

Terms and conditions for application to the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH for contract award procedures

These conditions apply unless deviating provisions are prescribed in the other tender documents. The contract award procedures are conducted in accordance with the applicable requirements of the Act against Restraints of Competition (GWB) and the German Regulation on the Award of Public Contracts (VgV).

1. Submission of bids and requests to participate

The editable templates (Word, Excel) provided by GIZ in electronic form must be used to prepare the bid or requests to participate.

The bids and requests to participate are submitted electronically in text form through the GIZ e-tendering market place at <https://ausschreibungen.giz.de>.

Important information:

The following procedure must be observed when submitting a bid:

1. If you are not registered yet:

Register at <https://ausschreibungen.giz.de> (note: for registration, you will be automatically taken to the site <https://www.dtv.de>. It is sufficient to select the BASIC model, which is free of charge).

2. Once you have registered:

Sign in at <https://ausschreibungen.giz.de> with your login data.

3. Select the desired invitation to tender and click on the button 'More information about this project' on the right. You will then see an overview of the selected contract award procedure.

4. Click on the button 'Join now'.

5. Click in the left menu line on „Communication”. Check there whether answers to questions from bidders were posted there before your participation in the procedure. In the event of further answers you will be informed automatically by email that these have been posted.

6. Click on 'Tenders' in the left menu bar.

7. Click on the button 'Open web-based submission'.

Please Note

Kindly check **well before the bid submission deadline** whether your computer fulfils the system requirements. You can find further assistance by clicking on the button 'Online Hilfe' at <https://support.cosinex.de/unternehmen/>.

Support and Instructions

Instructions for the submission of bids and requests to participate can be found at [Open web-based submission](#).

In the event of **technical queries** please contact the Cosinex support team:

- 1) By Email support@cosinex.de (recommended)

- 2) Under the service telephone: 0900-1-267463 (1,49 € per minute on a landline within Germany. Mobile tariffs may vary)
- 3) Service is available Monday to Friday from 08:00 to 18:00 hrs

2. Language

Bids as well as any declarations and additional correspondence must be drawn up in English, unless instructed otherwise in the tender documents. A translation is to be provided of any official correspondence that is in a language other than English. Documents in another language will not be considered, unless GIZ has agreed in advance in text form (Article 126b of the German Civil Code (BGB)) to the submission in another language, for instance, in a response to a question asked by bidders.

3. Prices

All prices must be indicated net in EUR. Any value-added tax must be shown separately.

4. Alternative tenders

Alternative tenders are not permitted.

5. No fee payment or cost reimbursement

No fees will be paid or costs reimbursed for the preparation of requests to participate and bids, or for the participation in presentations and inspections.

6. General Purchase Conditions / ADSp

The bid must observe the General Purchase Conditions (GPC) – in the version of July 2023 – of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. These will become an integral part of the agreement if the contract is awarded. Contrary to sentence 1, the currently valid General German Freight Forwarding Terms and Conditions (ADSp) apply if the contract awarded involves logistics services.

The bidder's general terms and conditions of business and payment do not apply, unless GIZ expressly accepts them in the other tender documents before the bid is submitted.

7. Bidding and service delivery consortia

Bidding consortia must designate a lead member and authorise this member to represent the consortium and receive payments for all members in discharge of GIZ's liability. An agreement to this effect must be signed by each member of the consortium and attached to the bid or request to participate. The template provided by GIZ for this purpose must be used.

8. Price law

The tender is for an indirect service to be provided under a public contract. In line with the demands of the public-sector commissioning party, Regulation PR-NR 30/53 on the Prices for

Public Contracts (Federal Gazette, No. 244, 18 December 1953) must be observed by tenderers based or with branch offices located in the Federal Republic of Germany and it is applicable to the contract for services.

9. Confidentiality

In order to ensure that all interested companies/bidders are treated equally, bidders and any consultants working on their behalf are not permitted to obtain any additional or confidential information on the project for which services are being tendered or on the tendering procedure itself from GIZ or any members of its official bodies, or to make use of any such information. This prohibition does not include information that is available to the public or can be accessed by all interested companies/bidders within the framework of this contract award procedure.

Interested companies/bidders and any consultants working on their behalf are explicitly prohibited from discussing with GIZ, its staff members or members of its official bodies issues that are related to the project or the contract award procedure without first obtaining written permission from GIZ.

10. Storage and use of personal data

The storage and processing of personal data in GIZ is carried out complying with the document " Information on data processing in accordance with Article 13 of the EU General Data Protection Regulation (GDPR) ('data protection information')", which is attached to these tender documents.

11. Bidder's questions regarding the tender documents and contract award procedure

Applicants/bidders must direct any questions they may have on commercial, technical or procedural matters in written form to GIZ solely through the GIZ e-tendering market place. Any questions and answers that are of general interest will be made available in anonymous form to all applicants/bidders on GIZ's e-tendering market place. Applicants/bidders are solely responsible for checking the website during the contract award procedure to find any information they may require, as well as details of any changes.

Important information:

Only if bidders register and sign in to the GIZ e-tendering market place, and then click on the link 'Join now' will they automatically receive updates by email on the contract award procedure. Registration is recommended. Registered users are not under any obligation to take part in contract award procedures.

Click in the left menu line on „Communication“. Check there whether answers to questions from bidders were posted there before your participation in the procedure. In the event of further answers you will be informed automatically by email that these have been posted.

12. Awarding of contract in lots

In cases where a contract is to be awarded in lots, bids may be submitted for all or for individual lots; bids that do not cover a complete lot will not be considered.

The individual and overall prices of each lot are to be specified. In addition, all packaging and transport costs as well as any ancillary costs are to be specified for each lot, as is the overall price if the bid is being submitted for several lots.

13. Mandatory accompanying documents and information; compulsory pricing information

The bid must be drawn up in accordance with the terms of reference and conditions of delivery.

The bid should indicate for each item the manufacturer, and the type designation in accordance with the terms of reference, the unit price and total price, the prices of individual potential lots, packaging and shipping costs as indicated in the delivery clause and for the complete service offered, as well as payment terms and delivery dates. A price must be indicated for each requested item.

The bid should additionally be accompanied by technical documentation, data sheets or other documents related to the products offered. The anticipated volume and weight of the shipment and individual lots must be indicated, particularly in the case of shipments abroad.

14. Unclear matters in the tender documents

It is the bidder's responsibility to obtain an understanding of all details of the context, the requirements and the envisaged work, taking into consideration all conditions of importance for fulfilling the requirements / achieving the pursued objectives. Subsequent appeals on the grounds of having misunderstood or not known matters are precluded. If the bidder is of the opinion that the requirements can be interpreted in several ways or if something in the tender documents appears unclear, the bidder must inform GIZ accordingly without delay and before submitting a bid, or submit a corresponding bidder query.

15. Eligibility and absence of grounds for exclusion

The contract will be awarded to competent and capable (eligible) companies that satisfy the eligibility criteria indicated in tender documents and that

- are either not excluded under Articles 123 or 124 of the Act against Restraints of Competition (GWB) or
- that provide evidence of remedial action pursuant to Article 125 GWB.

The contract is awarded subject to the condition subsequent to the information from the Competition Register for public procurement in accordance with Section 6 of the Competition Register Act (WRegG) that does not disclose any facts that would have caused GIZ to exclude the winning bidder from the competitive procedure. If the condition subsequent to the information from the Competition Register in accordance with Section 6 of the Competition Register Act (WRegG) occurs, GIZ shall inform the bidder who was awarded the contract without delay. In addition, GIZ reserves the right to award the contract to the second-ranked bidder in the preceding competitive procedure.

Other eligibility criteria are set forth in the tender documents.

16. Criteria for awarding the contract and assessment procedure

The criteria for awarding the contract and the assessment procedure are set forth in the tender documents.

17. Verification of the identity of the bidder

To meet its due diligence requirements, GIZ verifies the identity of its prospective contractual partners before signing a contract. If the identity has not been verified during previous contract award procedures, GIZ will contact the bidder that has been selected for award of the contract upon completion of the evaluation.

By submitting the bid, the bidder agrees, in the event that it is selected for award of the contract, to provide the requisite evidence of its identity upon request before the contract is awarded by GIZ. The evidence will usually consist of a copy of the extract from the official commercial register in the respective country or if no register is available, an up-to-date version of corresponding documentation of incorporation (partnership agreement, articles of association, etc.) and a completed form with essential commercial and legal information.

A translation of official documents that are in a language other than German or English is to be provided by the bidder.

18. Pre-award business partner due diligence

As a federally owned enterprise, GIZ is particularly required to adequately implement its due diligence obligations with regard to the use of funds and thus the selection of its contractual partners. Therefore, GIZ conducts risk-oriented due diligence on its prospective contractual partners and their owners and controlling parties before entering into any contract, in particular to prevent money laundering and terrorist financing.

The bidder must complete a questionnaire in case of preselection before the contract is finally awarded.

If indicated, a review of the bidders' owners /controlling parties may be necessary before the contract can be awarded. Should facts come to light during the verification process that prevent the contract from being awarded to the bidder, GIZ will inform the bidder without delay. In addition, it reserves the right in such an event to award the contract to the second-ranked bidder in the preceding competitive procedure.

19. Reservation of right in negotiated procedures to award contracts on the basis of the initial tenders

In accordance with Article 17 paragraph 11 VgV, in negotiated procedures GIZ reserves the right to award the contract on the basis of the initial tender (bid), even without any prior negotiation.

20. Compliance assessment regarding Council Regulation (Art. 5k (EU) 833/2014) prohibiting the award or the continued execution of any public procurement contracts to companies and individuals with links to Russia

The contracting authority is legally prohibited from awarding or continuing to execute contracts as of 10 October 2022 with persons, entities or bodies with links to Russia as specified in Article 5k of the [EU Council Regulation 833/2014](#) (hereafter referred as the 'Regulation'), as currently applicable¹. Furthermore, GIZ is prohibited from awarding or continuing to execute contracts with persons, entities or bodies if these persons, entities or bodies who intend to employ subcontractors, suppliers or companies with links to Russia, as specified in the Regulation, whose capacities are being relied on within the meaning of the public procurement Directives, and where these subcontractors, suppliers or companies with links to Russia account for more than 10% of the contract value.

The Regulation constitutes a statutory prohibition within the meaning of Section 134 of the German Civil Code (BGB), with the effect that – even in the case of a tender being accepted – no valid contract will be established if the conclusion of such a contract would contravene this Regulation.

GIZ must therefore ensure that the award of contract in relation to a tender is not associated with any violations of applicable legislation. The tenderers are obliged to make a truthful declaration using the self-declaration on the EU-Russia-Sanctions, which is included in the tender documents. False statements may lead to an exclusion of the bidder or may render the contract void.

21. Assessment confirming compliance with embargoes and other trade restrictions currently in place

Before entering into any contract, GIZ reserves the right to ascertain the origin of the goods offered. This assessment will be conducted to ensure compliance with embargoes and other trade restrictions in place within the scope of GIZ's due diligence. This is particularly true of the [EU sanctions against Russia, Belarus, Crimea and the affected parts of Eastern Ukraine](#) currently in place (primarily the EU Council Regulations No.: 833/2014 and 765/2006 as currently applicable).

By submitting their bid, the bidder undertakes towards GIZ the responsibility that in the event of a probable award, the bidder will provide all necessary support to enable GIZ to ensure compliance with the sanctions regime – this assurance is thus given prior to the award of any contract. This includes in particular the obligation, if so requested by GIZ, to complete a self-declaration to determine the origin of the goods offered and/or to provide GIZ with the required evidence of the origin of such goods. Goods that are listed in the annexes referred to in Article 12g of Regulation (EU) No. 833/2014 or Article 8g of Regulation (EC) No. 765/2006 must, however, be specified in the offer under the corresponding product designation and the associated CN code (see Questionnaire Export Control - Part 1). Should the bidder fail to meet these obligations, or fail to do so within a reasonable period of time, this can result in their bid being excluded.

A contract can only be awarded on completion of this assessment of the origin of the goods offered. Should this check give grounds for concern or reveal facts that constitute a contractual impediment, GIZ shall inform the bidder without delay. GIZ shall also reserve the right in such cases to award the contract to the next-ranked bidder in the competitive tender procedure.

22. Beneficial owners and company data – required disclosures

In the event that the bidder is selected for the award of a contract the bidder is obliged to fill out and submit a questionnaire on its beneficial ownership and further company data.

The [EU Anti-Money Laundering Directive](#) sets out how to identify ‘beneficial owners’ of a legal person or organisation. This directive was implemented in German law via the German Money Laundering Act (Geldwäschegesetz, GWG). In accordance with Section 3 of the German Money Laundering Act, a beneficial owner is defined as any natural person who holds a share of at least 25% in a company. GIZ collects this information to ensure compliance with the German Foreign Trade and Payments Act (AWG) and to meet the [eForms requirements](#) (only in German language available).

23. Applicants/bidders from non-covered third countries

GIZ reserves the right to exclude applicants/bidders based in countries outside the European Union that are neither party to the World Trade Organization Agreement on Government Procurement nor to any other international agreement with the European Union on ensuring equal and reciprocal access to participation in public procurement procedures (‘non-covered third country’) from participation in this specific procurement procedure at any time during the procurement procedure. Applicants/bidders based in non-covered third countries are also not entitled to legal protection from review bodies under public procurement law.

This section applies mutatis mutandis to candidate/bidding consortia in which at least one member of the consortium is based in a non-covered third country.

This section also applies accordingly to applicants/bidders who, as part of the eligibility through reliance upon the capacities of other entities, make use of a company which is based in non-covered third country.

¹ The currently applicable version of the Regulation is available in the European Union database EUR-Lex. Consolidated versions of Council Regulation (EU) No. 833/2014 reflecting all amendments can be accessed [here](#). It is imperative to ensure that the most recent version, dated accordingly, is selected.