

## Please take due note of the following information:

- Please submit your tender with the following documentation (written offer and declarations) signed where required. **You can find other documents to be submitted for the call for tenders in the specification of goods and services attached.**
- The contracting authority may request relevant proof supporting the declarations at any time during the procedure. The contracting authority may require the candidate or tenderer to comment on the documents to be submitted.
- Please sign the self-declaration in the space provided in text form. For participants in the e-procurement procedure, the text form (if required, the digital signature) replaces the handwritten signature.
- Irrespective of the suitability check under public procurement law, for contracts with a value of EUR 25,000 or more (excluding VAT) the contracting authority is obligated – in accordance with Section 1 (1) of the Ordinance on Procurement Statistics (Vergabestatistikverordnung – VergStatVO) – to transmit certain data on the contract award procedure to the Federal Statistical Office.
- The data to be provided under no. 14 (on micro, small and medium-sized enterprises – SMEs) are required in order to fulfill this legal obligation. Missing or incomplete data may result in exclusion from the tender.
- In the case of consortia, a separate form must be completed for each member of the consortium and submitted with the tender. Self-declarations then refer to the declarations of the individual members of the consortium of tenderers.
- The form is also to be used by other entities (e.g. subcontractors or affiliated companies) who are to perform parts of the contract or whose suitability the tenderer/tendering consortium is reliant upon (reliance on the resources of other companies pursuant to Section 34 of the Sub-Threshold Procurement Ordinance – UVgO); they are to provide the information or declarations required for them.

- Insofar as the service to be provided entails activities that are subject to registration, notification or authorization, the contracting authority may at any time during the process request appropriate proof of qualification and authorization to perform the professional activity.
- Companies for which there are grounds for exclusion under no. 1 and nos. 3 to 7 of the declaration of suitability will not be excluded from participation in the contract award procedure if the company has provided evidence that it:
  - Has paid or committed to pay compensation for any damage caused by a criminal offense or misconduct;
  - Has fully clarified the facts and circumstances relating to the offense or misconduct and the damage caused, through active cooperation with the investigating authorities and the public contracting authority; and
  - Has taken suitable concrete technical, organizational and HR measures to prevent further criminal offenses or further misconduct.
- Companies for which there are grounds for exclusion under no. 2 of the declaration of suitability will not be excluded from participation in the contract award procedure if evidence is provided that they have fulfilled their obligations by making the payment or by undertaking to pay the taxes, duties and social security contributions, including interest, late payment and penalties.
- Starting from an estimated order value of EUR 30,000 (excluding VAT), a public contracting authority is required to request information from the registry authority prior to awarding the contract whether there are any entries in the competition register concerning the tenderer to whom it intends to award the contract pursuant to Section 6 (1) of the Competition Register Act (Wettbewerbsregistergesetz – WRegG).
- If a candidate or tenderer makes use of the capacities of other companies when awarding public contracts (reliance of the resources of other companies or subcontracting), the subcontractors must also be inspected with regard to the mandatory and optional grounds for exclusion (Section 34 (2) UVgO).
- The contracting authority may oblige the candidate or tenderer to submit to the contracting authority evidence in this regard from its subcontractors. Evidence may be provided in particular by submitting a self-assessment to the competition register.
- With a transitional period up to and including 31 May 2025, the contracting authority may voluntarily request information from the central commercial register pursuant to Section 150a of the Trade Regulation Act (Gewerbeordnung) for the tenderer who is to be awarded the contract. The personal and business data required from the candidates and tenderers for this purpose shall be requested separately by the contracting authority before the award of the contract. Failure to do so or providing incomplete data will result in exclusion from the tender.
- The contracting authority will submit a query in the financial sanctions lists ([www.finanz-sanktionsliste.de](http://www.finanz-sanktionsliste.de)) on the basis of the EU sanctions on combating terrorism and enforcing embargoes (Council Regulation (EC) 2580/2001 of 27 December 2001, Council Regulation (EC) No. 881/2002 of 27 May 2002, and Council Regulation (EU) No. 753/2011 of 1 August 2011).

The following declarations must be noted and confirmed with a signature in text form on the final page.

## **(1) Declaration on grounds for exclusion and company information** [Wirt-124 , June 2024]

*Businesses for which there are grounds for exclusion under no. 1 and nos. 3 to 7 of the declaration of suitability will not be excluded from participation in the contract award procedure if the business has provided evidence that it:*

- *Has paid or committed to pay compensation for any damage caused by a criminal offense or misconduct;*
- *Has fully clarified the facts and circumstances relating to the offense or misconduct and the damage caused, through active cooperation with the investigating authorities and the public contracting authority; and*
- *Has taken suitable concrete technical, organizational and HR measures to prevent further criminal offenses or further misconduct.*

*Businesses for which there are grounds for exclusion under no. 2 of the declaration of suitability will not be excluded from participation in the contract award procedure if evidence is provided that they have fulfilled their obligations by making the payment or by undertaking to pay the taxes, duties and social security contributions, including interest, late payment and penalties.*

1. **I am/we are aware** that pursuant to Section 31 (1) UVgO in conjunction with Section 123 (1) of the Competition Act (Gesetz gegen Wettbewerbsbeschränkungen – GWB) a company must at any point during a contract award procedure be strictly excluded from participation if the contracting authority is aware that a person whose conduct is imputable to the company has been convicted by final judgement or that a final administrative fine has been imposed on the company pursuant to Section 30 of the Act on Regulatory Offences (Gesetz gegen Ordnungswidrigkeiten – OWiG) for a criminal offense under:
  - a) Section 129 of the Criminal Code (Strafgesetzbuch – StGB) (forming criminal organizations), Section 129a of the Criminal Code (forming terrorist organizations), Section 129b of the Criminal Code (foreign criminal and terrorist organizations);
  - b) Section 89c of the Criminal Code (financing of terrorism) or for participation in such a crime or for the provision or collection of financial resources with the knowledge that such financial resources will be used or are intended to be used, wholly or in part, to commit a crime under Section 89a (2) no. 2 of the Criminal Code;
  - c) Section 261 of the Criminal Code (money laundering, concealment of unlawful earnings);
  - d) Section 263 of the Criminal Code (fraud), insofar as the offense is targeted at public budgets;
  - e) Section 264 of the Criminal Code (subsidy fraud), provided that the criminal offence is directed against the budget of the European Union or against budgets administered by the European Union or on its behalf;
  - f) Section 299 of the Criminal Code (taking and giving bribes in commercial practice);
  - g) Sections 299a and 299b of the Criminal Code (taking and giving bribes in the health sector);
  - h) Section 108e of the Criminal Code (taking of bribes by and giving of bribes to elected officials);
  - i) Section 108f of the Criminal Code (inadmissible protection of interests);
  - j) Sections 333 and 334 of the Criminal Code (granting benefits and giving bribes), each also in conjunction with Section 335a of the Criminal Code (foreign and international officials);
  - k) Article 2, Section 2 of the Act on Combating International Bribery (Gesetz zur Bekämpfung internationaler Bestechung) (bribery of foreign public officials in international business transactions); or
  - k) Sections 232, 233a (1-5) and 232b to 233a of the Criminal Code (human trafficking, forced prostitution, forced labor, exploitation of labor, exploitation involving deprivation of liberty).

*A conviction or the issuance of an administrative fine under the comparable provisions of other countries are the equivalent of a conviction or the issuance of an administrative fine under this section. The conduct of a person convicted by final judgement shall be imputable to a company if that person has acted as the person responsible for the management of the company; this also includes supervision of management or the exercise of control in another manner in a managerial position.*

2. **I am/we are aware** that pursuant to Section 31 (1) UVgO in conjunction with Section 123 (4) GWB a company must at any point during a contract award procedure be excluded from participation if the contracting authority is aware that the company has failed to meet its obligations to pay taxes, charges, or social security contributions and this has been established by a judicial or administrative decision having final and binding effect or the public contracting authority can prove the breach of the listed obligations in another manner.
3. **I am/we are aware** that pursuant to Section 31 (1) of the UVgO in conjunction with Section 124 (1) GWB a company may be excluded if:
  - a) The company has demonstrably breached applicable environmental, social, or labor obligations in carrying out public contracts;
  - b) The company is insolvent, an insolvency proceeding or a comparable proceeding over the assets of the company has been filed or opened, the opening of such a proceeding has been denied for lack of assets, the company is in liquidation proceedings, or has ceased to do business;
  - c) The company has demonstrably committed grave professional misconduct which renders its integrity questionable; Section 123(3) GWB shall apply mutatis mutandis;
  - d) The public contracting authority has sufficient indications that the company has concluded agreements with other companies or engaged in concerted practices which have as their object or effect, the prevention, restriction, or distortion of competition;
  - e) A conflict of interest exists in the execution of the procurement procedure which could compromise the impartiality and independence of a person working for the public contracting authority in the executing of the award procedure and which cannot be effectively remedied by other, less intrusive measures;
  - f) A distortion of competition results from the prior involvement of the company in the preparation of the award procedure, and such distortion of competition cannot be remedied by other, less intrusive measures;
  - g) The company has produced significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract or concession contract which led to an early termination, damages, or other comparable sanctions insofar as it was the defective performance of the contract that led to premature termination of the contract, damages, or comparable sanction;
  - h) The company has committed a serious misrepresentation or withheld information or is not able to submit the required evidence with respect to the grounds for exclusion or the selection criteria; or
  - i) The company has attempted to unduly influence the decision-making process of the public contracting authority, has attempted to obtain confidential information that may confer upon it undue advantages in the award procedure, or has negligently or intentionally provided misleading information that may have a material influence on the decision of the public contracting authority concerning the award decision, or has attempted to provide such information.

4. **I am/we are aware** that pursuant to Section 21 of the Posted Workers Act (Arbeitnehmerentsendegesetz – AEntG) candidates that have been fined at least two thousand five hundred euros for an infringement under Section 23 AEntG are to be excluded from participation in a tender for a supply, works or service contract for a reasonable period of time until their reliability has been proven to be re-established. The same applies even before regulatory fines proceedings are conducted where, in an individual case, the body of evidence leaves no reasonable doubt as to serious misconduct.
5. **I am/we are aware** that pursuant to Section 98c of the Residence Act (Aufenthaltsgesetz – AufenthG), candidates may be excluded from participation in a tender for a supply, works or service contract, if those candidates – or their representative authorized by statutes or law – have been subject to an incontestable fine of at least two thousand five hundred euros under Section 404 (2) no. 3 of Book III of the Social Code (Sozialgesetzbuch – SGB) or have been sentenced to an incontestable prison term of more than three months or a fine in excess of 90 daily rates under Sections 10, 10a or 11 of the Act to Combat Undeclared Work and Unlawful Employment (Schwarzarbeitsbekämpfungsgesetz – SchwarzArbG).
6. **I am/we are aware** that pursuant to Section 19 of the Act Regulating a General Minimum Wage (Mindestlohngesetz – MiLoG), candidates that have been fined at least two thousand five hundred euros on account of a breach of Section 21 MiLoG are to be excluded from participation in a tender for a supply, works or service contract for a reasonable period of time until their reliability has proven to be re-established.
7. **I am/we are aware** that pursuant to Section 21 of the Act to Combat Undeclared Work and Unlawful Employment (SchwarzArbG), candidates should be excluded for a period of up to three years from participation in a tender for a supply, works or service contract, if those candidates – or their authorized representatives under the articles of association or by law – have been sentenced to a prison term of more than three months or a fine in excess of 90 daily rates or have been subject to a fine of at least two thousand five hundred euros under Section 8 (1), no. 2 and Sections 10 to 11 of the SchwarzArbG; Section 404 (1) or (2), no. 3 of Book III SGB; Sections 15, 15a, 16(1), nos. 1, 1c, 1d, 1f or 2 of the Act on Temporary Agency Work (Arbeitnehmerüberlassungsgesetz – AÜG); or Section 266a (1) to (4) of the Criminal Code. The same applies even before criminal or fine proceedings are conducted if, in individual cases, there is no reasonable doubt of serious misconduct in view of the evidence.
8. **I am/we are aware** that companies shall be excluded from participation in a procedure for the award of a supply, works or service contract until proven self-cleaning pursuant to Section 125 of the Competition Act, if they have been fined in accordance with Section 22 (2) of the Supply Chain Act (Lieferkettensorgfaltspflichtengesetz – LkSG) due to a legally established violation pursuant to Section 24 (1) LkSG.
9. **I/we hereby declare:**
  - That no penalties or fines for the above-mentioned offenses or under comparable legislation of other states have been imposed on my/our company or a person whose conduct is attributable to my/our company; and
  - That there are no reasons mentioned above which could justify the exclusion of my/our company from participation in the contract award procedure.
10. **I/we understand** that the non-submission or incorrectness of the above declarations may lead to my/our exclusion from this and future award procedures and to the termination of any contract awarded.
11. **I/we understand** that the contracting authority may require that my/our company demand the above declarations from subcontractors and that these must be submitted prior to the contracting authority's approval of a subcontract.

12. **I/we fulfill** the legal requirements for the performance of the services offered, in particular those concerning the capacity and authorization to exercise the professional activities.

13. **I/we declare** that I am/we are not aware of any entry in the competition register or in the Berlin corruption register concerning the company or person(s) acting with responsibility. Should my/our tender be shortlisted for the award of the contract, I/we will provide the necessary data to the central awarding office for the purpose of querying the competition register upon request.

14. **I/We meet** the conditions for micro, small and medium-sized companies as defined in Commission Recommendation 2003/361/EC (no more than 249 employees and an annual turnover not exceeding EUR 50 million or a balance sheet total not exceeding EUR 43 million).

Yes

No

## (2) Special contract conditions regarding the advancement of women [Wirt-2141, May 2020]

The contractor undertakes

- to comply with the applicable General Act on Equal Treatment;
- to ensure that subcontractors deployed in the performance of the contract agree, depending on the size of the company pursuant to Section 3 of the Advancement of Women Act (Frauenförderungverordnung - FFV), to carry out measures in accordance with Section 2 FFV and to comply with the undertakings under Section 4 FFV. Any breach of this obligation by the subcontractor will be attributed to the contractor.
- to implement one or more of the measures for the advancement of women and/or the advancement of the compatibility of family and work in Section 2 FFV, depending on the size of the business pursuant to Section 3 FFV.

I/we hereby declare the following: - please tick as appropriate -

### A Applicability of Section 13 (1) of the State Equality Act (*Landesgleichstellungsgesetz - LGG*)

The company generally employs more than 10 staff (excluding persons employed as vocational trainees)

☐

Yes

☐

No (no further information required)

### B If yes, please provide the following information:

#### I. Staffing figures<sup>1</sup>

The company usually employs:

<b>more than 500 staff</b> (-> pursuant to Section 3 (1) FFV, three of the measures for the advancement of women and/or the advancement of the compatibility of work and family stated in Section 2 FFV are to be selected, of which at least one must be taken from measures 1 to 6)	<input type="checkbox"/>
<b>more than 250 and up to 500 staff</b> (-> pursuant to Section 3 (2) FFV, three of the measures in Section 2 FFV regarding the advancement of women and/or the advancement of the compatibility of work and family are to be selected)	<input type="checkbox"/>
<b>more than 20 and up to 250 staff</b> (-> pursuant to Section 3 (3) FFV, two of the measures in Section 2 FFV regarding the advancement of women and/or the advancement of the compatibility of work and family are to be selected)	<input type="checkbox"/>
<b>more than 10 and up to 20 staff</b> (-> pursuant to Section 3 (4) FFV, one of the measures in Section 2, nos. 1 to 20 FFV regarding the advancement of women and/or the advancement of the compatibility of work and family is to be selected)	<input type="checkbox"/>

<sup>1</sup> Section 23 (1) sentence 4 of the Employment Protection Act (*Kündigungsschutzgesetz – KSchG*) is to be taken into account when calculating the number of staff.

## II. Measures for the advancement of women and/or the advancement of the compatibility of family and work

In my/our company, the following measure(s) referred to in Section 2 of the FFV will be carried out or initiated during the execution of the contract:

1.	Implementing a professional plan for the advancement of women	
2.	Binding targets to increase the proportion of female staff at all levels	
3.	Increasing the proportion of female staff in senior and management positions	
4.	Increasing the proportion of training places allocated to female applicants	
5.	When offering employment contracts to trainees, ensuring that the number of female trainees considered is at least equivalent to the proportion of female trainees	
6.		
	Appointing a women's representative	
7.	Reviewing equal pay in the company using recognized and appropriate instruments	
8.	Offering internships for girls and young women, particularly in professions where women are underrepresented	
9.	Participating in recognized and suitable measures and initiatives to attract girls and young women to male-dominated professions	
10.	Special training measures exclusively for women to qualify them for professional positions	
11.	Ensuring that the number of places available to women in other in-house training programs is at least equivalent to their proportion of the company workforce	
12.	Ensuring that the number of places available to women in out-of-house training programs financed by the company is at least equivalent to their proportion of the company workforce	
13.	Preferential consideration of women for promotion upon successful completion of an in-house or out-of-house training program	
14.	Offering flexible working hours to suit individual requirements	
15.	Offering alternating teleworking	
16.	Option of fixed-term, part-time work, preferably close to full-time hours, with the possibility to return to full-time work, including for management positions	
17.	For employees on parental leave, opportunities to remain in touch, the option to participate in company training, substitution assignments, and return agreements	
18.	Providing in-company or external childcare, including for working times outside the normal opening hours of regular childcare facilities	
19.	Providing suitable support and flexibility in the workplace for staff with parenting and care responsibilities	
20.	Converting marginal employment into at least part-time jobs	



21.	Avoiding a disproportionate reduction in the proportion of women among the total number of employees when implementing staff cutbacks	

### III. Further contractual obligations

**I/we also declare** our agreement to comply with the following obligations pursuant to Section 4 FFV:

1. The contractor must comply with the applicable General Act on Equal Treatment.
2. Contractors using the services of a subcontractor in the performance of the contract shall ensure that the subcontractor declares their willingness in accordance with Section 3 FFV to implement measures in accordance with Section 2 FFV and to comply with the obligations stated in Section 4 FFV. Any culpable breach of this obligation by the subcontractor will be attributed to the contractor.
3. Upon request by the contract awarding office, the contractor is required to present appropriate proof of compliance with the contractual obligations assumed in accordance with the Advancement of Women Act.

### IV. Legal impediments (indicate where appropriate)

I am/we are prevented for legal reasons from carrying out the following measures under II. or from assuming the following obligations under III. in accordance with Section 5 (2) FFV:

**Statement of reasons:**

(Proof to be provided upon request)

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**The declarations and information provided above are hereby confirmed with the signature of:**

(First name, last name of natural person: text form)

Text form: In the case of an electronic tender in text form in accordance with Section 126b BGB, the person's first and last name or the company/business name must be stated for natural persons (e.g. sole traders or freelancers) and the full name for legal entities.

### (3) Subcontracts/reliance on the resources of other undertakings [Wirt-235, Nov 2020]

For the performance of the services contained in the tender, the following are specified:

- the partial services to be performed by subcontractors and the names of the intended subcontractors, to the extent that these names are known at the time the tender is submitted; and
- the companies or parts of companies (e.g. parent company, group subsidiary) whose capacities are to be used to fulfill the selection criteria.

The names, contact information (address, phone number, fax, email, contact person) – and for legal entities, the legal representative – must be provided before the award of the contract at the latest.

Description of the partial services/selection criterion	Description of the subcontractor/company or part of the company whose capacities are to be used to fulfill the selection criteria (reliance on the resources of other undertakings) (Declaration of obligation must be submitted if requested by the contracting party)

#### **(4) Declaration by the tenderer/applicant consortium** [Wirt-238, Sep 2018]

**We**, the company or tenderer/applicant consortium listed below agree to form a consortium if awarded the contract.

**We declare that the authorized representative shall represent the members in a legally-binding manner in relation to the contracting party and that all members shall be jointly and severally liable.**

##### **Authorized representative**

Member:

VAT ID:

(Place) (date) (signature in text form)

##### **Other members**

Member:

VAT ID:

(Place) (date) (signature in text form)

Member:

VAT ID:

(Place) (date) (signature in text form)

Member:

VAT ID:

(Place) (date) (signature in text form)

Member:

VAT ID:

(Place) (date) (signature in text form)

In the case of electronic submission via the procurement platform, each member submits this declaration in text form.