

Part B

Tendering conditions

Except for any deviation from them in Part A (selection guide), these conditions of tender apply to this tender. Wherever this document refers to 'tender', this should be read as tender/request for participation in the case of a non-public invitation to tender procedure.

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1. DESCRIPTIVE DOCUMENT

- You may use the descriptive document and the information you have been given only in the context of this invitation to tender for the purpose for which they were provided.
- In connection with intellectual property rights, it is not permitted to make the selection guide available to third parties or to reproduce it for any other purpose than that for which it was provided.
- Summaries of additional information and changes form an integral part of the descriptive document.
- The contracting authority shall assume that there are no uncertainties in relation to the parts for which no questions have been asked.
- In the event of contradictions between the summaries of additional information and changes and the descriptive document, that which is specified in the summaries of additional information and changes shall prevail. If there are multiple summaries of additional information and changes and in the event of contradictions between them, that which is specified in the most recent summary of additional information and changes shall prevail.

2. CONTACT AND ASKING OF QUESTIONS

- The contracting authority wishes to have contact proceed with you as tenderer via one contact person and one deputy for this contact person in your organisation. The details
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for the (first) contact person should be stated on the European Single Procurement Document (ESPD).

- The names, addresses and telephone numbers of the contact person and his or her deputy should be stated on the European Single Procurement Document (ESPD). Both persons must be authorised to act on behalf of your organisation.
- It is not permitted to directly approach employees of the contracting authority in relation to this invitation to tender during the procedure other than as expressed in this document;
- Questions must be received no later than the date and time as indicated in the Planning section "Closing date for submission of questions in relation to this descriptive document".
- The answers to these questions shall be made available to all tenderers no later than ten (10) calendar days prior to the date of receipt of the tenders by means of a summary of additional information and changes.
- Questions asked by telephone shall not be answered.
- The descriptive document, including attachments, has been carefully put together. Should you nonetheless encounter deficiencies, procedural errors or contradictions, then you must report these in writing as quickly as possible and no later than the date and time indicated in the Planning section "Closing date for submission of questions in relation to this descriptive document" with a statement of the possible consequences and/or proposals for correction.
- Any complaint about (parts of) this document (for example, in relation to the contractual conditions, the criteria, time periods, procedure) should be reported in writing as quickly as possible and no later than the date and time indicated in the Planning section "Closing date for submission of questions in relation to this descriptive document".
- If deficiencies or contradictions are identified in the descriptive document afterwards and these have not been reported by the tenderer, this shall be interpreted to the advantage of the contracting authority.

3. ISSUANCE

- The issuance takes place within the TenderNed tendering platform.
- The 'official report of issuance' is made available via the tendering platform.

4. AFTER NOTIFICATION: VERIFICATION, QUESTIONS AND OBJECTION

- After evaluation of the tenders and prior to the award decision, there is a possibility that the best scoring tenderer(s) will be given an opportunity to explain the tender in a verification meeting.

- Should it appear from the verification meeting that the explanation is not in accordance with the submitted tender, this can lead to a change in the relevant approval criterion. If it appears from the verification meeting that one or more requirements have not been met, this will lead to the tender being rejected.
- Should it appear from the verification meeting that the explanation is not in accordance with the submitted request for participation, this can lead to exclusion from further participation in the procedure.
- The award decision does not bring about an agreement as referred to in Article 6:217 of the Dutch Civil Code.
- In the event of a tender rejection, the relevant reasons for the rejection will be stated.
- From the date the award decision is sent, and before the agreement is concluded, a waiting period of 20 calendar days will be taken into account. During this waiting period there is the opportunity to ask questions and make known your complaints about this award decision by serving a summons on the contracting authority. The contracting authority requests that you ask your questions as early as possible, preferably within 7 calendar days of the date of announcement of the award decision so that they can be answered well before the end of the period of 20 calendar days.
- Service of the summons after the stated period will result in the claim not being admissible.
- If a tenderer lodges summary proceedings against an award decision, the original winner of the invitation to tender must intervene in these summary proceedings on penalty of loss of right to challenge a possible amended award decision.
- If no objections have been submitted prior to the expiry of this period of 20 calendar days, the contract negotiations will be started with the tenderer(s) with whom the (framework) agreement is expected to be concluded.

5. CONDITIONS FOR THE NOTIFICATION

- If you submit a tender, this means that you accept the provisions in the descriptive document;
- In order to preclude mistakes, you must deliver the tender wholly in accordance with the descriptive document and associated documents.
- The risk of omitting information or answers, for example by incorrect or incomplete acquisition of summaries, information and statements, rests with the tenderer and can lead to negative consequences for the evaluation of the stipulated criteria or exclusion;
- The tender must have a validity period of 90 days calculated from the closing date of the tendering period. If summary proceedings are instituted against the award decision, the period of validity shall be extended so that it ends 8 days after judgement has been felled in the summary proceedings.

- Tenders/requests for participation which are not submitted via the tendering platform will not be accepted.
- The risk of late submission lies with the tenderer.
- Tenders which do not meet the conditions will **not** be evaluated. If the latter might be the case, then you will be notified in writing, together with a statement of the reasons.
- Your tender must have been signed by a legally authorised person, as must all attached statements that form part of your tender.
- Your tender must be completely free of charge to the contracting authority.
- Your tender must be written in Dutch or English. Correspondence, contacts and contracting shall also take place in Dutch or English.
- The submission of variants or alternatives is not permitted except when the announcement of the public procurement specifies that this is allowable. In that case, the invitation to tender documents will incorporate the requirements that these variants have to meet and how they must be submitted. When variants are permitted, the invitation to tender documents will specify whether a tender that is not a variant must also be submitted.

6. GENERAL CONDITIONS

- If multiple tenders (per lot) are submitted by one tenderer based on the descriptive document, none of these tenders will be taken into consideration unless variants are involved that have been explicitly specified as allowable.
- Multiple enterprises from a single group of companies may tender for the invitation to tender (independently, in a joint venture or as subcontractor) only if, at the contracting authority's request, they can show that each of them has drawn up the tender independently of the other tenderers of the same group, and have observed confidentiality. If one of the relevant tenderers cannot demonstrate this, then that will result in the exclusion of all tenderers belonging to that group.
- Your general terms and conditions of sale, industry conditions or other conditions are explicitly excluded.
- All information that is of importance to this invitation to tender is supplied in writing. No rights can be derived from verbal communications.
- Up until the time of signature of the agreement, the contracting authority reserves the right to temporarily or permanently terminate the whole or part of the invitation to tender procedure. The contracting authority also has no obligation to award a contract. If the contracting authority decides not to make an award, it will notify the tenderers of this as quickly as possible, together with a statement of the reasons for its decision. By submitting a tender, you declare your agreement to the proviso and the relevant conditions.

- If changes in your business operation arise, or threaten to do so, that could affect the progress and handling of the invitation to tender, you must notify the contracting authority as soon as possible.
- In the event that the business activities relevant to the invitation to tender are stopped during the invitation to tender procedure, the contracting authority reserves the right to set aside your tender for that reason and not evaluate it further.
- In the aforementioned situations you have no right to compensation for any costs, loss or any other considerations.
- The contracting authority shall treat all documents, data and other information that you submit in the context of the invitation to tender as confidential.
- The information supplied by you will not be returned afterwards.
- The contracting authority has no preference for a specific supplier, service provider or contractor, nor for specific brands, types, manufactures, source, etc. Should a requirement or a wish in the descriptive document relate, or appear to relate, to a specific manufacture, a specific source or a specific method of working, a brand, a patent or a type, a specific origin or a specific production, whereby specific companies or specific products are favoured or eliminated, this must be read as 'or equivalent'.
- Any contract shall be based on the contractual provisions that form part of the descriptive document as an attachment, or as an attachment added to the invitation to tender.
- By tendering, you agree without reservation to the contractual provisions that were added as attachments to the descriptive document or to the invitation to tender. Draft (framework) agreement and conditions

7. TENDERING IN COOPERATION WITH OTHER ENTERPRISES

In order to be (better) able to meet the qualification requirements set in this document as a company, you can submit a tender in cooperation with other companies.

Tendering in cooperation with other enterprises can be done in three ways:

- Either as a joint venture
- Or as main contractor/subcontractor arrangement
- Or with a reliance on information from third parties

Tendering as a joint venture

If a tender is submitted by a joint venture, each member of the joint venture must sign a declaration and produce it on request pursuant to which all companies belonging to that joint venture jointly and severally accept liability for the fulfilment of the obligations stemming from the tender as well as the possible implementation of the agreement. It must also be specified who is in charge of the joint venture and can act as the responsible authorised party for the contracting authority.

If a tender is submitted by a joint venture, all requested documents, including the European Single Procurement Document (ESPD) must be separately submitted by the participants in the joint venture, stating the organisation from which they originate. Part A states, for each qualification criterion, how the criterion is assessed for a joint venture.

Tender as main contractor with subcontractor(s) or joint venture with subcontractors.

In this arrangement, the main contractor or the joint venture is the tenderer. If this tenderer has recourse to subcontractors for one or more capability requirements, then for each requirement in the European Single Procurement Document (ESPD) the name of the subcontractor to whom recourse is made must be filled in together with the degree to which the subcontractor meets the requirement.

In this arrangement, the tenderer is fully liable for the fulfilment of the obligations stemming from the tender as well as the possible implementation of the contract. The tenderer is also liable for compliance with the obligations by the subcontractor(s) engaged by him.

If the tenderer makes use of information from one or more subcontractors in order to qualify for the contract or the agreement, all the requested documents must, upon request, be submitted by the tenderer, stating the organisation from which they originated. The tenderer must also show that he can actually make use of the relevant subcontractor(s) for the implementation of the agreement.

Tendering with information from third parties

In order as a company or joint venture to be (better) able to meet the qualification requirements set in this document, you can have recourse to the financial and economic capacity and technical competence of other natural persons or legal entities. A condition for this is that you demonstrate that you actually have the resources of these natural persons or legal entities at your disposal. You can do this, for example, by attaching a holding company declaration, a surety, or an agreement with the relevant natural person or legal entity, or by adding a declaration from the relevant subcontractor in which they promise to provide their cooperation in the performance of the contract. A relevant declaration must be produced on request.

In order to show capability requirements, recourse can be made to another natural person or legal entity only on the condition that no grounds for exclusion, as mentioned in part A, apply to this natural person or legal entity. If a ground for exclusion applies to the relevant natural person or legal entity as referred to in Article 2.86 of the Public Procurement Act, you will ensure an immediate replacement. If a ground for exclusion applies to the relevant natural person or legal entity as referred to in Article 2.87 of the Public Procurement Act, the contracting authority can request immediate replacement.

If you rely on another natural person or legal entity in order to show your financial and economic capacity, then both you and this party can be held jointly and severally liable for the implementation of the contract. When joint and several liability is required, this will be explicitly indicated in the invitation to tender documents.

If you rely on another natural person or legal entity in order to show your relevant professional experience, then this natural person or legal entity must perform the works or services for which the skill is required.

8. INFORMATION ABOUT THE OBLIGATIONS OF APPLICANTS

Information about the obligations with respect to the provisions for taxes, environmental protection, occupational health and safety and employment conditions that apply in the Netherlands and which will be applicable during the course of the (framework) agreement to the operations of the applicant can be obtained at:

- For provisions relating to taxes: the Tax and Customs Administration; www.belastingdienst.nl
- For provisions relating to environmental protection: the Ministry of Infrastructure and Water Management; <https://www.rijksoverheid.nl/ministeries/ministerie-van-infrastructuur-en-waterstaat>
- For provisions relating to occupational health and safety, and employment conditions: the Ministry of Social Affairs and Employment; www.rijksoverheid.nl/ministeries/szw

9. SUITABILITY CRITERIA

At a later stage in the tender, the winning tenderer(s) will be asked to provide evidence demonstrating the suitability of their enterprise. Should it be required for the smooth running of the procedure in relation to the invitation to participate, documentary evidence can also be requested at an earlier stage. This request will state which documentary evidence is to be provided. The documentary evidence must be provided within ten working days, calculated from the request's date of dispatch.

Measures concerning environmental management

If a suitability requirement has been stipulated that applicants have taken measures concerning environmental management, the applicant can show their compliance in the following way:

1. an Environmental Certificate, prepared by an independent body, NEN ISO 14001:2015 or equivalent (it is sufficient for you to attach a copy), valid on the closing date of the submission period of this invitation to tender; or
2. if you do not have a certificate and you are also not in a certification process, it can be sufficient to produce your own environmental manual. It must be an up-to-date and valid environmental manual that includes the measures that your organisation carries out to account for and monitor the environment, together with a policy statement from the management indicating that the management endorses and monitors these measures (it is sufficient for you to attach a copy of a customised index of the environmental manual, a description and the policy statement). You must also attach a description as to why the measures contained in your environmental manual are equivalent to the stipulated standard; or
3. if you do not yet have, or no longer have, a valid certificate but you are in a certification process, then it is sufficient for you to provide proof of the phase of the new certification process (it suffices to attach a copy of a customised index from the environmental manual, a description and the policy statement, and a plan for the certification as agreed with the certifying body).

Assessment. The assessment establishes whether the company takes sufficient measures to protect the environment, insofar as relevant to the subject of the invitation to tender.

In the case of a tender by a joint venture, the specification of the measures concerning environmental management are assessed for the entire joint venture.

Measures concerning quality assurance

If a suitability requirement has been stipulated that applicants have taken measures concerning quality assurance, the applicant can show their compliance in the following way:

1. a Quality Certificate, prepared by an independent body, NEN ISO 9001:2015 or equivalent, valid on the closing date of the submission period of this invitation to tender (it is sufficient for you to attach a copy of the certificate); or
2. if you do not have a certificate and you are also not in a certification process, it can be sufficient to produce your own quality manual. It must be an up-to-date and valid quality manual which includes the measures that your organisation carries out to ensure and monitor quality together with a policy statement from the management indicating that the management endorses and monitors these measures (it is sufficient for you to attach a copy of a customised index of the quality manual, a description and the policy statement). You must also attach a description as to why the measures contained in your quality manual are equivalent to the stipulated standard; or

3. if you do not yet have, or no longer have, a valid certificate but you are in a certification process, then it is sufficient for you to provide proof of the phase of the new certification process (it suffices to attach a copy of a customised index from the quality manual, a description and the policy statement, and a plan for the certification as agreed with the certifying body).

Assessment. The assessment will establish whether the company takes sufficient measures to ensure quality in relation to what is specified and requested in the selection guide.

In the case of a tender by a joint venture, the specification of the measures concerning quality assurance are assessed for the entire joint venture.