

WEM General Ethical Procurement Guidelines

The following are the principles which we strictly adopt when procuring goods or when carrying out tender procedures to adhere and assure the highest ethical standards.

It is our mandate to make sure that only the highest standards will be guaranteed which includes that each supplier will be selected carefully.

Each supplier involved in the procurement process must conduct business using the highest standards of professionalism in business, conduct and ethics.

Complete tender- and procurement procedures will be carried out strictly following the corresponding guidelines (e.g. EuropeAid, KfW, WorldBank, USAid, BMZ-VOL/A & VOL/B) given by the Contracting Authority.

The following General Principles have to be adhered to strictly by suppliers and all parties involved:

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Article 1. General Principles for Procurement & Tender Procedures

1.1 The Financial Regulation applicable to the general budget & funds from a Donor establishes that when the implementation requires the award of contracts, the procurement & award procedure must comply with the principles of:

- Transparency in the procurement process;
- Proportionality between the procedures followed for awarding contracts and the value of the contracts;
- Equal treatment of potential contractors;
- Non-discrimination among donors.

Article 2. Termination of the Contract

2.1 The Contracting Authority / WEM may terminate the Contract in the following circumstances:

- (a) where a change in the Contractors legal, financial, technical or organisational situation could have a significant effect on the Contract;
- (b) where performance of the Contract has not actually commenced within three months of the date foreseen for the Implementation Period, and the new date proposed, if any, is considered unacceptable by the Contracting Authority;
- (c) where the Contractor is unable, through his own fault, to obtain any permit or license required for performance of the Contract;
- (d) where the Contractor has failed to perform the Contract;
- (e) where the Contractor has been found guilty by the competent bodies of serious professional misconduct;
- (f) where the Contractor is declared bankrupt, is wound up, has ceased trading, has been wound up by court order or is in composition with his creditors a entailing Suspension of business, is in receivership or is in any other comparable situation provided for by the laws or regulations of his country of domicile or establishment;
- (g) where the Contractor has made false, incomplete or incorrect statements or has failed to provide information in an attempt to obtain the Contract or any benefit resulting therefrom, or where this was the effect of his action;
- (h) where the Contractor has, intentionally or through negligence, committed an irregularity in performance of the Contract or in relation to other contracts concluded with the Contracting Authority or an institution, organ or agency of the European Communities and, more generally, in the event of fraud,

corruption or any other illegal activity detrimental to the Contracting Authority's interests on the part of the Contractor;

(l) where the laws that govern the Contract provide for or allow termination.

2.2 In case of force majeure, either contracting party may terminate the Contract.

2.3 A registered letter with acknowledgement of receipt or equivalent initiate termination procedure. Where prior notice is not required, termination shall take effect from the day after the day on which the letter terminating the Contract is received.

2.4 In the event of the Contracting Authority terminating the Contract in accordance with this Article, the Contractor shall waive any claim for damages, including but not limited to consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimize costs, prevent damage and cancel or reduce his commitments.

2.5 The Contractor may terminate the Contract if and when a request as provided in Article 12 is made by the Contracting Authority by serving one months notice.

2.6 The Contractor shall be entitled to re-numeration for the Goods supplied in accordance and in conformity with the Contract. The Contractor shall accept as the aggregate liability of the Contracting Authority payment of the Contracts price corresponding to the Goods supplied by it in accordance with the Contract as at the effective date of termination. However, in the event of termination on the grounds set-out in point (b), (c), (d), (e), (g) or (h) of the first paragraph of this Article, the Contracting Authority may recover any sums paid to the Contractor under the Contract.

Article 3. Ethics clauses

3.1 During the procurement and the execution of contracts the highest ethical standards have to be observed, especially with regard to the non-exploitation of child labour and the respect of basic social rights and working conditions.

3.2 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, particularly Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this Contract immediately upon notice to the Contractor, at no cost to or liability of the Contracting Authority.

3.3 No cooperation will be accepted with contractors or sub-contractors which entertain illegal or exploitative terms of employment.

3.4 Without the Contracting Authority's prior written authorization, the Contractor or any person or company that is associated or linked with the Contractor, may not, not even on an ancillary or subcontracting basis, supply other services or goods or carry out works for the project and/or the subject of the Contract. This prohibition also applies to any other projects that could, owing to the nature of the Contract, give rise to a conflict of interest on the part of the Contractor.

3.5 By performing the Contract, the Contractor represents that it is not affected by any potential conflict of interest and has no particular link with other parties possibly involved with the (subject of the) Contract. Should such a situation arise during performance of the Contract, the Contractor must immediately inform the Contracting Authority.

3.6 The Contractor must at all time act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He shall refrain from making public statements about the (subject of the) Contract without the Contracting Authority's prior written approval. The Contractor may not commit the Contracting Authority in any way without its prior written consent.

3.7 For the duration of the Contract the Contractor and his staff shall respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary country and/or country of destination.

3.8 The Contractor may accept no payment connected with the Contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.

3.9 The Contractor and his staff shall be obliged to maintain professional secrecy for the entire duration of the Contract and after its completion. All reports and documents drawn up or received by the Contractor shall be confidential.

3.11 The Contract shall govern the contracting parties use of all reports and documents drawn up, received or presented by them during the execution of the Contract.

3.12 The Contract will be terminated by the Contracting Authority with immediate effect and without prior notice if it emerges that the execution of the Contract has given rise to unusual commercial expenses.

Such unusual commercial expenses are commissions not mentioned in or stemming from the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a person or company that has every appearance of being a front (wo)man or company.

3.13 The Contractor undertakes to supply the Contracting Authority on its first request with all supporting documents relating to the performance and execution of the Contract. The Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to collect evidence in cases of suspected unusual commercial expenses.

Article 4. Eligibility Criteria

4.1 The Contractor declares to strictly adhere to the following criteria and will acknowledge it in signing the Pre Qualification Documents if prescribed:

- is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, nor is it in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- has not been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- has fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- has not been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Contracting Authority's or European Community's interests;
- has not been declared to be in serious breach of contract for failure to comply with his/her contractual obligations subsequent to another procurement procedure or grant award procedure financed by budget of the European Community;
- has not been engaged in corrupt, fraudulent, collusive or coercive practices as defined in Annex IV and Article 29;
- has completed the attached Suppliers Registration Form to the best of one's knowledge, gives WEM or any other mandated organisation / European Anti-Fraud Office (OLAF) / Court of Auditors the power of audit / access to its accounts and provide WEM / mandated organisation with every information and document needed.

4.2 The Contractor who has been found guilty by the Contracting Authority of making a false declaration or even does not fulfil one of the above requirements will be excluded from the Tendering Process and/or will have to bear a penalty according to the Regulations and will have to pay the compensations of all charges occurred.

4.3 In addition to the compensation the Contracting Authority will have to inform the corresponding authorities contemporary.

Article 5. Regularity of Tender & Procurement Procedures

5.1 WEM will reject any proposal put forward by tenderers or candidates, or, where applicable, will terminate the contracts, if it is determined that they have engaged in corrupt, fraudulent, collusive or coercive practices.

- Corrupt practice is defined as is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the activities of the Contracting Authority;
- Fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Contracting Authority to obtain a financial or other benefit or to avoid an obligation;
- Collusive practice is an undisclosed arrangement between two or more tenderers or candidates designed to artificially alter the results of the tender procedure to obtain a financial or other benefit;
- Coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities.

5.2 WEM will inform immediately the European Commission / Contracting Authority in writing in event of being confronted by these practices and provide all the relevant information.

WEM will also inform the European Commission / Contractin Authority under the same terms about any suspected or established breach of the present rules as well as in case of any situation likely to constitute a conflict of interest.