

Appendix A 1. General Terms and Conditions of Tender

Organisation of a Marketing Programme for German Wine in the United States of America

Award procedure number: DWI 2026-10

1. General Explanations	2
1.1 Introduction	2
1.2 Language	2
1.3 Form of the Request to Participate/Form of the Tender	2
1.4 Variant Tenders	3
1.5 Several Main Tenders	3
1.6 Transmission of Requests to Participate and Tenders	3
1.6.1 Electronic Transmission	3
1.6.2 Addresses	3
1.7 Corrections, Changes/Amendments or Withdrawal of the Tender	4
1.8 Bidders' Questions	4
1.9 Costs of Drawing up the Tender	4
1.10 Consideration of discount	5
1.11 Reference to Public Procurement Provisions	5
2. Time limits	5
2.1 Closing Date for Participation	5
2.2 Closing Date for the Submission of Tenders	5
2.3 Bid Validity Period	5
3. Bidders	6
3.1 Bidding Consortia	6
3.2 Capacities of Other Undertakings (Loan of Eligibility, Subcontracting)	6
3.2.1 Loan of Eligibility	7
3.2.2 Subcontracting	7
4. Submission of a European Single Procurement Document (ESPD)	8
5. Evaluation of Tenders	8
6. Notifications and Announcements	8
6.1 Notification on Unsuccessful Tenders	8
6.2 Notifications on awarded contracts	8

1. General Explanations

1.1 Introduction

The terms and conditions of tender include these General terms and conditions and the Special terms and conditions of tender for the respective individual procedure. Insofar as the Special terms and conditions of tender contain deviating provisions, these shall take precedence over the General terms and conditions of tender.

If, in your opinion, the procurement documents contain any ambiguities, you must inform the German Wine Institute without delay. The communication shall be conducted via the e-tendering platform provided by DTVP Deutsches Vergabeportal GmbH and cosinex GmbH (www.dtv.de/en).

1.2 Language

In the context of services in other EU countries, any documents, means of proof, and declarations must be drawn up in English. Any correspondence with the German Wine Institute must also be conducted in English.

1.3 Form of the Request to Participate/Form of the Tender

This award procedure is only carried out electronically via the e-tendering platform provided by DTVP Deutsches Vergabeportal GmbH and cosinex GmbH (www.dtv.de/en). Other forms of submitting requests to participate or tenders (including via email) are not admissible and shall result in the mandatory exclusion of the tender.

Registering with the e-tendering platform is the prerequisite for submitting an electronic request to participate or an electronic tender. For further information about the e-tendering platform, please refer to www.dtv.de/en.

In order to submit a formally valid request to participate/tender in contract award procedures according to the German Regulation on the Award of Public Contracts (VgV) and the German Regulation on Sub-Threshold Procurement (UVgO), the e-tendering platform must be used (see sec 1.6.1); the text form is sufficient pursuant to section 126b of the German Civil Code (BGB).

Requests to participate are to be created based on the provided forms for the request to participate; tenders shall be based on the provided tender forms. Requests to participate and tenders must include clear details about you as an economic operator (company incl. legal structure, address and name of the responsible person).

No additions to or changes of the predefined texts in the application documents and/or the procurement documents shall be permitted. Insofar as you consider it necessary to provide explanations for the evaluation of the request to participate or the tender these must be attached as a separate appendix. However, such explanations must not result in any change of the terms and conditions stipulated in the application documents or the procurement documents.

Bidders' general terms and conditions of business, payment or delivery are expressly excluded and shall lead to mandatory exclusion during the award procedure.

1.4 Variant Tenders

Variant tenders are tenders which differ from the required tender (main tender) but are suitable for achieving the objective pursued by the invitation to tender. Variant tenders must be prepared separately and clearly marked and formulated as a “variant tender”. Any variant tenders and their quantity must be pointed out in the tender form. If variant offers are not admitted, they shall not be considered.

1.5 Several Main Tenders

As a general rule, it is not admissible to submit several main tenders. Should you nevertheless submit several main tenders, none of your tenders will be considered for evaluation. In case of corrections and additions, section 1.7 applies.

1.6 Transmission of Requests to Participate and Tenders

1.6.1 Electronic Transmission

The procurement documents are generally available for unrestricted and full direct access, free of charge, at the e-tendering platform (www.dtyp.de/en). Please note, that only the registered users will be able to use the communication module, which is the place for applicants/bidders and the contracting authority to exchange questions and answers about the tendering procedure. The contracting authority will answer incoming questions by uploading a questions-and-answers-catalogue to the e-tendering platform. In order to receive relevant notices about changes in the procedure and to avoid futile expenditure or even, in the worst case, exclusion from the award procedure, we strongly advise all interested parties to register already at an early stage of the tendering procedure.

For the submission of documents (i.e. request to participate, tenders) the registration is mandatory.

With regard to the submission of documents, the file names of the provided forms to be submitted must not be changed. The file names of documents to be submitted that have been prepared by you must not contain more than 30 characters. Upon receipt of your request to participate/tender it will be given an electronic time stamp and kept encrypted until expiry of the closing date for participation/tender submission.

Technical support (provided by cosinex GmbH):

+49 (0)900-1-267463 (1,49 € per min. from German landline, mobile phone costs may vary)

Email: Support@cosinex.de

1.6.2 Addresses

Samples may be sent separately from the tender, **but only if expressly stated in the procurement documents**, and must be marked as belonging to the tender.

Shipments of samples and bulky parts of the tender or courier deliveries shall be sent only to the house address:

Deutsche Weininstitut GmbH
Vergabestelle
Platz des Weines 2
55294 Bodenheim

1.7 Corrections, Changes/Amendments or Withdrawal of the Tender

Corrections and changes/amendments to the tender are admissible until expiry of the closing date for the submission of tenders and are subject to the same formal requirements as the tender itself. When submitting a revised tender, the extent to which the previous tender remains valid must be made clear. The clarification should clearly indicate that it is neither about a further main tender nor a variant tender.

Withdrawing a tender is admissible until expiry of the closing date for the submission of tenders. It shall take place in the same form as the submission of the tender.

1.8 Bidders' Questions

Should you have any questions regarding the documents in the context of submitting the request to participate or drawing up the tender, please notify the German Wine Institute without delay.

Questions must be transmitted via the e-tendering platform.

The German Wine Institute is obliged to provide any timely requested additional information regarding the documents no later than 6 days before expiry of the time limit. Any required information should therefore be requested no later than 8 days before expiry of the closing date for participation/tender submission.

Answers will be sent to all participants in the procedure via the e-tendering platform. Please note that, for reasons of comprehensibility of the answers, the underlying questions are usually also sent, in anonymised form, to all participants in the procedure.

Therefore the questions should be formulated in such a way that sending them to the other participants will be possible without prior revision. By submitting a question you agree to a corresponding disclosure.

Insofar as there are any reasons against the disclosure of certain data/information, please point them out clearly together with your question. The answers shall become an integral part of the procurement documents and shall thus be binding for the preparation of the request to participate or the tender, as well as for the review and evaluation of the requests to participate or tenders received.

In addition, answers referring to the terms and conditions of contract or to the tender specifications shall become a binding part of the contract.

1.9 Costs of Drawing up the Tender

As a general rule, no remuneration shall be granted for drawing up a tender and, if applicable, the provision of samples. Bidders must bear the costs for sending tender documents and samples. Please

check the invitation to submit a request to participate / the invitation to tender as special rules may apply for single tendering procedures!

1.10 Consideration of discount

Only discounts offering a discount period of at least 10 days will be included in the evaluation. No discount shall be offered with an invitation to tender of a framework agreement unless expressly permitted for individual call-off orders.

1.11 Reference to Public Procurement Provisions

- German Act against Restraints of Competition (GWB), amended by the Act on the Modernisation of Public Procurement Law of 17/02/2016, BGBl. I no. 8, p. 203, of 23/02/2016
- Regulation on the Award of Public Contracts (VgV 2016)
- Regulation on Prices (VOPR 30/53)
- Regulation on Sub-Threshold Procurement (UVgO) in the context of national award procedures

English versions of the respective regulations can be found at

https://www.bmwi.de/Redaktion/DE/Downloads/V/vergaberechtmodernisierungsgesetz-en.pdf?__blob=publicationFile&v=6

https://www.bmwi.de/Redaktion/EN/Downloads/vergabeverordnung-ordinance-award-of-public-contracts.pdf?__blob=publicationFile&v=2

https://www.xfel.eu/sites/custom/site_xfel/content/e35152/e46557/e47200/e47206/xfel_file47209/UVgOEnglisch_eng.pdf

2. Time limits

2.1 Closing Date for Participation

Requests to participate must have been received prior to expiry of the closing date for participation. This time limit also applies to any subsequent corrections and changes/amendments to the request to participate.

2.2 Closing Date for the Submission of Tenders

Tenders must have been received in full prior to expiry of the closing date for the submission of tenders. This time limit also applies to any subsequent corrections and changes/amendments to the tender.

2.3 Bid Validity Period

The bid validity period shall commence following expiry of the closing date for the submission of tenders. You are bound to your tender until expiry of the bid validity period. During this period, the tender can neither be changed/amended nor withdrawn.

3. Bidders

3.1 Bidding Consortia

The bidding consortium is a grouping of several independent undertakings which jointly pursue the goal of winning the contract and performing it jointly in case their tender is successful.

Bidding consortia must name all members of the bidding consortium already when submitting the tender or, in case of award procedures with a call for competition, already when submitting the request to participate, indicating type and scope of the respective part of service provided by the individual member. Bidding consortia shall appoint one member as a representative authorized for submitting statements in the course of the award procedure and for concluding and executing the contract. They shall undertake to be jointly and severally liable for all obligations arising in connection with the contract.

For providing the required information, the authorisation and the obligation, please use the declaration *F 8. Bidding Consortium* in the procurement documents. When using the form, care must be taken to ensure that the information is complete. The form must be signed, stamped and scanned to be attached as a pdf-file to the tender or request to participate. In addition, the self-declaration *F 7. Grounds for Exclusion* must be submitted for every member together with the tender or the request to participate.

Furthermore, the required means of proof for the eligibility of every member must be submitted corresponding to the scope of its services together with the tender or the request to participate.

Setting-up or changing bidding consortia shall not be admissible after expiry of the closing date for the submission of tenders until the contract will be awarded, and shall result in the exclusion of the respective tender. In case of a preceding call for competition, setting-up or changing bidding consortia shall be inadmissible already following expiry of the time limit for participation until the contract will be awarded.

3.2 Capacities of Other Undertakings (Loan of Eligibility, Subcontracting)

If the bidder intends to

- have parts of the service to be awarded carried out by other undertakings (subcontracts, section 36 VgV or section 26 UVgO) or
- use the services of other undertakings in the fulfilment of an order with regard to the required economic, financial, technical or professional capacity (loan of eligibility, section 47 VgV or section 34 UVgO),

the bidder shall inform the German Wine Institute of its intentions and specify the services/capacities envisaged for this purpose in its request to participate/tender.

The bidder must prove to the German Wine Institute that the necessary capacities of the other undertakings will be at its disposal. The bidder must also inform the German Wine Institute on the non-existence of grounds for exclusion under public procurement law (sections 123, 124 GWB) with respect to each of the other undertakings. To this end, the self-declaration *F 7. Grounds for*

Exclusion must be submitted for each of these other undertakings. The bidder must state the name, legal representative and contact details of these undertakings and submit corresponding declarations of commitment from the other undertakings. With regard to the time at which the declarations and means of proof are to be submitted, a distinction must be made between loan of eligibility and subcontracting (see 3.2.1 and 3.2.2 below).

3.2.1 Loan of Eligibility

In case of a loan of eligibility, the other undertakings must be designated when submitting the tender or, in case of award procedures with a call for competition, when submitting the request to participate, and the type and scope of the capacities provided by them must be specified. In addition, each of the designated undertakings must commit itself to make the corresponding capacities available to the bidder in the event of the contract being awarded. For providing the required information and the obligation, please use the declaration of commitment *F 11. Declaration of Commitment: Loan of eligibility/Subcontracting* in the procurement documents. When using the form, care must be taken to ensure that the information is complete. The form must be signed, stamped and scanned to be attached as a pdf-file to the tender or request to participate. In addition, the self-declaration *F 7. Grounds for Exclusion* must be submitted for every member together with the tender or the request to participate.

The bidder must also prove the suitability of each other undertaking by submitting the required evidence of suitability together with the tender or request to participate, with respect to those selection criteria for which the capacities will be used.

Exchanging or changing one or more of the designated other undertakings shall not be admissible after expiry of the closing date for the submission of tenders until the contract is awarded, and will result in the exclusion of the tender. In case of a preceding call for competition, exchanging or changing one or more of the designated undertakings shall be inadmissible already following expiry of the time limit for participation until the contract will be awarded.

Where the economic and financial capacities are used, the bidder and the other undertaking(s) shall be jointly liable for the execution of the contract in accordance with the scope of the respective loan of eligibility. A corresponding declaration of liability must be presented to the German Wine Institute upon separate request. Depending on the individual case, a so-called hard letter of support, guarantee, absolute suretyship or collateral promise can be considered as a declaration of liability.

If the bidder intends to subcontract part of the contract to a third party undertaking and, at the same time, relies on the capacities of another undertaking with regard to its capacities, the above-mentioned regulations shall also apply.

3.2.2 Subcontracting

If subcontracting to other undertakings, the nature and extent of the part of service to be transferred must be stated with submission of the tender and the other undertakings must be designated, if reasonable already at this point in time, but at the latest before the contract is awarded. For providing the required information please use *F 9. Subcontracting* in the procurement documents. When used, this form must be completed by the bidder and attached to the tender.

In addition, the bidder must prove, at the latest when the contract is awarded, that the necessary capacities and resources of the intended subcontractors will be at its disposal. For this purpose, please use the declaration of commitment *F 11. Declaration of Commitment: Loan of eligibility/Subcontracting* in the procurement documents. When using the form, care must be taken to ensure that the information is complete. The form must be signed, stamped and scanned to be submitted as a pdf-file, if not possible already at the time of submission of the tender or the request to participate, at the latest before the contract is awarded. In addition, the self-declaration *F 7. Grounds for Exclusion* must be submitted for any other undertaking at the latest before the contract is awarded.

4. Submission of a European Single Procurement Document (ESPD)

The German Wine Institute will accept the submission of a European Single Procurement Document pursuant to section 50 VgV or section 35 (3) UVgO as preliminary evidence for suitability and the non-existence of grounds for exclusion.

5. Evaluation of Tenders

The contract will be awarded to the bidder with the most economically advantageous tender. The most economically advantageous tender will be determined based on the evaluation method and evaluation criteria stated in the contract notice or the procurement documents.

6. Notifications and Announcements

6.1 Notification on Unsuccessful Tenders

The German Wine Institute shall inform about the rejection of a tender and the results of the procedure pursuant to sections 46 UVgO, 62 VgV.

Requested notifications on rejection will be transmitted via the federal government's e-tendering platform.

6.2 Notifications on awarded contracts

Notification requirements and their scope result from sections 30 UVgO, 39 VgV. According to this, in particular the name of the Service Provider, the subject-matter of the contract and (with the exception of procedures according to UVgO) the contract value must also be disclosed. There is no obligation to disclose individual details should their publication conflict with one of the reasons listed in sections 30 para. 2 UVgO, 39 para. 6 VgV. Should a conflict arise between your business interests and such disclosure, you must inform the German Wine Institute accordingly. Upon due assessment of the circumstances, the German Wine Institute shall decide freely on the content of the announcement.