INSTRUCTIONS TO TENDERERS (open and restricted calls)

PUBLICATION REFERENCE: <insert reference>

When submitting their tenders, tenderers must follow all instructions, forms, terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.

How to complete these standard instructions to tenderers.Please insert information between the <> brackets as indicated for each tender procedure. Square brackets [ ] and parts shaded in grey indicate options to choose: they should be included when applicable, but should only be modified in exceptional cases, dictated by the requirements of a specific call for tenders. All other parts of these standard instructions should be left unchanged. In the final version of the instructions to tenderers, please remember to delete this paragraph, any other text with yellow highlighting and to suppress all brackets.

1. **Services to be provided**

The services required by the contracting authority are described in the terms of reference. They are set out in the draft contract, which forms part of this tender dossier.

1. **Timetable**

|  |  |  |
| --- | --- | --- |
|  | **DATE** | **TIME** |
| **Site visit (if any)** | [<Date>] [Not applicable] | [<Time> (time zone location site)] [Not applicable] |
| **Information meeting (if any)** | [<Date>] [Not applicable] | [<Time> (time zone location meeting)] [Not applicable] |
| **Deadline for requesting clarification from the contracting authority** | < Date 21 days before deadline for tenders >] | < Time >\* |
| **Last date for the contracting authority to issue clarification** | < Date 8 days before deadline for tenders >] | - |
| **Deadline for submitting tenders** | < Date > | < Time >\* |
| **Interviews (if any)** | [< Date>] [Not applicable] | - |
| **Completion date for evaluating technical offers** | < Date > | - |
| **Notification of award** | < Date at most 90 days after deadline for tenders > | - |
| **Contract signature** | < Date at most 150 days after deadline for tenders > | - |
| **Start date** | < Date > | - |

1. **Participation, experts and subcontracting**
2. [for restricted calls] Participation in this tender procedure is open only to the invited tenderers.
3. Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the situations mentioned in [point 18 of Annex II of the Financing Agreement between the European Commission and <name of the partner country> [[1]](#footnote-1)] [point 18 of Annex I of the Regulation 2018/1046[[2]](#footnote-2)]. Should they be in one of these situations, their tender will be considered either unsuitable or irregular.
4. [for restricted calls] Tenders should be submitted by the same economic operator or consortium that submitted the request to participate form on the basis of which it was short-listed and to which the letter of invitation to tender is addressed. No change whatsoever in the identity or composition of the tenderer is permittedunless a written request has been submitted to the contracting authority and the latter has given its prior approval in writing.
5. [for restricted calls] Short-listed economic operators or consortia are not allowed to form alliances with any other firms or to subcontract to each other for the purposes of this contract.
6. The contract between the tenderer/contractor and its experts, or the third party making available the experts, shall contain a provision stating that experts are subject to the approval of the contracting authority. It is, furthermore, recommended that this contract contain a dispute resolution clause.
7. For the purpose of implementing the contract, subcontracting is the only permitted form of collaboration with firms that have not been short-listed. The tenderer and, where applicable, entities on whose capacities the tenderer has relied with regard to criteria relating to the economic and financial capacity, shall be jointly liable for the performance of the contract. If the tenderer intends to subcontract one or more parts of the contracted services, this must be clearly stated in the organisation and methodology and in the tender submission form.

To be inserted only in case the contracting authority identifies certain critical activities that cannot be subcontracted [The contracting authority requires that the following critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, a participant in the group:

1 <Critical Task 1 (to be defined)>

2 <Critical task 2 (to be defined)>

3 …etc]

1. All subcontractors as well as all entities, upon whose capacity the tenderer relies for the selection criteria, must be eligible for the contract. If the identity of the intended subcontractor is already known at the time of submitting the tender, the tenderer must furnish a statement guaranteeing the eligibility of the subcontractor. If any subcontractor/capacity-providing entity identified in this way does not meet the eligibility criteria, the tender shall be rejected.
2. Subcontractors and capacity providing entities cannot be in any of the exclusion situations listed in [point 18 of Annex II of the Financing Agreement between the European Commission and <name of the partner country>[[3]](#footnote-3)] [point 18 of Annex I of the Regulation 2018/1046[[4]](#footnote-4)]. The tenderer/contractor shall submit a declaration from the intended subcontractor/capacity- providing entity that it is not in one of the exclusion situations. In the event of doubt, the contracting authority shall request documentary evidence that the subcontractor/ capacity providing entity is not in a situation of exclusion.
3. For the avoidance of doubt, where the experts are not directly employed or contracted by the tenderer/contractor but through a third party, the latter is a sub-contractor.

Experts made available by any third party (sub-contractors) are considered for all purposes related to the present contract to be the personnel of the contractor.

1. **Content of tenders**

## Offers, all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in [English][national language].

The tender must include a technical offer and a financial offer, as described below.

**4.1. Technical offer**

The Technical offer consists of the documents listed below.

The documents listed in point 1 to point 4 must be submitted within the deadline for submitting tenders.

The documentary evidence listed in point 5 and 6 below should not be submitted within the deadline for submitting tenders. Instead, they should be prepared by tenderers and kept available for the contracting authority. At any time during the procurement procedure the contracting authority may request the documentary evidence. When requested, the tenderer should provide the documentary evidence within a short deadline. In any case, the tenderer proposed by the evaluation committee for the award of the contract, will be requested to provide documentary evidence listed in points 5, if applicable, and 6 listed below prior to the award of the contract.

1. **Tender submission form** including:
2. [Optional for global price contracts Signed statements of exclusivity and availability (using the template included with the tender submission form), one for each key expert, the purpose of which are as follows:

* The key experts proposed in this tender must not be part of any other tender submitted for this tender procedure. They must therefore commit themselves exclusively to the tenderer.
* Each key expert must also undertake to be available, able and willing to work for the whole period scheduled for his/her input to implement the tasks set out in the terms of reference and/or in the organisation and methodology.

Note that non-key experts must not be asked to sign statements of exclusivity and availability.

Any expert working on an EU-financed project, where the input from his/her position to that contract could be required on the same dates as his/her activities under this contract, must not be proposed as a key expert for this contract under any circumstances. Consequently, the dates included by a key expert in his/her statement of exclusivity and availability in your tender must not overlap with dates on which he/she is committed to work as a key expert on any other contract.

The expert may participate in parallel tender procedures but must inform the contracting authority of these in the statement of exclusivity and availability. Furthermore, the expert is expected to notify the tenderer immediately if he/she is successful in another tender procedure and he/she is expected to accept the first engagement offered to him/her chronologically.

If a key expert is proposed as a key expert by more than one tenderer with the agreement of the key expert, the corresponding tenders will be rejected. The same applies if the key expert proposed has been involved in the preparation of the project. The expert concerned will be excluded from this tender procedure.

Having selected a firm partly on the basis of an evaluation of the key experts presented in the tender, the contracting authority expects the contract to be executed by these specific experts. However, after the award letter, the selected tenderer may propose replacements for the key experts under certain conditions (for further information see point 14).]

1. A signed **declaration** using the format attached to the tender submission form.
2. A completed **financial identification form** (see template G4) to indicate the bank account into which payments should be made if the tender is successful. (If the tenderer has already signed another contract with the contracting authority, it may provide instead either its financial identification form number or a copy of the financial identification form provided on that occasion, unless it has changed in the meantime).
3. The **legal entity file** (see template G5a, G5b & G5c) and supporting documents (if the tenderer has already signed another contract with the contracting authority, it may provide instead either its legal entity number or a copy of the legal entity file provided on that occasion, unless it has changed its legal status in the meantime).
4. Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.
5. **Organisation and methodology** (will become an annex to the contract).

[For fee-based contracts:The ‘Estimated number of working days’ must be included in the organisation and methodology.]

1. [Optional for global price contracts **Key experts** (to become an annex to the contract). The key experts are those whose involvement is considered to be instrumental to achieve the contract objectives.] The evaluation committee may also call them for interview.]
2. a list of the names of the key experts;
3. the CVs of each of the key experts.Each CV should be no longer than 3 pages and only one CV must be provided for each position identified in the terms of reference. In case of CVs longer than 3 pages, only the first 3 pages will be taken into account. Only the work experience mentioned in the CV will be considered by the evaluation committee. Non-key experts CVs are not necessary.

The qualifications and experience of each key expert must clearly match the profiles indicated in the terms of reference. If an expert does not meet the minimum requirements for each evaluation criterion (i.e. qualification and skills, general professional experience and specific professional experience), he/she must be rejected. In such case the entire tender shall be rejected.

Tenderers must provide the following documents for any key experts proposed:

- a copy of the diplomas mentioned in their CVs,

- a copy of employer certificates or references, or signed copies of consultancy or labour contracts, proving the professional experience indicated in their CVs. The admissibility of any other supporting documents to prove the work experience indicated in the CV will be subject to the discretion of the contracting authority.

Only diplomas and documented experience (i.e., not self-statement from the experts) will be taken into account. Previous experience which caused breach of contract and termination shall not be used as reference.]

(4) Non key experts may also be instrumental to achieve the contract objectives. However, they are not subject to evaluation by the evaluation committee. Their positions and responsibilities may be defined in the terms of reference and in annex to the draft contract.

(5) **To be kept by the tenderer and to be provided upon request (see introductory paragraph under 4.1):** documentary proof or statements required under the law of the country in which the company (or each of the companies for consortia), the subcontractors and the capacity providing entities are effectively established, to show that it is not in any of the exclusion situations listed in [point 18 of Annex II of the Financing Agreement between the European Commission and <name of the partner country>[[5]](#footnote-5)] [point 18 of Annex I of the Regulation 2018/1046[[6]](#footnote-6)].

If the nature of your entity is such that it cannot fall into the exclusion situations and/or cannot provide the documents indicated above (for instance, national public administrations and international organisations), please provide a declaration explaining this situation.

The contracting authority may waive the obligation of any tenderer to submit the documentary evidence referred to above if it can access the evidence in a national database free of charge or in case such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

(6) **To be kept by the tenderer and to be provided upon request (see introductory paragraph under 4.1):** documentary evidence of the financial and economic capacity as well as the technical and professional capacity according to the selection criteria specified in the contract notice/additional information about the contract notice annex. For the technical selection criteria, you will only be requested to submit documentary evidence regarding the references that qualified you to be shortlisted.

Tenderers are reminded that the provision of false information in this tender procedure may lead to the rejection of their tender and to their exclusion from EU-funded procedures and contracts.

**4.2. Financial offer**

[For global price contracts*:*

The financial offer must be presented as an amount in [Euro] [<ISO code of national currency>[[7]](#footnote-7) and must be submitted as part of this tender dossier.

The global price may be broken down by outputs if required from the terms of reference.]

[For fee-based contracts*:*

The financial offer must be presented in [Euro] [<ISO code of national currency> 1 and must include the following documents:

* Budget breakdown
* Working days

The estimated budget for incidental expenditure is to be pre-filled in the template budget breakdown in the tender dossier.

Note that a schedule based on the ‘Estimated number of working days’ worksheet within this spreadsheet must be included as part of the organisation and methodology in the technical offer.]

Incidental expenditure

Incidental expenditure incurred by the contractor and, if applicable, approved by the contracting authority shall be reimbursed in full.]

1. **Variant solutions**

Tenderers are not authorised to tender for a variant in addition to this tender.

1. **Period during which tenders are binding**

Tenderers are bound by their tenders for 90 days after the deadline for submitting tenders or until they have been notified of non-award. In exceptional cases, before the period of validity expires, the contracting authority may ask tenderers to extend the period for a specific number of days, which may not exceed 40.

The selected tenderer must maintain its tender for a further 60 days. This 60-day period is added to the validity period irrespective of the date of notification.

1. **Additional information before the deadline for submitting tenders**

Any request for additional information and clarifications shall be published in the Questions and Answers section of the following website: <website publishing the tender>. The website will be updated regularly and it is the tenderers responsibility to check for updates and modifications during the submission period.

Additional information can be requested by the potential tenderes by clicking “Create a question” in the Questions&Answers tab at the latest 21 days before the deadline for submission of the tenders.

The contracting authority has no obligation to provide clarification on questions received after this date.

Any tenderer seeking to arrange individual meetings with the contracting authority and/or the government of the partner country and/or the European Commission concerning this contract during the tender period may be excluded from the tender procedure.

No information meeting is planned.

No site visit is planned.

Visits by individual prospective tenderers during the tender period are not organised.]

An **information meeting** will be held on < date at least 21 days before the deadline for submitting tenders > at < time > at < address >. During the information meeting questions on the tender dossier which have been forwarded in writing or are raised at the meeting will be answered. Minutes will be taken during the meeting and these — together with any clarification in response to written requests not addressed during the meeting — will be published on the website at the latest 8 days before the deadline for the submission of tenders. The website will be updated regularly and it is the tenderers’ responsibility to check for updates and modifications during the submission period. The tenderers must meet all costs of attending this meeting.

A **site visit** will be organised on < date at least 21 days before the deadline for submitting tenders > at < time > at < address >. During the site visit the prospective tenderers can familiarise themselves with the project and the local conditions. Prospective tenderers must write to the above address in advance to confirm their intention to attend the site visit. Additional information or clarification on the tender dossier will not be given at the site visit, but by the contracting authority as indicated above. The tenderers must meet all costs of visiting the site.

Visits by individual prospective tenderers during the tender period are not organised.]

1. **Submission of tenders**

**The time limit for receipt of tenders is mentioned in the contract notice / instructions to tenderers.**

[Electronic submission:

Tenders must be submitted exclusively via the electronic submission system [eSubmission accessible via a link in TED eTendering][national procurement platform][other]. Tenders submitted in any other way (e.g. e-mail or by letter) will be disregarded. The electronic submission system ensures the confidentiality of the tenders until opening.

The submission of a tender implies acceptance of the terms and conditions set out in the procurement documents. The submission binds the contractor to whom the contract is awarded during performance of the contract.

A tender received after the time-limit for receipt of tenders will be rejected. The submission receipt provided by [eSubmission][national procurement platform][other] with the official date and time of receipt of the submission (timestamp) constitutes proof of compliance with the time-limit for receipt of tenders.

Tenderers must ensure that their submitted tenders contain all the information and documents required by the contracting authority at the time of submission as set out in the procurement documents.]

[The tender may be submitted in <name of eplatform> or via email to the following address <email address>. In case of submission via email, the files must be compressed and encrypted with a password. The password will be required after the deadline for submission and before the opening session.]

## [Paper submission:

## Tendersmust include all the documents specified in point 4 of these Instructions and be sent to the following address:

<Address of contracting authority>

If the tenders are hand delivered they should be delivered to the following address:

< full delivery address including opening hours >

Tenders must comply with the following conditions:

## All tenders must be submitted in one original, marked ‘original’, and <insert number> (in view of environmental considerations, as few copies as possible should be requested, with double side printing, degradable material for folders, presentation, etc…) copies signed in the same way as the original and marked ‘copy’. [other specifications regarding the submission of tenders]

## The tenders should be submitted:

## (a) either by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip[[8]](#footnote-8)

## (b) or by hand-delivery to the premises of the contracting authority by the participant in person or by an agent, in which case the evidence shall be constituted by the acknowledgment of receipt.

## All tenders, including annexes and all supporting documents, must be submitted in a sealed envelope bearing only:

## a) the above address;

## b) the reference code of this tender procedure, (i.e. <publication reference>);

## c) where applicable, the number of the lot(s) tendered for;

## d) the words ‘Not to be opened before the tender opening session’ in the language of the tender dossier and <equivalent phrase in the local language>.

## e) the name of the tenderer.

## The technical and financial offers must be placed in a sealed envelope.]

The submission of a tender implies acceptance of the terms and conditions set out in the procurement documents. The submission binds the contractor to whom the contract is awarded during performance of the contract. The tenders will be kept confidential until the opening.

A tender received after the time-limit for receipt of tenders will be rejected. The submission receipt provided by eSubmission with the official date and time of receipt of the submission (timestamp) constitutes proof of compliance with the time-limit for receipt of tenders. In case of submission via email, the date of reception of the email is the proof of compliance. In case of paper submission, it is the date as indicated in the acknowledgement of receipt.

1. **Amending or withdrawing tenders**

After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender, or withdraw it and replace it with a new one.

1. **Costs for preparing tenders**

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs must be borne by the tenderer, including the cost of interviewing proposed experts.

1. **Ownership of tenders**

The contracting authority retains ownership of all tenders received under this tendering procedure.

1. **Evaluation of tenders**

The opening of the received tenders is not public.

Once the contracting authority has opened the tenders, they shall become its property and will be treated confidentially.

**12.1. Evaluation of technical offers**

The quality of each technical offer will be evaluated in accordance with the award criteria and the weighting detailed in the evaluation grid indicated of this tender dossier. No other award criteria will be used. The award criteria will be examined in accordance with the requirements indicated in the terms of reference.

**12.1.1. Interviews**

**[Option 1 — Telephone interview (or by alternative communication tools):**

The evaluation committee may interview the key experts proposed in the technically compliant tenders, after having written provisional conclusions but before concluding the technical evaluation.

The interview shall be conducted by telephone or by alternative communication tools and the date and time of these interviews will be confirmed or notified to the tenderer at least ten days in advance. If a tenderer is unable to participate in an interview by force majeure, a mutually convenient alternative date and time is arranged with the tenderer. If the tenderer is unable to participate in this second scheduled time, its tender will be eliminated from the evaluation process.]

**[Option 2 — Interview in person (requiring physical attendance):**

Only for exceptional cases.

The evaluation committee may interview the key experts proposed in the technically compliant tenders, after having written provisional conclusions but before concluding the technical evaluation.

The date and time of these interviews will be confirmed or notified to the tenderer at least ten days in advance. If a tenderer is prevented from attending an interview by force majeure, a mutually convenient alternative appointment is arranged with the tenderer. If the tenderer is unable to attend this second appointment, its tender will be eliminated from the evaluation process. ]

[**Option 3 – No interviews**:

No interviews are foreseen. ]

**12.2. Evaluation of financial offers**

Upon completion of the technical evaluation, the financial offers of tenders that were not eliminated during the technical evaluation will be assessed. Tenders exceeding the maximum budget available for the contract will not be accepted and will therefore not be further evaluated.

[For fee-based contracts*:*

The provision for incidental expenditure stated in the terms of reference and to be included in the budget breakdown will not be taken into account in the comparison of the financial offers.

Any arithmetical errors are corrected without penalty to the tenderer such that, if there is a discrepancy between a fee rate and the total amount derived from multiplying the fee rate by the corresponding number of working days, the fee rate as quoted must prevail, unless the opinion of the evaluation committee is that there is an obvious error in the fee rate, in which event the total amount as quoted must prevail and the fee rate must be corrected.]

**12.3. Choice of selected tenderer**

The best price-quality ratio is established by weighting technical quality against price on an 80/20 basis.

**12.4. Confidentiality**

The entire evaluation procedure is confidential, subject to the contracting authority’s legislation on access to documents. The evaluation committee’s decisions are collective and its deliberations are held in closed session. The members of the evaluation committee are bound to secrecy. The evaluation reports and written records are for official use only and may be communicated neither to the tenderers nor to any party other than the contracting authority, the programme and national bodies, the European Commission, the European Anti-Fraud Office, the European Public Prosecutor’s Office and the European Court of Auditors.

1. **Ethics clauses and code of conduct**

a) Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

b) Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its personnel must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

**Zero tolerance for sexual exploitation, abuse and harassment:**

The Contracting Authority applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

c) Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The Managing Authority reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, ‘corrupt practices’ are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

d) Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds

e) Breach of obligations, irregularities or fraud

The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

**14. Signature of contract(s)**

**14.1. Notification of award**

Tenderers will be notified of the outcome of this procurement procedure by e-mail. The notification will be sent to the e-mail address provided in the submission application for the tenderer (group leader in case of consortia). The same e-mail address will be used by the contracting authority for all other communications with the tenderer. It is the tenderer's responsibility to provide a valid e-mail address and to check it regularly.

[For fee-based contract and for global price with key experts:

The successful tenderer shall then confirm availability or unavailability of their key-experts within 5 days from the date of the notification of award.

In case of unavailability the tenderer will be allowed to propose replacement key-expert(s). The successful tenderer shall give due justification for the change of a key-expert but the acceptance will not be limited to specific cases. Several replacement key-experts may be proposed but only one time-period of 15 days from the date of the notification of award will be offered. The replacement key-expert(s) cannot be an expert proposed by another tenderer in the same call for tender.

The replacement key-expert's total score must be at least as high as the scores of the key-expert proposed in the tender. It must be emphasised that the minimum requirements for each evaluation criteria must be met by the replacement expert.

If replacement key-experts are not proposed within 15 days or if the replacement experts are not sufficiently qualified, or if the proposal of the replacement key-expert amends the award conditions applicable to this call for tenders, the contracting authority may decide to award the contract to the second best technically compliant tenderer (also giving them a chance to replace a key-expert should he/she not be available).

Should the contracting authority learn that a tenderer has confirmed the availability of a key expert and signed the contract although the tenderer has deliberately concealed the fact that the key-expert is unavailable from the date specified in the tender dossier for the start of the assignment, the contracting authority may decide to terminate the contract on the basis of article 36.2 (m) of the general conditions.

It is reminded that the tenderer/contractor may also be subject to administrative and financial penalties foreseen in article 10.2 of the general conditions for service contracts. Furthermore it may lead to a tenderer's /contractor's exclusion from other contracts funded by the European Union.

**]**

**14.2. Signature of the contract(s)**

Within 30 days of receipt of the contract already signed by the contracting authority, the selected tenderer shall sign and date the contract and return it to the contracting authority.

Failure of the selected tenderer to comply with this requirement may constitute grounds for annulling the decision to award the contract. In this event, the contracting authority may award the tender to another tenderer or cancel the tender procedure.

The other tenderers will, at the same time as the notification of award is submitted, be informed that their tenders were not retained, by electronic means or standard letter, including an indication of the relative weaknesses of their tender by way of a comparative table of the scores for the winning tender and the unsuccessful tender.The second best tenderer is informed of the notification of award to the successful tenderer with the reservation of the possibility to receive a notification of award in case of inability to sign the contract with the first ranked tenderer. The second tenderer may refuse the award of the contract if, when receiving a notification of award, the 90 days of validity of their tender has expired.

The contracting authority will furthermore, at the same time, also inform the remaining unsuccessful tenderers of the outcome of the procurement procedure and, as a consequence of these letters, the validity of their offers shall not be retained.

The corresponding contract award notice will be published on TED [and on [national electronic platform][other]].

**15. Cancellation of the tender procedure**

In the event of cancellation of the tender procedure, the contracting authority will notify tenderers of the cancellation.

Cancellation may occur, for example, where:

* the tender procedure has been unsuccessful, i.e. no suitable, qualitatively or financially acceptable tender has been received or there is no valid response at all;
* there are fundamental changes to the economic or technical data of the project;
* exceptional circumstances or force majeure render normal performance of the contract impossible;
* all technically acceptable tenders exceed the financial resources available;
* there have been breach of obligations, irregularities or frauds in the procedure, in particular if they have prevented fair competition;
* the award is not in compliance with sound financial management, i.e., does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market).

In no event shall the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the contracting authority has been advised of the possibility of damages. The publication of a contract notice does not commit the contracting authority to implement the programme or project announced.

**16. Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

**17. Data Protection**

If processing your reply to the invitation to tender involves the recording and processing of personal data (such as names, contact details and CVs), the personal data will be processed solely for the purposes of the management and monitoring of the tender and of the contract by the data controller without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law, including the national authorities identified in the concerned Financing Agreement.

In cases where you are processing personal data in the context of participation to a tender (e.g., CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the details of the processing and communicate the above mentioned privacy statement to them.

Processing of personal data related to this tender procedure by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective Financing Agreement.

1. For partners located in Partner Countries [↑](#footnote-ref-1)
2. For partners located in Member States, which are not contracting authorities within the meaning of the Union law applicable to public procurement procedures [↑](#footnote-ref-2)
3. For partners located in Partner Countries [↑](#footnote-ref-3)
4. For partners located in Member States, which are not contracting authorities within the meaning of the Union law applicable to public procurement procedures [↑](#footnote-ref-4)
5. For partners located in Partner Countries [↑](#footnote-ref-5)
6. For partners located in Member States, which are not contracting authorities within the meaning of the Union law applicable to public procurement procedures [↑](#footnote-ref-6)
7. The currency of the tender is the currency of the contract and the currency of payment. [↑](#footnote-ref-7)
8. It is recommended to use registered mail in case the postmark would not be readable. [↑](#footnote-ref-8)