

Foundation Future of the Carbon Market Procurement Guidelines

1. General Remarks

These Procurement Guidelines for the Foundation Future of the Carbon Market (hereinafter referred to as “Foundation”) and its implementing partners, shall assure that services, goods and works will be assigned in a transparent, fair, efficient and competitive way. These rules shall assure that the Foundation uses its donations and other funds in the most efficient way and that contracts financed by these funds are awarded in a fair, transparent and reasonably documented procedure.

1.1. Validity

These Procurement Guidelines are valid for the procurement of services, goods or works if they are financed fully or partly from donations for the Foundation or the yield of the Foundation’s endowment.

1.2. Harmonization

The Foundation supports the harmonization of different rules and regulations. Thus the Foundation can allow the implementing partner the utilisation of its own procurement guidelines if those are similar to the Foundation Procurement Guidelines and contain its key points. The Foundation will check the implementing partner’s procurement guidelines and give its consent for usage before the first tendering.

In case an implementing partner of the Foundation applies alternative procurement rules which differ from the guidelines set forth in this document, it shall be ensured that such rules provide for at least the same level of fairness, transparency, competition and documentation as these procurement guidelines. The implementing partner shall make its procurement rules publicly available.

1.3. The Foundation’s Role

When the implementing partners will procure services, goods and works the implementing partners are obliged to secure the Foundation’s no-objection on tender documents, evaluation reports, proposals for the award of contract and the contracts itself. The implementing partners must send the above mentioned documents to the Foundation and thus assure its no-objection. Without the Foundation’s no-objection awarded services, goods and services will not be financed by the Financial Contribution.

1.4. Fairness and Transparency

All bidders which take part in a procurement for services, goods or works financed fully or partly by funds stemming from the Foundation must assure a fair and transparent competition and to fulfil at least the ILO key norms which are ratified by the country in which the services or works are performed. These must be documented by signing a declaration of undertaking in compliance with the specimen in Annex 1. If this declaration of undertaking will not be shown the bidder will be excluded from the tender. If there is any personnel relation between the bidder and the Foundation or the implementing partner this must be stated as this might result in an exclusion of the bidder.

1.5. Confidentiality

The tender shall be treated confidential. During the tender process no information will be given to bidders or third parties who do not participate at the tender with regards to the evaluation of the proposals and recommendations for the award of contract. If the confidentiality has been harmed the tender can be cancelled. In the time between the public announcement of the tender and the award of the contract discussions with the bidders about their offer are not allowed. However, visits to the project sites or searching of documents are allowed as long as these activities serve the bidders for getting acquainted with the working environment. Furthermore questions for clarification in written form are allowed. The answers will be given also in written form and will be made available to all bidders at the same time.

1.6. Eligible Bids

Only skilled, efficient, reliable and law-abiding bidders will be considered as contractors. Bids from companies, organisations or individuals are not accepted for the tender process if any of the following reasons for exclusion apply:

- The company, organisation or individual is listed in the sanction and embargo list of the UN Security Council, the EU or the German Government.
- The company, organisation or individual is legally barred from the procurement process on the grounds of previous violations of regulations on fraud and corruption.
- The company, organisation or individual to be contracted for considerable portions of the contract are enterprises economically intertwined with persons conducting the tender.

2. Tender Stages

The procurement for services as well as for the goods and works is classified in three stages with different limits. Within the limits for the first stage free awarding to a qualified company, organisation or individual is possible, within the limits for the second stage at least

three bids from three different qualified companies, organisations or individuals can be compared and above the limit for the third stage a public competitive bidding shall be done.

Only skilled, efficient, reliable and law-abiding bidders will be considered as contractors.

2.1. Limits

The limits for services, goods and works are:

- **Stage 1 up to 20,000 Euros:** restricted tender based on a shortlist of at least three qualified bidders. Single tender procedure (i.e. free awarding) is possible if a reasonable justification¹ can be presented. A single tender needs to be approved by the board.
- **Stage 2 from 20,001 Euros up to 200,000 Euros:** public competitive bidding. Restricted tender based on a short list of at least three qualified bidders is possible if a reasonable justification² can be presented. A single tender needs to be approved by the board.
- **Stage 3 starting from 200,001 Euros:** public competitive bidding

The value of the tendered services, goods and works shall be based on realistic and conservative assumptions which are documented in a transparent manner.

In justified exceptions the above stated limits can be shifted. However, this must be well explained and documented and if the implementing partner procures the Foundation's no-objection. In general the choice of the tender procedure and in case of stage 1 and 2 the choice of the requested companies must be well explained and documented.

2.2. Stage 1: Single Tender Procedure

The contract can be freely awarded to a qualified company, organisation or individual. The choice of the company, organisation or individual must be well explained and documented. If the implementing partner procures the Foundation must give its no-objection with regards to the chosen company before the contract enters into force.

2.3. Stage 2: Price Comparison

At least three qualified companies, organisations or individuals must be asked to submit a bid. The choice of the companies, organisations or individuals must be well explained and documented. If the implementing partner procures the Foundation must give its no-objection with regards to the chosen company before the contract enters into force.

¹ Free awarding could be possible if a better result through a restricted tender can not be reasonably expected (e.g. if only one potential bidder has the necessary qualification and / or capacity for the assignment or if in special cases standardized prices exist, etc.).

² Restricted tender could be possible if a better result through public competitive bidding can not be reasonably expected (e.g. if only a very limited number of potential bidders have the necessary qualification and / or capacity for the assignment or if in special cases standardized prices exist, etc.).

2.4. Stage 3: Public Competitive Bidding Procedure

The services, goods or works to be tendered will be advertised in local and / or international media as e. g. the local newspapers, radio or television. Services can furthermore be advertised at DEVEX. DEVEX is a webpage where consultants can sign up, but also tenders for services can be announced. This gives all interested potential bidders the opportunity to apply for the contract in question. A list of the goods, services or works to be performed, further documentation on the project which the bidders will need to make their bids and price quotations will be published. For services the terms of reference state whether remuneration will be paid according to actual work performed or on a lump-sum basis. In the case of lump sum remuneration, the terms of reference define the positions considered as key positions which are to be described in detail in the technical tender. The bidders will have a period of at least 21 calendar days to submit their bids.

3. Tender Procedures

3.1. Bidding Documents and Terms

The bidding documents inform the bidders about the nature and scope of the services or goods and works to be provided and about the conditions of the contract. They will be designed in a way that ensures fair and transparent competition with equal opportunities for all bidders. To this end the bidders will also have to be informed about the selection criteria and how these are weighted in the evaluation of the bids. As a general rule, the documents include:

- general information about the project and the supplies and services to be provided;
- information on the execution of the bidding process and evaluation procedures;
- sample form of tender;
- general and specific conditions of contract and, if appropriate, draft contract;
- specimen declaration of undertaking;
- for goods and works:
 - general technical conditions of contract, neutral technical specifications with bill of quantities, specifications or performance criteria for performance-based contracts;
 - clear and complete design documents;
 - specification of standards and measuring system applied;
 - standard forms of bid bond, advance payment bond and performance bond
 - preliminary cost estimates, unless there are serious reservations against their disclosure.

The procurement conditions clearly and unequivocally define the obligations to be entered into by the subsequent contractual parties. In particular, this applies to the scope of supplies

and the place of delivery, liability and warranty obligations, and public charges and levies to be borne by the bidder.

The bidding documents specify the currencies in which the bid price is to be expressed. Usually the currencies of bids are commonly used international currencies (such as the US dollar or the Euro) and/or the national currency of country in which the services or goods and works will be delivered. With regard to possible changes in the exchange rates during the procurement process, the relevant date for the conversion of bid prices will be specified. Such date should be as near the bid opening date as possible. Also the rate to be used for the conversion will be indicated (usually the selling rate published by an official source on a specific date).

The technical bid (for services or works) and the price quotations must be submitted in separate sealed envelopes. However, in stage 2 (restricted tender based on a short list of at least three qualified bidders) the technical and the financial bid can also be submitted in one sealed envelope. If the Foundation procures at least one original of each must be sent to the Foundation or if the implementing partner procures at least one original must be sent to the implementing partner by the deadline given in the request for tenders. After that point in time no amendments or additions may be made to the bids. Any attempt to do this can result in exclusion from the remainder of the selection process. The bids will be opened immediately after expiry of the deadline. The envelopes containing the price quotations remain sealed and are only opened for those bidders who have achieved at least 75% of the points to be awarded in the assessment of the technical bids.

3.2. Neglection of Bids

Bids are in principle disregarded if

- Anybody involved in the tender procedure has influenced the selection procedure with illegal payments or by granting or promising other advantages, or if circumstances suggest that such influence has been exercised;
- the bid has been received after expiry of the deadline;
- the bid does not fulfil the criteria in the request for tenders in essential points, if it is incomplete or contains inadmissible restrictions;
- the statement by the bidder that he is associated with other companies does not clearly show that the former or the latter will not apply to participate in the same project as manufacturers, suppliers or construction firms;
- the consultant and/or the construction company has not submitted a declaration of undertaking in compliance with the specimen in Annex 1.
- The bidding documents are not signed by an authorized representative of the bidder

3.3. Assessing the Bids

a) Services

The bids will be assessed by the Foundation or if the implementing partner procures by the implementing partner. When consultancy contracts are being awarded the technical qualifications of the bidders and the quality of the services offered are of decisive importance.

The technical bids for services will be assessed on the basis of a list of criteria established in advance (details and explanations are given in Annex 2).

In principle the price quotations will be assessed by the total price (not including customs and excise duties, taxes and levies in the project-executing agency's country), after correcting any arithmetical errors and after deducting cost items that, as stated in the request for tenders, are not to be included in the assessment. Incidental costs and additional services that are paid separately can be assessed by quantity, if this is the only way to make price quotations comparable. Any items missing in individual cases can be added, and this will be done on the basis of the most expensive bid opened. For the purpose of comparison the total adjusted price calculated will be converted to the currency that is to be applied in the assessment as stated in the request for tenders, at the exchange rate fixed. The steps taken to calculate the total adjusted price will be explained in detail by in the assessment report.

The price quotation will generally account for 30% of the overall rating. If it is to be given greater weight, e.g. in the case of supervision of construction work, this will be stated in the request for tenders.

The price quotation with the lowest adjusted value will receive the maximum possible number of points (generally 30). The number of points awarded to the other price quotations opened is reached by dividing the total adjusted price in the lowest bid by the total adjusted price of each other bid and then multiplying by the maximum possible number of points.

Negotiations with the bidder as well as alterations of bids between the opening of the bids and the end of the evaluation of the bids are not admissible. However, clarifications from the bidders that are necessary for the evaluation of the bids may be sought. Neither the clarifications demanded nor the alterations made by the bidder may lead to any changes in the contents or price of the bid. Queries on the part of the Foundation or the implementing partner and responses from the bidder must be in writing.

Total Evaluation: The technical bid with the highest rating will receive the maximum possible number of points (generally 70). The number of points awarded to the other bids for services is reached by dividing the rating of each by the rating of the top bid for services, and then multiplying by the maximum possible number of points. The number of points given for the price quotation will be added to the number awarded for the technical bid. The order of the bidders will be determined by the total number of points awarded. The bid with the highest total number of points will be the best received.

b) Goods and Works

Bids that are not rejected are evaluated. The purpose of the evaluation is to determine the most advantageous offer by assessing the relevant factors of the individual bids and by

subsequently comparing all the bids submitted. If specified in the bidding documents, the evaluation includes not only the price offered but also other factors that are relevant to the success of the project and that can be quantified, such as the delivery or construction period, personnel, equipment lists, costs of operation and total useful life, supply of spare parts, service, and the qualification for training local personnel.

The bids that have not been rejected are examined individually for technical and arithmetic correctness. Bids are evaluated and weighted in quantitative terms, in monetary units where possible and only according to the criteria stipulated in the bidding documents. The most advantageous bid determined on the basis of this procedure after correction of any arithmetic errors will win the contract. The lowest bid price alone is generally not decisive.

If a bid price appears to be unusually low in relation to the services to be rendered the bidder will be requested to submit a written breakdown of his price calculation. If after review of the notes submitted by the bidder reasonable doubts persist as to whether the required goods and works can be provided at the rates offered and if this is reasonably expected to pose a considerable risk to the performance of the contract, the bid in question will have to be excluded.

To enable a comparison of bids the evaluation of the bid prices will consider the import duties and taxes actually applicable. In cases where competition between qualified bidders would be seriously distorted as a result of local regulations or double taxation agreements, an appropriate procedure will be defined prior to the start of the tender to redress such distortion; a corresponding note will be included in the bidding documents.

If an extension of the validity period became necessary the reasons are to be stated in the evaluation report. An extension of the validity period may not lead to changes in the bid prices. The extension entitles the bidders to withdraw their bids upon expiry of the original binding period without allowing the bid bond to be drawn.

Negotiations with the bidder as well as alterations of bids between the opening of the bids and the end of the evaluation of the bids are not admissible. However, clarifications from the bidders that are necessary for the evaluation of the bids may be sought. Neither the clarifications demanded nor the alterations made by the bidder may lead to any changes in the contents or price of the bid. Queries on the part of the Foundation or the implementing partner and responses from the bidder must be in writing.

3.4. Negotiations on the Contract

After the evaluation the Foundation or in case the implementing partner has conducted the tender the implementing partner will negotiate the contract with the bidder who has topped the list. If these negotiations are not successful the bidder who came second will be asked to negotiate. The resumption of negotiations with a bidder after negotiations have been broken off is not permissible.

It shall be ensured that the negotiated proposal remains at any time during the negotiations comparable in content to the proposals made by other qualified bidders which fulfil the general and technical procurement conditions.

Services:

The Foundation or in case the implementing partner has conducted the tender the implementing partner will carry out these negotiations speedily and generally limit them to the following points:

- clarifying the work and the methods to be used, where necessary adjusting the staffing schedule;
- regulations in the contract on other cost items that were not included in the assessment of the price quotation.

Fees and the unit prices for incidental costs are in principle not subject to negotiation, as they were taken into account in assessing the price quotation.

Insofar as lump sum remuneration was agreed, the payment schedule is to be fixed in accordance with the planned services to be rendered. As soon as 70% of the contract fee has been disbursed the remaining instalments are to be disbursed against submission of documents linked to specific project milestones.

An exchange of the personnel or key personnel who are firmly committed to the project after the bid has been submitted cannot be made without the approval of the Foundation or the implementing partner. An exchange of personnel can result in the bid being reassessed.

3.5. Information to the Bidders

After the award of the contract the qualified bidders which have not been selected will be informed that their bid was not successful and whether their bid fulfilled the general and technical procurement conditions.

On request of the bidders the Foundation or in case the implementing partner has conducted the tender the implementing partner may inform them about the main weaknesses of their bids. No details on the awarding decision will be disclosed. The bidders who were not included in the assessment of the price quotations are given back their price quotations unopened.

3.6. Cancellation of the Bidding Process

The bidding process may be cancelled if

- competition was inadequate;
- no bid was received that is considered as substantially responsive;
- the responsive bids substantially exceed the budget;
- the technical or financial bases of the procurement have changed materially prior to the award, or
- the rates of the bid are obviously and clearly unreasonably high.

Competition is usually inadequate if clearly fewer bids qualified for evaluation than could be expected from the size of the market, if the prices appear to be clearly excessive or if there is obvious price fixing.

If no substantially responsive bid was received a new qualification procedure may be dispensed with and a new bidding process may be initiated or the contract may be awarded to another qualified bidder.

If the lowest responsive bid is clearly higher than the cost estimate the causes must be analysed whether a reasonable price could be achieved through a new bidding process. If this is not to be expected, after cancellation of the procurement process, negotiations may be conducted with the bidder who has submitted the most advantageous responsive bid in order to determine how a reasonable contract price can be reached by adjusting the scope of the contract and/or by altering the distribution of risks and burdens.

The cancellation of the bidding process must be notified to all bidders stating the reasons. If the bidding process is cancelled a new procurement process is usually conducted under different circumstances that ensure greater competition, for instance by changing the object or the terms of the procurement.

Declaration

We underscore the importance of a free, fair and competitive procurement process that precludes fraudulent use. In this respect we have neither offered nor granted, directly or indirectly, any inadmissible advantages to any public servants or other persons in connection with our bid, nor will we offer or grant any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract.

We also underscore the importance of adhering to minimum social standards ("Core Labour Standards") in the implementation of the project. We undertake to comply with the Core Labour Standards ratified by the country of @ (name of country).

We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country of @ (name of country).

We further declare that we will comply with the minimum requirements that arise from the fundamental conventions of the International Labour Organisation (ILO) as follows:

- ILO convention No. 87: Freedom of Association and Protection of the Right to Organise Convention, 1948
- ILO convention No. 98: Right to Organise and Collective Bargaining Convention, 1949
- ILO convention No. 29: Forced Labour Convention, 1930
- ILO convention No. 105: Abolition of Forced Labour Convention, 1957
- ILO convention No. 138: Minimum Age Convention, 1973
- ILO convention No. 182: Worst Forms of Child Labour Convention, 1999
- ILO convention No. 100: Equal Remuneration Convention, 1951
- ILO convention No. 111: Discrimination (Employment and Occupation) Convention, 1958

(Place), this day of

Name of company

Signature(s)

Remarks on the Assessment of the Bids

The bid for services should show that the terms of reference and their objective have been fully comprehended, and that the methods and resources proposed are suitable and will be employed appropriately to fulfil the tasks required. In drawing up the bid for services the bidders should observe the terms of reference, any particular requirements in the request for tenders and the following assessment criteria.

In assessing the bids for services value will be attached to brief and precise statements. As the assessment is made by skilled personnel bidders should refrain from explanations in the style of a textbook. The documents should be complete, clear and arranged in a readable way. Particularly in the case of more complex terms of reference the presentation should include diagrams, tables and graphics.

Only the bidders who receive not less than the minimum number of points laid down in the request for tenders can be considered in the assessment of the price quotations.

The weighting of the criteria will be fixed in the request for tenders in accordance with the requirements of the project. The weight of the "concept and method" will generally be 55%-60% in the study phase, and 40%-45% for construction supervision. Where sub-criteria have been agreed between the project-executing agency and the Foundation these, and their weighting, will be given in the request for tenders.

The assessment of the bids for services will be based on the following criteria:

Criteria:		Points	
1.	Concept and method:		40 - 60
1.1	Clarity and completeness of the bid:	about 10%	
1.2	Critical analysis of the objective of the project and the terms of reference	about 30%	
1.3	Proposed concept and method, with the programme of work, the staffing schedule and monitoring and coordination mechanisms	about 60%	
2.	Qualifications of definitely assigned personnel		60 - 40
2.1	Qualifications of key personnel to be employed on the project, in particular the project manager	about 90%	
2.2	Qualifications of the personnel in the home office who will monitor and control the team, and provide back-up services	about 10%	

Total		100
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Notes on the Criteria

1.1 Clarity and completeness of the bid

The bid for services must take full account, in contents and form, of the terms of reference and the conditions on the bid for services in the request for tenders. All the components of the bid for services that are required must be presented. Clarity in the bid means a clear structure, textual statements supported with appropriate tables, lists and other editorial aids in accordance with the complexity of the terms of reference, and a balanced use of annexes to keep the main text clear and precise. If there are minor omissions in relation to the terms of reference points will be deducted. Omissions that considerably restrict comparison with other bids can cause the bidder to be excluded.

1.2 Critical analysis of the objective of the project and the terms of reference

The bid for services must show that the consultant has considered the objective of the project and the terms of reference deduced from this critically and in depth. Any doubts about the suitability, consistency and feasibility of individual aspects and the concept as a whole must be expressed. The methodological section must take constructive account of these while avoiding inadmissible restrictions.

1.3 Proposed concept and methods, with the programme of work and the staffing schedule, and mechanisms of control and coordination

The bid for services must present the methodological approach and the programme of work in such a way that their suitability in regard to the terms of reference can be assessed and they can be compared with other qualified bids. This includes a statement of the work organization planned and the logistics. If in the professional judgement of the assessors and of the Foundation there is evident discrepancy between the terms of reference and the quantities given the bid will in principle not be considered. The text should state clearly how the task is to be solved and the resources used, how the work is to be divided between the team members, how the coordination with those involved and those affected is to be organized and how the quality of the work is to be assured. It must be supplemented with diagrams, tables and, in the case of complex work, appropriate graphics.³

³ At least as follows:

- Summary of planned programme (bar graph: interdependent work stages, persons handling each stage, deadlines for discussions, decisions and submission of reports, etc.)
- Staffing schedule (bar chart: times and places of assignment for each professional, continuous/ intermittent assignment, activity; including a table stating the precise periods of duty for each professional, by places of assignment)

2.1 Qualifications of the key personnel to be used on the project, in particular the project manager

The curricula vitae of the expert personnel - for lump sum contracts the key personnel - should have a cover sheet containing a summary⁴ and include, here or in the text, a brief statement by the bidder on their suitability for the envisaged work and function under this particular project (in more detail for local experts). For lump sum contracts the bidder must also state the composition of the entire project team - without listing any names – and the planned periods of assignment of the experts. These personal qualifications will not be assessed in absolute terms but in relation to the tasks to be performed, in accordance with the functions and technical fields required, and by comparison with the experience and requirements profile. The assessment of the formal criteria (training, professional experience, regional experience, knowledge of languages, management and training experience) will vary according to the terms of reference and the function.

The assessors will also consider whether all the necessary technical and functional areas are covered in accordance with project requirements. Particular weight will be attached to the project manager's qualifications, as he bears the operative responsibility for the performance of the services. In his case management experience, knowledge of languages, knowledge of planning methods and experience in moderation will generally be rated more highly than for other skilled personnel.

2.2 Qualifications of the key personnel who will offer back-up services from the home office and monitor and control the team

The consultant must show that he (alone or in conjunction with partner firms) can provide competent back-up services for the team working locally on all the technical questions that could arise, using experienced inhouse personnel, and that he can control and monitor the work. Generally professional expertise and management experience are rated more highly here than a knowledge of languages or the region. In the case of long-term service and detailed studies the support from the home office will be rated more highly than in the case of short studies, as here more responsibility has to be shifted to the project manager.

⁴ The curricula vitae must be up to date and signed by the professional and an authorized representative of the bidder. The cover sheet (one page) should contain: name of the firm, name of the person, professional qualifications and year in which these were obtained, technical specialisation and experience, nature of the experience (e.g. studies, project implementation, industry, research, administration etc.), management experience (e.g. team leader, department manager, business manager etc.), regional experience (country, nature of the activity, duration), mother tongue, foreign languages, relationship to the bidder (since...), brief calendar of professional work and employers (time, employer, activity, country of service), remarks.