

Procurement Policy

This [Policy](#) and the [Model Agreement](#) published in the [Tender](#) are the contractual basis for negotiation between [TDF](#) and the Bidder. The main scope of the [Policy](#) is to find the best contracting partner by favoring as much as possible an unfettered competition and to permit an impartial objective evaluation based only on price and technical merit.

No [Bids](#) can be entered in a [Tender](#), including a [Simplified Procedure](#) without accepting all the rules for that particular [Tender](#).

Irrevocability of a Bid

A [Tender](#) is a retractable invitation to offer. Placing a [Bid](#) is a standing proposal to enter into a contract with [TDF](#) which is irrevocable for at least 120 days after the [Publication Of Awarded Contracts](#) or six months from the [Deadline](#), whichever is later. However, a [Bidder](#) may decline to enter into a [Contract](#) if, not earlier than 10 [Working Days](#) after a [Publication Of Awarded Contracts](#), they notify the [TDF](#) of their intention to withdraw the [Bid](#), provided however that no [Notification Of A Tender Having Been Awarded](#) identifying the same [Bidder](#) as the winning [Bidder](#) was received by the same [Bidder](#).

Such irrevocable proposal becomes an obligation to execute the [Model Agreement](#) as it results by combination of:

- The [Tender](#) documents;
- The [Bid](#);
- The [Model Agreement](#).

The Model Agreement **MUST** be adapted in case of a Tender for non-software development Tenders or for mixed Tenders. However the Model Agreement **MUST** apply in its entirety to all software development services included in a mixed Tender.

If the [Bidder](#) does not fulfil their obligation to execute the [Contract](#), it will be considered in breach of contract with the consequences in the [Failure to show up](#) section. Placing a [Bid](#) in a [Tender](#) amounts to entering a preliminary agreement, which is a binding agreement with regard the rules of [Tender](#), whether or not it is awarded to the [Bidder](#). The only obligation of [TDF](#) is to follow this Policy for the Tenders it publishes, until the [Contract](#) is executed.

Definitions

Affiliate

Means a person:

- acting as a representative of;
- [OR](#) is a legal representative of;
- [OR](#) is an employee of;
- [OR](#) is a current consultant to;
- [OR](#) is a former employee of [OR](#) former consultant (unless, in both cases, a sufficient amount of time has elapsed since the relevant relationship has ended) to

a relevant entity [OR](#) of an entity which is

- controlled by;
- [OR](#) controls;

- [OR](#) is under a common control with;
- [OR](#) shares substantial business interest, including by way of
 - long term economic relationship;
 - [OR](#) commercial partnership, distributorship or > similar;
 - [OR](#) business coordination agreements, including > consortia;
 - [OR](#) any kind of agreement that limit the competition > against each other – especially in the same fields as where > the TDF operates – with;
 - [OR](#) operates in a joint venture with

a relevant entity. For the sake of clarification, being a member of a general business association (such as a guild) [OR](#) of a Free Software association (such as the FSFE, OSI and OSI Affiliates, Open Forum Europe, OpenUK, OW2, Eclipse Foundation, FFII, SFC, KDE, The Linux Foundation) would not create an [Affiliation](#). "Sufficient time", for the sake of this definition, is 2 years [OR](#) by way of exception, a shorter period of time – but no less than one year – depending on the assessment of the [Tender Officer](#) of all circumstances, including the type of relationship and the ranking of an employee, if applicable, the nature and object of the [Tender](#) and upon application of the [Affiliate](#) [OR](#) of the [Bidder](#) before the [Deadline For Request For clarifications](#). An exception granted for one [Tender](#) shall not affect other [Tenders](#).

Affiliation

The state of being an [Affiliate](#).

ESC

Engineering Steering Committee.

Board

The Board of Directors of TDF

Technical Budgeting

The process by which TDF decides what modifications to the controlled codebase or other services or products should be contracted out and the basis for the upcoming tendering procedure, establishing priorities, general timelines and cost of such activities, for which a voice in the Budget is allocated.

Staff

Members of TDF's paid team, which consists of both employees [AND](#) freelancers/contractors.

Budget

The annual budget of the TDF.

COI

Conflict of Interest.

Conflicted Member

A candidate [OR](#) member of the [ESC](#) [OR](#) of the [Board](#) who:

- a. has entered a [Declaration Of Potential Conflict](#); [OR](#)
- b. is an [Affiliate](#) of a [Contracting Party](#); [OR](#)
- c. who has a current [COI](#).

Contracting Party

An entity which has successfully tendered in a bid **OR** has otherwise entered into a Contract with the TDF, for products or services for any length of time over the last calendar year **OR** during the current calendar year, considering the time of publication of the Bid, **AND** for an aggregate amount equal or larger than 25,000 euros during the same combined period.

Entities which:

- i) have expressly committed with a formal declaration that they and their **Affiliates** will not **Bid** in **TDF Tenders** for at least the following three calendar years **AND**
- ii) have completed all contracts that would otherwise make them **Contracting Party**;

shall not be considered a **Contracting Party**. Such declaration **MUST** be renewed on a yearly basis. If the declaration hereof is not renewed, the entity will be considered again a **Contracting Party** unless – absent the declaration – they would not be considered a **Contracting Party** under the first period of this Section.

Deadline

The current day when a **Tender** is closed and no further **Bid** can be accepted, as initially fixed or as further extended.

MUST

Means something that cannot be avoided and must be positively done, without a margin of discretion.

MUST NOT

Means something that cannot be done and must positively not be done, without a margin of discretion.

AND

Indicates two or more different but conjunctive requirements or options that **MUST** be present at the same time.

OR

Indicates two different non mutually exclusive requirements or options, unless they are explicitly declared mutually exclusive (such as “whichever is something”).

TDF

The Document Foundation

Tender

A formal procedure conducted under the present policy and aimed at awarding a contract to an external contractor.

Bidder

Anyone who submits a **Bid** for a **Tender** to become a contractor.

Bid

The formal request to participate in a **Tender**, including in a **Simplified Procedure** by submitting the required documents and declarations of the same.

Minimum Experience

The experience required for a potential **Bidder** to be adequately performing the services in the **Tender** as laid down in the **Experience** section.

Contract

The agreement between TDF and an external contractor as per this policy.

Contractor

A [Contracting Party](#).

Additional Conditions

By TDF

The conditions of the [Tender](#) are in principle fixed as soon as they are published. If due to errors or better appraisal by [TDF](#), or because of a [Par Condicio Extension](#), certain conditions need to be changed, an appropriate notice **MUST** be published and a new [Deadline](#) will be established for all potential [Bidders](#). A [Bidder](#) having already placed a [Bid](#) under the old conditions can retract their own [Bid](#) by confirming so with an unretractable declaration to [TDF](#). The already placed [BID](#) will be removed from the procedure and kept aside until the entire [Tender](#) procedure is over. The retracting [Bidder](#) **MUST** be able to place another [Bid](#).

By the Bidder

the [Bidder](#) **MUST NOT** add conditions or additional terms to the [Tender](#) as published, unless this is expressly provided for by the conditions of the [Tender](#) or insofar as improvements are allowed. The Bidder consents to receive all notifications at the physical and email address they have declared in a Bid OR in the [Request For Clarification](#). A notification is presumed to be received if and when it has been duly sent by [TDF](#) via email to the consented-to address. The burden to maintain a working email system lies with the Bidder.

Par condicio

No private clarifications to only a part of the potential bidders are permitted. If a potential [Bidder](#) asks for some clarifications ("Request for Clarification"), the clarifications **MUST** be published in the [Tender](#) online page in an anonymous way. All potential [Bidders](#) **MUST** receive the same information. Attempts to receive private information by any means (e.g. through third parties) is a **cause of exclusion** of the bidder from the [Tender](#). Should a potential [Bidder](#) become privy of something that in good faith they should consider privileged information from the perspective of a competitor in this tender, they **MUST** immediately inform [TDF](#), so that [Tender Officer](#) can decide whether to cancel the [Tender](#) or publicly inform the [Bidders](#).

Par Condicio Extension

Any time new information is released as per the [Par Condicio](#) paragraph, and this information is substantial to influence the price or other conditions of the [Tender](#), the [Tender Officer](#) **MUST** extend the deadline by a convenient amount of time and in any case no less than 6 [Working Days](#) **MUST** elapse from the release to the public of the information and the deadline.

Deadline For Request For clarifications

No clarification can be asked later than six [Working Days](#) prior the [Deadline](#), considering [Par Condicio Extensions](#).

Maximum Participation

In case of doubt **OR** in case the interpretation of this [Policy](#) and related document is not immediate in a particular case, they need to be interpreted with the meaning that allows maximum participation by potential [Bidders](#) ("*favor participationis*"). To this effect, the interpreter **MUST** apply, as much as possible, and in the part they are relevant and applicable, the principles enshrined in the rules for public tenders by the European Union **AND** the Federal Republic of Germany.

Persons in charge

Tender Officer

The Tender Officer is a [Staff](#) member who has been appointed to follow one procedure. In principle, the Tender Officer cannot be removed from their office until the [Tender](#) has been assigned. The choice of the [Tender Officer](#) is a matter that **MUST** be decided by the [Staff](#) and the [Board MUST NOT](#) interfere. Proper protection and shielding of the Tender Officer from any control or influence of the [Bidders](#), be it directly or indirectly or through the use of third parties, must be put in place. The Tender Officer must declare that they have no [Affiliation](#), nor are bound by any contractual relationship, with a Potential Bidder that restricts in any way their ability to perform their duty, including Non Disclosure Agreement with the same and **MUST** recuse themselves from the position with regard to all Tenders or to only Tenders to which one of the other parties is a Potential Bidder. In case of doubt, they should recuse themselves from all Tenders.

Technical Evaluation Panel

The Technical Evaluation Panel is formed by one or more individuals, who can be employees of [TDF](#) or third parties, but not members of the Board nor of the Membership Committee of [TDF](#) and neither the [Tender Officer](#). Also [Affiliates of Bidders MUST NOT](#) be members of the [Technical Evaluation Panel](#). Members of the ESC can be called to the [Technical Evaluation Panel](#), if they are not otherwise conflicted. The [Technical Evaluation Panel MUST](#) be approved by the [Tender Officer](#).

The same rules as to incompatibility and conflict of interest as in the Technical Budgeting Procedure apply.

Contract Officer

The [Contract Officer](#) is the member of [Staff](#) who is designated to be the point of contact for the [Contract](#). The [Tender Officer](#) assumes the position of – or at their discretion, appoints – the [Contract Officer](#). Proper protection and shielding of the [Contract Officer](#) from any control or influence of the [Bidders](#), be it directly or indirectly or through the use of third parties, must be put in place. The same incompatibility rules of the [Tender Officer](#) apply, referred to the Contractor.

General Principle

All [Persons In Charge MUST](#) be protected under the principle of protection of [Staff](#) and if employee or otherwise staffers of [TDF](#) cannot receive negative marks, demotions or disciplinary actions or asked damages unless for failure to abide by this [Policy](#) committed with gross negligence or by willful action. [Bidders](#) have no cause of action against the [Persons in Charge](#) unless for collusion with a [Bidder](#) or for acts of bid rigging.

Causes for Exclusion

Conflict of Interest

[Bidders in Conflict of Interest MUST](#) be excluded from the [Tender](#). A [Bidder](#) is in Conflict of Interest if, in addition to and without prejudice of to any other cause of Interest as per other instruments:

- a. an [Affiliate](#) of theirs has participated in any phase of the awarding procedure;
- b. an [Affiliate](#) of theirs has attempted to facilitate the awarding of a [Tender](#);
- c. the [Bidder](#) or any of their [Affiliates](#) have participated in a bid rigging scheme for any [Tender](#) of the [TDF](#);
- d. as per the operation of the [Technical Budgeting Procedure](#);

Pending Litigation

The fact that a Bidder maintains or threatens an open litigation with TDF in any fora, including arbitration, court proceedings in Germany or abroad, ADR procedures that can lead to an enforceable award for or against TDF, or that the Bidder has unilaterally declared an offset of credits which has been contested by TDF, may be a cause of exclusion if the Tender Officer finds that the existence of the litigation can lead to a conflictual position during the performance of the Contract. A Challenge MUST NOT be a cause of exclusion.

Termination Clauses in the Agreement

Bidders which are in one situation that would cause the termination of the Model Agreement MUST be excluded by the Tender Officer if in their prudent appreciation the situation is not capable of curation before the awarding of the Tender and such curation shall be possible if and only if the Bidder has notified TDF of the existence of said situation.

Failure to declare

The Tender MUST request each Bidder to declare the existence OR absence of relevant statuses. In case the Bidder is reticent OR willingly unclear OR makes false statements, they MUST be excluded from the Tender and will become automatically disqualified from any other pending (i.e. with a Contract not yet executed) Tender, without prejudice for contractual remedies, if any.

Other Causes

A Bidder is excluded if they are otherwise disqualified according to this Policy.

Technical Budgeting Procedure

Technical Input

Open to everyone

All interested parties, including Conflicted Members can contribute by entering proposals in the list of potential activities, currently at <https://wiki.documentfoundation.org/Development/Budget2025>. In order to do so, the interested party should describe the requested item in sufficient detail. That means, a person skilled in the art should be able to understand what needs to be done, and how the end result should look like. A good description for a large project will usually be around one page of text, or it will reference bugzilla issues with a similar level of detail. This includes a rough estimate of the effort in person/time. The cost estimate does not necessarily have to be added by the proponent, who is invited to provide their own. Anyone with relevant technical skills can make a cost estimate, lest good proposals are excluded due to the lack of an upfront estimate. A sufficiently described proposal, is considered to be "admitted to the evaluation". Insufficiently described proposals, however, will not be taken into consideration. Putting forward a proposal is not considered creating a COI.

Effort Estimate

The effort estimate in the proposal is not binding and the ESC MUST re-evaluate it by delegating it to one OR more of its non-Conflicted Members. The act of estimating the effort implies a COI with regard the estimated proposal, reflecting on the Affiliate entities to the effect of Exclusion From Tendering section. In case the ESC decides it does not have the necessary expertise to evaluate the effort OR in case all its members having the sufficient expertise decline to undertake the job, the ESC can contract out the estimate to an external non-Affiliated expert. The external expert will have a COI with regard to the estimated proposal. For this task, a sufficient budget should be provisioned to the ESC so that the ESC can request its use upon its discretion. For the intervening time since a new Budget is established, a budget of 10,000 euro is allocated, to be revised by the Staff in the upcoming Budget.

For the sake of clarity, everyone in the ESC can provide their input to establishing the effort required by a proposal, but only contributing in making an authoritative determination will create a COI.

Publicity Of The Works

The list of evaluated proposals **MUST** be made public on a rolling basis. To this effect, all taken decisions **MUST** be reported directly in a publicly shared document as the decision is taken or amended. Writing access will be granted only to some or all the members of the **ESC**, while the public will have read-only access to it. The public version and the internal version of the document **MUST** be the same and contain the same information. The existence, scope and URL **MUST** be made publicly known by a prominent blog post and by creating an entry in the [Transparency Section Of The TDF Website](#).

In principle, all the information shared in the works of the **ESC** **MUST** be made public.

Technical Clarification

Any members of **ESC** can add technical notes to the proposal in order to clarify its importance and add information that they deem relevant for an informed decision by the Board. In principle, experts in the field are invited to do so. Adding Technical Clarification does not automatically create a **COI**, per se.

Timeline

Ordinary Procedure

The **ESC** should have sufficient time to take an informed and meditated decision. Therefore only proposals being entered as of a cut-off date will be considered, provided that they meet the minimum requirements.

The cut off date is made publicly available at least with 2 months advanced notice and will be decided by the **ESC**. The **Staff** will publish in due course a detailed schedule for the Voting Procedure (see below), leaving enough time between each step, such that meaningful review and if needed corrective action can be undertaken. Specifically: • there must be at least three weeks from cut-off date to publication of candidate entries, to permit the **ESC** (possibly supported by contracted experts) to re-evaluate the effort estimates • there must be at least five weeks from cut-off date to select committee meeting, which must be provided with an invitation, referencing an editable ranking spreadsheet, containing or referencing all relevant information for evaluating entries, no later than two weeks in advance • there must be at least one full working day between **ESC** select committee and **ESC** ranking meeting ### Urgency Procedure

In case an important proposal reaches the list of potential activities when the cut-off date has expired, by proposal of any non-**Conflicted Members** of the **ESC** the **ESC** can vote to accept the new proposal on the grounds of its urgency, by consensus **OR** by the proposal reaching the majority of votes. The Urgency Procedure is to be seen as an exceptional procedure in extraordinary cases only, for example, a highly dangerous vulnerability discovered only close to or after the deadline, a feature required for the imminent release of a new version of a supported operating system, or an urgent legislative act that would jeopardize the viability of LibreOffice in a substantial part of the market.

The urgency procedure overrides the timeline requirements

Voting Procedure In The ESC

Application

This Voting Procedure applies in its entirety to all votes however called and on whichever matter however related to the tender budgeting procedure is to be decided by the **ESC** or subdivisions thereof, unless an express full or partial exception is provided for a particular case **AND** that case only by this section.

Declaration Of Potential Conflict

In order to avoid **COI** for those participating in **ESC** voting as for this section, a voting member or a member applying to participate in the select committee as provided by the **Ranking** section **MUST** declare whether they are **Affiliated** to an entity which intends to place bids on the tenders resulting from the Technical Budgeting **OR**, on their honour, whether they are aware of any such potential situation could reasonably materialize between the date of the vote and the date of tendering.

Exclusion From Tendering

Voting on a matter **OR** making a determination while being in a **COI** situation on the subject matter, **OR** not declaring a potential **COI** as per the **Declaration Of Potential Conflict** Section is per se both a source of **COI** and

ground for exclusion from the tendering procedure for the Member's [Affiliate](#) that places a bid in a tender resulting from the [Technical Budgeting](#).

Admission To vote

Only non-[Conflicted Members](#) can vote in the [ESC](#) on whichever matter however related to this tender budgeting procedure.

Ranking

The [ESC MUST](#) rank all proposals that are admitted to the evaluation. The ranking is in principle decided by consensus of the non-[Conflicted Members](#) of [ESC](#), upon a proposal of a select committee within which non-[Conflicted Members](#) shall be the majority of members, after due discussion, if a consensus is likely to be formed. In case a consensus is not reached [OR](#) there is a disagreement on all [OR](#) a part of the proposal [OR](#) a proposal is not made because unfeasible, the [ESC](#) shall vote the ranking through a majority judgment voting ([Jugement Majoritaire](#)). If the consensus cannot be reached only on part of the proposals, the voting can be limited to that part, if possible.

Staff Protection

In the absence of a general anti-bribery policy, a whistleblowing mechanism [MUST](#) be put in place no later than 90 days from the approval of these guidelines. The whistleblowing [MUST](#) protect the identity of the whistleblower and permit the whistleblower to select the recipient of the complaint – depending on which entity or person is the object of the whistleblowing – including an independent Ombudsman, if appointed.

Budget

Allocation Of Resources

The Budget of the TDF [MUST](#) prepared by the [Staff](#) in consideration of the present and foreseeable income and liquid assets of the TDF. The formation of the Budget is not otherwise a subject matter of this document, except for the part that concerns the Technical Budgeting, which [MUST](#) be made before any decisions that impact on which proposals or projects should be undertaken in the tendering process. Voting the allocation of the Budget assigned to the Technical Budgeting is not *per se* a cause of [COI](#).

Ranking By The Board

Although it is expected that the [Board](#) will follow the [ESC ranking](#), [ranking](#) is not finally binding for the [Board](#), and the [Board](#) may decide to alter it. The [Board](#) can decide to alter the precedence and priorities by giving one project a higher priority than others, [OR](#) by assigning a higher priority [OR](#) weigh to a category of projects, based on the [Board's](#) sole discretion. However, a [Board](#) Member voting on such a matter will create a [COI](#) and will reflect on the firms to which they are [Affiliate](#). Such [Affiliate](#) firm, by operation of this vote, [MUST NOT](#) participate in the tenders affected by this decision because promoted [OR](#) demoted by virtue of the vote. An [Affiliate](#) to a [Contracting Party](#) [MUST NOT](#) vote on the [Ranking By The Board](#).

Publicity Of The Ranking

The [Ranking By The Board](#) [MUST](#) be made public with at least the same level of publicity as the [Publicity Of The Works](#) without undue delay.

Ranking By The Community

A part of the [Budget](#) is allocated by the [Board](#) to allow members of the community to choose projects that they prefer, either from the last publicly available ranking by the [ESC](#), or from issues in the LibreOffice bug tracker.

Details for this ranking will be published in a separate procedure or a next update of this [Technical Budgeting Procedure](#). The same rules on [COI](#), including but not limited to, [Declaration Of Potential Conflict](#), will apply to the [Ranking by The Community](#) budget and all votes [MUST](#) be nominal. The [Ranking By The Community](#) [MUST](#) be adopted by the [Board](#), which may overrule it according to the [Ranking By The Board](#) rules.

Decision On Which Projects Will Be Put On Tender

Contracts only within the Budget

The **Staff** will decide which proposals will be tendered first and at which pace, based on the [Ranking By The Board](#) and the Budget allocated to the projects contracted to third parties, keeping into consideration any urgency attached to a proposal by the **ESC**. The **Staff MUST NOT** put to tender proposals which exceed the [Technical Budgeting](#) amount. Therefore, the **Staff MUST** add to the list of the [Ranking By The Board](#) the mention of which of the proposals will be tendered during the current iteration and tentatively the months during which the tender will be published. If more than one proposals is ranked equally and the Technical Budgeting is not sufficiently resourced to pay for all of them, the **Staff** will decide which goes first and which is put in the backlog.

Amendment Of The List Of Tenders

If the **Staff** assesses that, thanks to rebates in the awards, the Technical Budgeting allows more proposals to be tendered, they can append more proposals to the [Ranking By The Board](#), from the backlog or the remaining top ranked proposals.

Transparency Section Of The TDF Website

Creation a Transparency Section

A [Transparency Section Of The TDF Website](#) **MUST** be created before the first contract is put on tender. In such section the following items **MUST** be entered in a sufficiently clear, ordered and searchable list.

- The Notice of cut-off date, if any;
- A link to and description of the current list of proposals;
- A link to and description of the document bearing the evaluated proposals as in the [Publicity Of The Works](#) Section;
- A link to and description of the [Ranking By The Board](#);
- The tendering procedures, past, current and future, provided that for the first six months, only the list of future tendering procedures **MUST** be included;
- A list of notices of awarded procedures, with the names and full details of the winning bidder(s), the allocated amount, a link to the tender, the entered into contract.
- Any known **OR** declared Affiliations

As of no later than six months after the first [Ranking By The Board](#) has occurred, this section **MUST** easily permit to have a summary of all tenders awarded to a given entity, including when they have been co-bidders with others, with the total value awarded, in euros, and the possibility to access the full information of each of the tenders.

Database Rights On The Transparency Section

The TDF does not claim any database sui generis right nor any copyright on the data and information published on the section.

Tendering Procedure

Information in the Tender

The **Tender** **MUST** be entirely prepared **OR** at least approved by the [Tender Officer](#) based on the approved items in the [Technical Budgeting](#), and published in the TDF website with adequate visibility, containing at least:

- a. A complete description of the content of the [Contract](#) as approved in the [Technical Budgeting](#) procedure;
- b. the starting price at which the product or services are put to Tender and that can be discounted in the Bid, as ("Base Price")(s) as well as the maximum discount on the Base Price, which in any case **MUST NOT** be higher than 33%;
- c. the full instructions as to how to submit the [Bid](#);

- d. the full conditions to participate in the [Bid](#), including qualification and [Minimum Experience](#)
- e. the [Deadline](#)
- f. the [Awarding Criteria](#), including the weights assigned to price and technical quality and the weights of each sub-criterion;
- g. a timeline of other procedural terms;
- h. the advice that against errors and infringements of this Policy, including for unfair behaviour of [Tender Officers](#) or [Contract Officers](#), there is a possibility to bring a [Challenge](#);
- i. the [Model Agreement](#);
- j. whether the [Tender](#) is divided in several parts and how many parts a single [Bidder](#) can win, [AND](#), if a part is below the [Threshold](#), whether a [Bidder](#) can apply for receiving assignment via a [Simplified Procedure](#);
- k. areas where improvements can be offered at no additional costs and weighed in for the technical merit in the [Awarding Criteria](#)
- l. other procedural rules as deemed fit, but not to provide unnecessary obstacle to a wider participation.

Notification

All [Tenders](#) **MUST** be notified, in full or by excerpt at the option of the [Tender Officer](#), to all potential [Bidders](#) that have expressed an interest to bid in [TDF's Tenders](#), including by submitting a [Request For Clarification](#). A list of potential [Bidders](#) having expressed an interest and the instructions to be added [OR](#) for the data to be updated are published in the [Transparency Section](#) of the [TDF](#) website. The [Tender Officer](#) **MUST** make reasonable efforts to reach out to potential [Bidders](#) who have never been selected (including unsuccessful prior [Bidders](#) from previous [Tenders](#)) based on an informal process and ask their permission to forward the information as per the [Information in the Tender](#) section.

Secrecy

The content of [Bids](#) and the very fact that a [Bid](#) has been placed by someone is strictly a secret until this information is released to the public according to this Policy. This secrecy is established to protect the integrity of the process and **MUST** not be breached by any party, including the [Bidder](#) themselves. The economic conditions (prices and other price sensitive information) **MUST** be kept secret and sealed until the technical assessment has been made. Sharing information amongst potential [Bidders](#) is considered an act of bid rigging.

Any person who or entity which breaches this provision shall be liable to pay damages and, if a member of [Staff](#) of [TDF](#), is liable to disciplinary action or contractual action depending on their status. If the breach of secrecy is committed by a [Bidder](#) they shall be liable to pay pre-liquidated damages in the sum of EUR 10,000, or the greater sum which shall be awarded by the [Arbitration](#) panel, and without prejudice to the awarding of costs. The [Arbitration](#) panel – or the [Contracting Officer] on advice of counsel – can reduce the amount of pre-liquidated damages when, all circumstances taken into consideration, including the potential or actual damage and the value of the [Bid](#), the pre-liquidated damages appear to be manifestly excessive.

Bidding Platform

[TDF](#) can at its discretion select and adopt a bidding platform for placing bids in a manner which is conformant to this Policy. In particular, the [Bidding Platform](#) **MUST** ensure [Secrecy](#) of the offer until the date of opening of the offers, including subparts of the offer. It **MUST** trace all the [Bids](#) made and provide the [Bidder](#) with a receipt containing at least the hashed value of the received [Bid](#) **AND** a trusted timestamp to make sure the [Bid](#) has not been altered and has been timely filed. The [Bidding Platform](#) **MUST NOT** require dedicated hardware or proprietary software or require additional qualification steps than those required by the eIDAS Regulation or successor Regulation or equivalent legislation at national and European level. The [Bidding Platform](#) **MUST** also record in an unmodifiable way all actions performed on any [Tender](#) **AND** [Bids](#) thereof. A [Bidding Platform](#) can also only partially implement certain parts of the procedure.

Submissions

All **Bids** **MUST** be supplied on or before the **Deadline**. No extension can be given. There **MUST** be safeguards that the **Bid** cannot be changed, altered, replaced after its submission. In case of paper-based procedure, the envelope **MUST** be sealed and counter sealed at the date of reception. It **MUST** be kept safe and unsealed until the appropriate date, when it is opened before at least two witnesses from the **Staff** or by a trusted third party, including a Notary Public in Germany. In case of an electronic submission, the name of the files containing the entire economic part and the entire technical part of the offer (if provided) **MUST** be also submitted along with the actual **Bid**. A list of the hashes of the received bids **MUST** be published in the **Transparency Section** of the **TDF** website before the opening of the offers occurs, as soon as practical after the **Deadline** has expired.

Parts Of The Bid

The **Bid** **MUST** contain at least three different parts:

- a. identification of the **Bidder** **AND** all the required information, declarations statements required by the procedure, including a single point of contact by email and physical address where the Bidder expressly consents to receive all notifications for the Tender and associated procedures;
- b. technical offer, with all the details of the proposed solution, including improvements, description of the Team, if any, technical details required to evaluate the technical merit of the **Bid** and in general any characteristic of the offer not containing economic values or figures;
- c. the economic offer, with all the prices OR formulas to calculate the final price. The economic offer **MUST** be sealed and counter sealed at the time **Bid** is opened; in case of an electronic submission safeguards for keeping it unsealed until the technical merit has been decided **MUST** be in place.

Application for confidentiality

As the **Tender** **MUST** require that the **Bidder** provides also certain information to prove their technical, economic qualification, or other information that could be confidential in nature, the **Bidder** has the option, but not the obligation, to provide a redacted version of their documents. The **Tender Officer** **MUST** review the extent of the redaction and request that certain unnecessary redactions be removed. In any case, the redactions **MUST** be kept at a minimum and **MUST** permit to know the nature of the redacted information and as a preference, only names, numbers and other similar elements can be redacted. Redactions **MUST** not be applied to the actual **Technical Offer** that constitutes or integrates the **Contract** or obligations thereof.

Admission

General Requirements

The **Bidder** **MUST** be an entity in good standing and legally permitted to perform the required activities. No pre-qualification can be required to place a **Bid**. A **Bidder** can be any form of legal entity or a natural person, including but not limited to a company, a consortium, a non profit, an entity of the public sector if permitted to place bids, or a non incorporated temporary aggregation of any of the above (e.g., a group of individuals or companies who agree to cooperate through a binding agreement for the special purpose of participating in a tender). All the natural or legal persons belonging to a **Bidder** **MUST** satisfy the personal requirements **AND** not being disqualified or being **Affiliate** of a disqualified or excluded entity, included but not limited to the provision of the **Causes For Exclusion** section.

Experience

In order to be awarded a **Tender**, a **Bidder** **MUST** show to have sufficient experience to undertake all the activities of the part of the **Tender** the **Bidder** bids for. Aggregation of **Bidders** can cumulate their experience. The **Tender** **MUST** indicate what kind of requirements are asked and how to demonstrate them. The requirements **MUST** not be so strict to substantially restrict the number of potential **Bidders** beyond what is necessary to ensure proper qualification. In particular, it is forbidden to require specific experience with **TDF** own projects and software or having a particular involvement in development discussions around the subject of the **Tender**. A **Bidder** can avail themselves of experience of third parties as long as they can show that the requirement is irrevocably made at their disposal by such third party through a binding agreement or a similar legal instrument.

The **Causes for exclusion** would in that case be considered upon both the availing **Bidder AND** the entity providing the availment. Prior experience **MUST NOT** be included as a weighed parameter for evaluating technical merit of the **Bid**.

Awarding Procedure

Curation of deficiencies

The **Tender Officer** reviews the formalities of the submission and only admits to the evaluation phase **Bids** which comply with the formal requirements and whose **Bidder** is not be excluded from the **Tender** owing to an incompatibility or other shortcomings. In case a **Bid** has formal deficiencies that can be remedied, the **Tender Officer** invites the **Bidder** to remedy the deficiency within a strict extended **Deadline**, so that the process is not delayed. In such a case, the deficient **Bid MUST** be preserved and not opened until the **Deadline** is met. Further extensions **MUST** not be provided and the **Bidder** can only contact the **Tender Officer** to require clarification before the extended **Deadline** expires. The curation of deficiencies **MUST NOT** alter the content of the **Bid** in any way **AND MUST NOT** curate deceitful **OR** willingly reticent declarations **OR** statements.

Awarding Criteria

TDF awards **Tenders** using the following criteria:

- Better overall offer, with weights attributed to price and technical merit;
- Lowest price, on the condition that adequate guarantees of quality are provided.

Such criteria and a specification of the weights attributed to technical merit, if the better overall offer procedure is followed. The votes for technical merit **MUST** all be attributed before opening the economic offer. Only **Bids** that present a sufficient quality **MUST** be ranked in all cases. **Bids** which have an insufficient vote in one of the main areas of evaluation as per the **Tender MUST** be excluded and **MUST NOT** be ranked, unless, under the prudent evaluation of the **Tender Officer**, an excellent ranking in all other areas outweighs a non grave insufficiency.

Fostering A Diverse Ecosystem

A non-**Affiliated** Bidder can be considered a new Bidder ("New Bidder) if they are not a Contracting Party AND they are not otherwise disqualified from bidding. The condition of being a new Bidder for the purpose of this Section must be evaluated at the time when a Bid has been placed by the Bidder in the relevant Tender. Fostering a diverse ecosystem of non-**Affiliated** new Bidders **MUST** be considered a weight to be attributed to technical merit and **MUST** be considered a "Discount-Equivalent" to be applied to all offered prices in a Tender. Example: grant 10% Discount-Equivalent discount: one bidder offers 100, a non-**Affiliated** new bidder offers 105, this second bid is calculated as if it was 94.5. This principle is applicable to all procedures.

If the Tender does not indicate the weight for a diverse ecosystem, this parameter it **MUST** weigh 5% of the total score for technical merit. The weight **MUST NOT** be lower than 2.5% of the total score for technical merit.

If a tender for the lowest price does not indicate the Discount-Equivalent, it will be considered 10%. The Discount-Equivalent **MUST NOT** be lower than 5%.

Notification Of A Tender Having Been Awarded

All **Bidders** are notified of the result of the Tender prior the **Publication Of Awarded Contracts**. The **Tender Officer** sets a deadline not earlier than 8 Working Days from the notification to the winning **Bidder** to make all deposits, provide all certifications, information **AND** other details that, as per the **Tender**, **MUST** be provided after the **Tender** has been awarded. The deadline in the present Section can be extended by further 8 Working Days in case of reasonable request **OR** to correct a formal deficiency of the documentation.

Deserted Tender

If no **Tender** is awarded because no valid **Bids** are placed or because the awarded **Bidder** withdraws and no other **Bidders** can be awarded, the **Tender Officer** declares the **Tender** deserted and a new **Tender** can be prepared for the same object, part of it or under different conditions as an informal appraisal of the reasons for the Deserted Tender would suggest.

Publication Of Awarded Contracts

All awarded [Tenders](#) **MUST** be published in the [Transparency Section](#) of the TDF website with at least the reference of the relevant Tender name of the winning [Bidder](#), the ranking of the first 5 best ranked offers (or of the fewer which have been ranked) and the votes each have obtained. The [Technical Offer](#) is available on inspection by all [Bidders](#) having participated in the Tender, in a redacted form. Inspected material is under confidentiality conditions and the relevant information can only be used for the purposes of the [Tender](#) including any challenging of the awarding of the [Tender](#).

Contract Execution And Performance

Closing

The winning [Bidder](#) **MUST** execute the [Contract](#) as per the [Bid](#), including the technical offer. No negotiation **OR** modification can occur. [TDF](#) and winning [Bidder](#) may only correct evident errors, resolve internal inconsistencies of the [Model Agreement](#) and fill the actual [Contract](#) with the information deriving from the conditions of the [Tender](#) and what has been offered. Execution **MUST** occur not earlier than 10 **AND** no later than 60 days from the [Publication Of Awarded Contracts](#).

Failure To Show Up, Reassignment And Consequences

If the winning [Bidder](#) does not comply with the deadline in the Notification Of A Tender Having Been Awarded Section **OR** to render themselves available to execute the [Contract](#) without a legitimate reason, then the [Tender Officer](#) declares the [Bidder](#) excluded and notify the next best ranked [Bidder](#) that they are the new winning [Bidder](#) with the same obligations as the original winning [Bidder](#), at the conditions the new winning [Bidder](#) has offered. A note of the exclusion of the former winning [Bidder](#) is published on the [Transparency Section](#) of the TDF website **AND** it is a cause of exclusion from current or future [Tenders](#) for a period of 2 years, unless the [Bidder](#) agrees to pay a 10% of the offered global price as a no-show penalty, but this can occur no more than once in a period of two years. The no-show penalty will curate the breach of contract of not executing the [Contract](#).

Simplified Procedure

Threshold

Tenders for a sum lower than 15,000 euro **OR** [Deserted Tenders](#) for a sum lower of 30,000 euro can be awarded with a Simplified Procedure as further down in this Section, at the sole discretion of the [Tender Officer](#) ("Simplified Award"). The rules as per the [Closing](#) Section apply as much as possible, but the closing **MUST NOT** be performed until the end of the deadline to make a competitive [Bid](#). In case of a [Deserted Tender](#), its content **MUST NOT** be changed, barring from the required procedural changes, for a [Simplified Procedure](#) to be admissible. However, in case of [Deserted Tenders](#), if there is any indication that the Tender could have been successful if divided in smaller contracts, the [Tender Officer](#) may, at their sole discretion, divide the Tender in two or more new Tenders so that they fall below the threshold for a Simplified Procedure, as in the Artificial Division Of Tenders section.

Award By Invitation To Offer

The [Tender](#) can be awarded after having invited at least three potential contractors, without prior publication of an official [Tender](#). The same conditions as per the [Extension of Contracts](#) apply. This procedure can be reserved to New Bidders, in which case the Threshold is increased by 10%.

Award By Publication Of A Notice

The [Tender](#) can be awarded after having published an invitation to participate in an informal beauty contest in the [Transparency Section](#) of the website, on the main communication channels of [TDF](#) and by notifying all prior [Contractors](#) who are not otherwise disqualified, including for Failure To Show Up. The notice **MUST** contain the price, the description of the work, the required [Minimum Experience](#) and all necessary information to make a preliminary assessment of the interest in negotiating.

Extension Of Contracts

The [Tender](#) can be awarded to [Contractors](#) with an active contract, under the condition that:

- a. they have not been awarded more than 25% of the budget actually spent OR contracted for tendering for each given calendar year during the last three years; **AND**
- b. they have not been awarded another [Tender](#) with the same procedure, unless the [Tender](#) to be awarded results from a failed attempt to use a different procedure, including a [Deserted Tender](#); **AND**
- c. they have not received an official notification of breach of contract and are not late in delivering a milestone without justification or they have not been disqualified for [Failure To Show Up](#) OR are otherwise excluded as per the [Causes for Exclusion](#) section; **AND**
- d. have not raised any claim against [TDF](#) OR any of its officers, including but not limited to the [Tender Officer](#), OR have announced that they will commence proceedings against the same;

Preference is accorded to [Contractors](#) whose an active contract is in place for a part that interacts with or is similar to the activities of the [Tender](#).

Transparency

Any such [Simplified Procedure](#) **MUST** be published in the [Transparency Section](#) of website, indicating at least all of the following details:

- a. the reason for using a simplified procedure;
- b. the potential contractors which have been invited;
- c. the main points of the award, including the offered price;
- d. except in the case the chosen procedure is [Award By Publication Of A Notice](#) an invitation for potential [Bidders](#) to make a [Competitive Bid](#).

Competitive Bid

Except in the event the [Simplified Award](#) is awarded to a [New Bidder](#), anyone who can be admitted to [Bid](#) can apply to be admitted to present a [Competitive Bid](#) within 10 [Working Days](#) from the date of publication of the [Simplified Award](#); therefore, no [Contract](#) can be executed before the expiration of this term ("Standstill Period"). A contract executed before **MUST** be treated as null and void.

Access to documents

If one **OR** more applications to make a [Competitive Bid](#) is presented, the [Bidder](#) can inspect the full file of the awarding, including the economic conditions offered **AND** the [Standstill Period](#) **MUST** be extended by additional 10 [Working Days](#) after the file has been made available for inspection ("Extension For Inspection").

Placing The Competitive Bid and Awarding The Contract

Before the expiration of the [Extension For Inspection](#) period, a [Bidder](#) must place its [Competitive Bid](#) in conformance with this [Policy](#). If a [Competitive Bid](#) is placed, the [Standstill Period](#) **MUST** be extended by 10 additional [Working Days](#). A [Competitive Bid](#) **MUST** offer at least 5% discount over the [Simplified Award](#), but no more than 10%, and equal or more advantageous conditions as the [Simplified Award](#).

- if there are more than one [Competitive Bids](#), then the [Contract](#) is tentatively awarded to the [Bidder](#) offering the highest discount OR the overall more advantageous overall conditions;
- if at least one of the [Competitive Bids](#) has offered a 10% discount, the [Competitive Bid](#) is accepted and the [Contract](#) is awarded. In case more than one [Competitive Bid](#) has been made offering 10% discount, the [Contract](#) is tentatively awarded to the one offering the overall more advantageous conditions and in case no difference can be found, to first [Bid](#) reaching [TDF](#); no further outbids are permitted;

- in case there is a tentative awarding, the Bidder of the [Simplified Award](#) becomes a potential Bidder AND can outbid the previous [Competitive Bid](#) by offering a further 5% discount compared to the tentatively awarded [Competitive Bid](#) OR – if applying said 5% discount would reach or exceed 10% discount from the [Simplified Award](#) – 10% of the [Simplified Award](#) (“Outbid”); the Outbid must be filed no more than 5 [Working Days](#) from the notification of the tentative award; if the Outbid satisfies the above conditions, no further outbids are permitted and the Tender is awarded at the outbidding conditions; The Outbid can contain the same conditions as the [Simplified Award](#) OR the ones offered in the [Competitive Bid](#) and the option **MUST** be taken in the Outbid: if no option is taken the conditions are those of the [Simplified Award](#).

The [Discount-Equivalent](#) as in the [Fostering A Diverse Ecosystem](#) section **MUST** be considered in this [Competitive Bid](#) procedure. However, the conditions for being considered a New Bidder must be evaluated at the time the first [Competitive Bid](#) has been placed.

Artificial Division Of Tenders

It is forbidden to artificially divide or splinter a working package within the Budget with the sole aim of circumventing the formal requirements of these procedures or the sole purpose of making them not to exceed the [Threshold](#) and therefore to permit a [Simplified Procedure](#). However, the [Tender Officer](#) may, at their option, separate sufficiently coherent parts of a working package to be contacted to select another contractor, with the aim of expanding the number and quality of potential contractors unaffiliated to [Contractors](#) or to permit that a [Deserted Tender](#) is awarded through a simplified procedure, in which case the same conditions as in the [Extension Of Contracts](#) apply.

Other Applicable Rules

The following rules apply to Simplified Procedures, with the necessary adaptations:

- [Failure To Show Up](#)
- [Fostering A Diverse Ecosystem](#)
- [Closing](#) (as much as possible, local rules prevail)
- [Bidding Platform](#)
- [Submissions](#)
- [Causes For Exclusion](#)
- [Publication Of Awarded Contracts](#) (only the notice and name of the winning bidder)
- [Parts Of The Bid](#)

Complaints

Challenge

Only a [Bidder](#) showing to be satisfying the criteria for [Admission](#) AND having placed a non pro-forma [Bid](#), AND which can show a *prima facie* case that they could be a winning [Bidder](#) OR have substantial chances to be selected as a winning [Bidder](#) can pursue this procedure. These procedural conditions **MUST** be ascertained based on the documents before the panel is formed. A [Challenge](#) can only be brought for:

- a. clear violation of this [Policy](#);
- b. manifest error of judgement;
- c. erroneous failure to exclude a [Bidder](#) falling under the [Causes for Exclusion](#);
- d. manifest error in applying one or more [Causes for Exclusion](#); a Challenge based on this point cannot proceed if another point can be applied and is applied by the [Tender Officer](#) upon notice of the [Challenge](#),

provided that the challenging Bidder is allowed to amend the Challenge within 5 Working Days from the notification by the Tender Officer of the new Causes for Exclusion

- e. error in applying Criteria for Admission by excluding an otherwise admissible Bidder, provided that this can be a preliminary step to make the Challenge Admissible (for the sake of clarity, the readmitted Bidder must still show a *prima facie* case to be able to win the Tender);
- f. error in applying Criteria for Admission by accepting an inadmissible Bidder who has won the Tender, OR whose exclusion would otherwise create a *prima facie* case for the Bidder bringing the Challenge.

No Cost For TDF And Self Protection

In any Challenge procedure, except in the case described in the Successful Challenge section for failure to comply, TDF is a third party and no costs, penalties or other expenses MUST be charged onto it. The entire cost of such procedure, including the fees for the arbitrator MUST be paid upfront by the challenging Bidder. The arbitrator(s) can decide to award all the costs to the successful challenger OR to otherwise split costs at its discretion depending on the particulars of the case. TDF can also decide to cancel the tender completely or, based on a legal opinion agreeing with the Challenge, accept the Challenge, in which case the Arbitration will be cancelled, but the original winning Bidder can bring a counter-Challenge.

Arbitration Clause

All Bidders as a condition to place a Bid must adhere to the following arbitration clause and accept the award as final and binding. The arbitrator(s) have the power to issue preliminary measures including a temporary order to award the Tender to the plaintiff and TDF will be bound by any such determination, order or award, relieving TDF of any liability. <!-- FIXME: add clause -->

Successful Challenge

Following the the decision by the panel in a Successful Challenge, the Tender Officer MUST adopt all steps necessary to abide by such decision within a reasonable timeframe. Failure or delay to do so may be challenged by a supplementary demand to the same panel, if permitted by the rules and if the panel is in a position to decide, OR by bringing a separate Challenge if the same panel cannot be asked. The costs for doing so can be awarded by the panel to the TDF if the panel finds for the applicant.

Miscellanea

Dates And Times

Dates and times are expressed in ISO 8601 formats. Therefore, midnight of 31 December 2024 is 2024-12-31 24:00. New Year starts on 2025-01-01 00:00.

Working Day

Is any of the Working Days at TDF's place of establishment, Monday to Friday, National and City festivities excluded.

Timezones

All times are expressed as CET (UTC+1) and – during daylight time saving periods – CEST (UTC+2) timezones as legally applicable in Germany. In case the official legal timezones are changed in Germany, the Timezones will also be changed accordingly.

Terms

Terms in days are calculated without the initial date counted in. If a Term expires on a non Working Day, the Term is extended or shortened according to the following rule:

- if the Term is expressed in a number of days starting from an initial date, the Term is extended until the first available Working Day;

- if the Term is expressed in a number of days from an end date, the Term is anticipated to the first available [Working Day](#);

unless it is otherwise provided in the relevant document.

If no time of the day is fixed, the [Term](#) expires at midnight (24:00) of the relevant day.

Model Agreement

<!-- FIXME: just an hyperlink to the official version and criteria for updating it -->