tender in award procedures under the German Regulation on the Award of Public Contracts (VgV) and the Regulation on the Award of Below-Threshold Contracts (UVgO). The required text form will be complied with if the person making the declaration enters their complete name. A signature or use of a stamp is not required. If,

in exceptional cases, there is a further form requirement other than text form, this will be indicated on the relevant forms in the space provided.

An advanced electronic signature or an advanced electronic seal must at least be used for tendering in award procedures under the Procurement Regulation on Defence and Security (VSVgV). Submission of a request to participate under the VSVgV requires an electronic signature or an electronic seal only if so indicated in the contract notice.

Requests to participate must be prepared on the basis of the relevant form provided, tenders must be prepared on the basis of the tender form provided. Requests to participate and tenders must include unambiguous information about yourself as economic operator (company including legal structure, address and name of the acting person).

No additions or amendments must be made to the texts specified in the participation documents or in the contract award documents. If you consider explanations to be required to evaluate the request to participate or the tender, these will have to be included in a separate appendix. However, these explanations must not lead to an amendment of the conditions specified in the participation documents or in the contract award documents.

1.4 Alternative tenders

Alternative tenders are tenders that deviate from the required tender (main tender), but are suited to achieve the goal pursued with the call for tenders. As a rule, alternative tenders are not permitted. Should you nevertheless submit alternative tenders, they would not be considered.

If alternative tenders were to be permitted as a special exception in the "Notes and Special Bidding Terms" (Hinweise und besondere Bewerbungsbedingungen), they would have to be prepared separately and clearly marked as "alternative tender". The alternative tenders and their number must be indicated in the tender form.

1.5 Several main tenders

As a rule, it is not permitted to submit several main tenders. Should you still submit several main tenders, all your tenders would be excluded from the evaluation. Clause 1.7 will apply to adjustments and amendments.

1.6 Forwarding requests to participate and tenders

1.6.1 Electronic forwarding

Even if registration on the e-tendering platform is no longer required in order to be able to request participation or contract award documents, we advise all interested parties to register. Only registered users will be actively informed about procedural changes, which keeps them up-to-date and avoids futile expenditure or even, in the worst case, exclusion from the award procedure.

Your request to participate or your tender must be transmitted electronically via the e-tendering platform of the German Government by means of the AnA Web software

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component provided there. The AnA Web encrypts your documents and allows you to forward them electronically to the address that is preset on the AnA Web. Your request to participate/tender should not exceed 1024 MB. Furthermore, all related documents must be transmitted to the platform in one transmission process. After your request to participate/tender has been received, an electronic time stamp will be added and the request/tender will be kept encrypted until the deadline for submission of requests to participate/tenders has passed. Shortly after submission, you can call up an electronic receipt, which will include, in addition to the time of receipt, an unambiguous control value (hash value) of the submitted request to participate/tender. Should you not get a receipt, please resubmit your request to participate/your tender immediately and contact the ServiceDesk of the e-tendering platform without delay. Also, should you notice other technical malfunctions, please contact the ServiceDesk of the e-tendering platform immediately.

ServiceDesk of the German Government's e-tendering platform:

Telephone: +49 22899 610-1234

E-mail: ticket@bescha.bund.de

1.6.2 Addresses

The address <http://www.evergabe-online.de/> is permanently stored on the AnA Web for electronic requests to participate and for tenders.

Product samples and specimens as well as bulky elements of the tender or courier consignments must be sent to the following street address only:

Beschaffungsamt des BMI
- Angebotssammelstelle -
Brühler Straße 3
53119 Bonn

Product samples and specimens may be sent separately from the tender and must be marked as belonging to the tender.

1.7 Corrections/changes or withdrawal of tender

Corrections and changes to the tender will be permitted until the time limit for submission of tenders expires and will be subject to the same formal requirements as the tender itself. Submission of a revised tender requires clarification as to what extent the previous tender will remain valid. This clarification should clearly indicate that it is neither an additional main tender nor an alternative tender.

Withdrawal of a tender is only permitted until the time limit for submission of tenders expires. Its form must be the same as that for the tendering.

1.8 Candidate's and tenderer's questions

If you have any questions concerning the documents required for preparing the request to participate or the tender, please inform the BMI Procurement Office without delay.

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You need to forward the questions via the e-tendering platform. To enable us to match your question correctly, please state the specific reference in the contract award documents for each question (particularly document name and page number or clause).

Provided that additional information on the documents has been requested in good time, the BMI Procurement Office is required to reply at the latest 6 days before the time limit expires; therefore, information should be requested no later than 8 days before the end of the time limit for participation/tendering.

The replies will be sent to all participants in the procedure via the e-tendering platform. Please note that, as a rule, the underlying questions will be anonymised and will also be sent to all participants in the procedure to make the replies comprehensible. Therefore the questions should be formulated in such a way that they can be forwarded to the other participants without prior revision. If you send a question, you will be approving its corresponding disclosure.

If there are reasons why specific data/information should not be published, please communicate these reasons expressly in the question. The replies will become part of the contract award document and will thus be binding for preparing the request to participate or the tender, as well as for reviewing and evaluating the requests to participate or tenders received.

In addition, replies that refer to the terms of the contract or to the statement of work will become a binding part of the contract.

1.9 Costs of participation in the award procedure

As a rule, no remuneration will be paid for preparing the request to participate, the tender and any required product samples. Participation and contract award documents as well as product samples must be forwarded at the expense of the tenderer.

Product samples will be returned "charges collect", unless a waiver of return or the like is noted in the tender.

1.10 Allowing a discount

A discount will only be included in the evaluation if it is offered with a discount period of at least 10 days. This will also apply to framework agreements unless otherwise stated in the Special Bidding Terms.

1.11 Price audit

The provisions of the Pricing Regulation for Government Contracts (VOPR) 30/53 will apply as amended. The BMI Procurement Office reserves the right to have a price audit conducted. This audit will be conducted by the competent audit authority.

1.12 Reference to contracting regulations

- Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen - GWB)
- Regulation on the Award of Public Contracts (Verordnung über die Vergabe öffentlicher Aufträge - VgV)
- Regulation on the Award of Public Contracts in the Fields of Defence and Security (Vergabeverordnung Verteidigung und Sicherheit - VSVgV)
- Pricing Regulation (Verordnung über Preise, VOPR 30/53)
- Regulation on the Award of Below-Threshold Contracts (Unterschwelvenvergabeordnung - UVgO)

2 Time limits

2.1 Time limit for submission of requests to participate/tenders

The request to participate/the tender must have been received in full before the relevant time limit expires (normally 11:30:00 AM). The time limit will also apply to subsequent corrections and changes of the request to participate/the tender. The electronic time stamp starts when the minute indicated (hh:mm:00) has expired, i.e. a tender to be submitted by 11:30 hrs at the latest would have expired at 11:30:01.

2.2 Tender validity period

The tender validity period starts when the time limit for submission of tenders has expired. You are bound by your tender until the end of its validity period. During this time the tender cannot be modified or withdrawn.

3 Candidate/tenderer

3.1 Candidate/tendering consortia

The candidate/tendering consortium is a grouping of several independent entities that pursue the common goal of winning the contract and, after successful contract conclusion, performing the contract as a syndicate.

When submitting their tender or as soon as they hand in the request to participate in award procedures with a call for competition, candidate/tendering consortia must name all members of the candidate/tendering consortium and indicate the nature and scope of the individual member's element of performance. They must authorise one member to act as representative to issue statements during the award procedure and to conclude and perform the contract; they must commit to assume joint and several liability for any obligations arising in connection with the contract.

The contract award documents include the form "Bewerber-/Bietergemeinschaftserklärung" (declaration of candidate/tendering consortia) for the information to be provided, the authorisation and the commitment. When using the form, please make sure that the

information is complete. The form must be signed, scanned as a pdf file and attached to the tender or to the request to participate. Besides, the form "Eigenerklärung Ausschlussgründe" (self-declaration of grounds for exclusion) must be submitted for each member together with the tender or the request to participate.

Depending on the scope of work of each member, the required means of proof concerning the suitability of this member must also be submitted with the tender/the request to participate in order to prove this member's suitability.

After the time limit for submission of tenders has expired and until the contract is awarded, the formation or changing of candidate/tendering consortia is not permitted and will lead to the exclusion of the tender concerned. In the case of a preceding call for competition, the formation or changing of candidate/tendering consortia is not permitted after the time limit for participation has expired and until the contract is awarded.

3.2 Capacities of other entities (reliance on other entities' resources, subcontracts)

If the candidate/tenderer intends

- to have another entity perform parts of the work to be awarded (subcontracts, Section 36 VgV, Section 26 UVgO, or Section 9 VSVgV), or
- to use the required economic, financial, technical or professional capability of other entities for the performance of a contract (reliance on other entities' resources, Section 47 VgV, Section 34 UVgO, or Section 26(3) and Section 27(4) VSVgV),

then the candidate/tenderer must notify the BMI Procurement Office of its intention and name the envisaged supplies and services/capacities in its request to participate/tender.

The candidate/tenderer must prove to the BMI Procurement Office that the required capacities of the other entities are at its disposal. Furthermore, the candidate/tenderer must inform the BMI Procurement Office on the absence of any grounds for exclusion under procurement law (Sections 123 and 124 GWB) for each of these other entities. For this purpose the form "Eigenerklärung Ausschlussgründe" (self-declaration of grounds for exclusion) must be submitted for each of these other entities. The candidate/tenderer must provide the name, the legal representative and the contact details of these entities and submit appropriate declarations of commitment by the other entities. Reliance on other entities' resources must be differentiated from subcontracts at the time when the declarations and means of proof are to be submitted (see 3.2.1 and 3.2.2 below).

3.2.1 Reliance on other entities' resources

If other entities' resources are relied on, the other entities must already be named when the tender is submitted or, in award procedures with a call for competition, when the request to participate is submitted; nature and scope of their capacities used must be indicated. Each of the entities named must also undertake to provide the candidate/tenderer with the

appropriate capacities in case the latter is awarded the contract. The contract award documents include the form “Verpflichtungserklärung Eignungsmiete/Unteraufträge” (declaration of commitment concerning reliance on other entities' resources/subcontracts) for the information to be provided and for the commitment. When using the form, please make sure that the information is complete. The form must be signed, scanned as a pdf file and attached to the tender or to the request to participate. Besides, the form “Eigenerklärung Ausschlussgründe” (self-declaration of grounds for exclusion) must be submitted for each of the entities named with the tender or the request to participate.

Together with the tender or the request to participate, the candidate/tenderer must also submit for each of the other entities the means of proof of suitability required for those suitability criteria for which the capacities are used, in order to prove the entities' suitability. Replacing or changing one or several other entities named is not permitted after the time limit for tenders has expired and until the contract is awarded and will lead to the exclusion of the tender. In the case of a preceding call for competition, replacing or changing one or several other entities named is not permitted after the time limit for participation has expired and until the contract is awarded.

When the candidate/tenderer relies on the economic and financial capacity of others, both the candidate/tenderer and the other entity (entities) are jointly liable for the performance of the contract in accordance with the scope of the respective reliance on other entities' resources. An appropriate liability statement must be submitted to the BMI Procurement Office after a separate request. Depending on the individual case, liability statements may comprise in particular a so-called strong letter of comfort, a guarantee or a directly enforceable guarantee.

If the tenderer intends to subcontract part of the contract to a third party and at the same time invokes the capacities of another entity with regard to its capability, the above-mentioned rules will apply as well.

3.2.2 Subcontracts

If work is subcontracted to other entities, the nature and scope of the element of the performance to be assigned must be indicated when the tender is submitted and the other entities must be named, if reasonable at that time, but at the latest prior to the award of the contract. The contract award documents include the form “Unteraufträge”(subcontracts) for the information to be provided. When the tenderer uses this form, it must be completed in full and attached to the tender.

Furthermore, the tenderer must prove that the required capacities and means of the intended subcontractors are at its disposal at the time of contract performance. For this purpose the form “Verpflichtungserklärung Eignungsmiete/Unteraufträge” (declaration of commitment concerning reliance on other entities' resources/subcontracts) is available in the contract award documents. When using the form, please make sure that the information is complete. The form must be signed, scanned as a pdf file and submitted at the latest prior to the award of the contract, unless this is already possible when submitting the tender or the request to

participate. At the latest before the contract is awarded, the form "Eigenerklärung Ausschlussgründe" (self-declaration of grounds for exclusion) must be submitted for each of the other entities.

Before awarding the contract, the BMI Procurement Office will check whether there are any grounds for excluding the subcontractor. If there are any compulsory grounds for exclusion, the BMI Procurement Office must demand that the subcontractor be replaced. If there are non-obligatory grounds for exclusion, a replacement may be demanded.

3.3 Preferred tenderer

According to Sections 224 and 226 of the Code of Social Law (SGB IX), this includes recognised workshops for people with disabilities and workshops for the blind.

Under current law, preferential treatment in accordance with the guidelines for the consideration of workshops for people with disabilities and workshops for the blind when awarding public contracts in connection with Sections 224 and 226 SGB IX is possible only in award procedures where the estimated contract values are below the EU thresholds. If facts relating to preferential treatment are to be taken into account, the tenderer must provide proof of these.

4 European single procurement document and prequalification

4.1 Submission of a European single procurement document (ESPD)

The BMI Procurement Office will accept the presentation of a European Single Procurement Document according to Section 50 VgV or Section 35(3) UVgO as preliminary proof of suitability and as proof of the absence of grounds for exclusion.

4.2 Prequalification

You may provide proof of suitability/absence of grounds for exclusion in accordance with the requirements of the "Notes and Special Bidding Terms" via the prequalification database of the German Chamber of Commerce and Industry (DIHK) to which the BMI Procurement Office has open access. In this case, please enclose the certificate of the prequalification agency, including your certificate code, to the request to participate or to the tender. Please take care that the means of proof in the prequalification database fully meet the minimum conditions required in this award procedure (e.g. minimum amounts of damage of the public liability insurance, information on reference contracts, tenderer presentation). As far as the means of proof in the prequalification database do not fully meet the requirements, supplementary proof and information must be attached to the tender.

5 Request for additional documents

Both when company-related documents are missing, incomplete or incorrect and when performance-related documents are missing or incomplete, the BMI Procurement Office will decide at its due discretion in accordance with Section 56(2) VgV or Section 41(2) UVgO whether to request additional documents. Section 22(6) VSVgV must be complied with for

procedures in the defence and security sector. Furthermore, the Procurement Office is authorised to request additional individual pieces of price-related and/or calculatory information, as far as this is required for the purpose of a realistic evaluation of the tenders in conformity with public procurement law. This applies particularly to information required to calculate the import duties to be paid by the Contracting Authority, such as customs value and customs tariff number. Please note that missing, incomplete or incorrect documents may lead to the exclusion of your request to participate or your tender.

6 Evaluation of tenders

The contract will be awarded to the most economically advantageous tender. The most economically advantageous tender will be determined on the basis of the valuation method and the valuation criteria provided in the contract notice or in the contract award documents. Here, the valuation price may deviate from the tender price as far as this is required for establishing a comparable valuation basis. In cases of a reversal of the value added tax liability (reverse charge procedure) or as far as the Contracting Authority is obliged to pay import duties (import value added tax and/or customs duties), these costs will be taken into account during the evaluation.

7 Notifications and contract notices

7.1 Notification of unsuccessful tenders

The BMI Procurement Office will provide information on the rejection of a tender and on the results of the procedure according to Section 46 UVgO, Section 62 VgV and Section 36 VSVgV.

The requested notification of rejection will be sent via the e-tendering platform of the German Government.

7.2 Notices of awarded contracts

The duties to publish contract notices and their extent are specified in Section 30 UVgO, Section 39 VgV and Section 35 VSVgV. Accordingly, notice must in particular also be given of the name of the Contractor, the subject of performance and the contract value (except for procedures in accordance with the UVgO). There is no obligation to disclose individual details whenever their publication is precluded by one of the grounds listed in Section 30(2) UVgO, Section 39(6) VgV or Section 35(3) VSVgV. If your business interests preclude such a disclosure, you must inform the BMI Procurement Office. The BMI Procurement Office will decide on the contents of the disclosure at its due discretion.