



PROGRAMUL DE COOPERARE ELVEȚIANO-ROMÂN
SWISS-ROMANIAN COOPERATION PROGRAMME

Procurement Rules

In order to make the procurement of products/ services/ works by the EA and partner/s, the contract has to be awarded to the most advantageous offer from an economical point of view (which means the offer that provides the best price/quality ratio¹), or to the bidder with the lowest price.

Purchases will be made in accordance with the following principles: non-discrimination of economic operators, equal treatment, accountability, proportionality efficient use of funds, transparency and fair competition between potential contractors and avoidance of any type of conflict of interest².

The EA is liable for the legality of the procurement processes made within the project.

For purchases made by Romanian institutions which are considered contracting authorities in accordance with the Romanian legislation, the provisions of GEO 34/2006 on awarding public procurement contracts, public works concession contracts and service concession contracts, with subsequent modifications and completions, will be applied.

For purchases made by Romanian NGOs (EA and partner/s) and Swiss partner/s the provisions of this Annex to the Activity Agreement will apply.

The procurement procedure will be selected according to the following thresholds:

1. below CHF 1,000 (including): direct purchase
2. between CHF 1,001 and CHF 18,000 (including): market price research
3. above CHF 18,001: request for offers

When establishing the procurement procedure to be followed, the EA and/or partner/s will take into account the total value of the contract that is to be concluded for providing products/services/works, regardless of the funding source, without VAT.

The value of the contract will take into account the object of the contract, respectively the foreseen action: providing specific products/ services/ works (execution) with an independent utility (the contract must have an independent purpose by itself). The EA and/or partner/s will not divide the contract into several separate contracts of smaller values nor will use means for calculating the estimated value that will underestimate the real value of a contract aiming at avoiding the application of the current Procurement Rules.

¹ When launching the procurement procedure, the criteria for the attribution of the contract must be clearly stated.

² It represents a conflict of interests any case where the impartial and objective exercise of the functions of any person under this Activity Agreement is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other interest shared with another person

In case a contract comprises of various products, services and/or works, the cumulative total value of those products, services and/or works, without VAT, will be taken into account for establishing the procurement procedure to be followed.

If applicable, the EA and/or partner/s are allowed to make purchases on lots, but following the procedure applicable to the amount corresponding to the total value of the lots.

Exceptions from applying the provisions of the current Procurement Rules are allowed for the costs included under the following budget headings/ sub-headings:

- Budget heading 1 - sub-headings 1.1 Employees and 1.2 Volunteers;
- Budget heading 2. Travel;
- Budget heading 6 – sub-headings 6.1 Communication cost, 6.3 Rent, 6.4 Utilities and 6.5 Other direct costs;
- Budget heading 7. Indirect costs.

All procurement documents will be archived at the office of the organization that made the procurement and will be made available for the project audit. They will be archived in hard copy and electronic copy and will be kept for at least ten years from the date of final payment, according to Article 16.1 of Annex III – General Conditions. Upon request, a copy of the procurement documents will also be made available to the SIB.

If the Procurement Rules outlined in this Annex are not followed, the respective costs are non-eligible for funding by the SIB, proportional to the degree of violation of the provisions of this Annex.

Any exceptions to the current Procurement Procedure will be made only in duly justified and exceptional cases and with prior written approval of the SIB.

Through an internal decision the EA and/or partner/s which are making the purchase, must appoint the person responsible for procurement procedures during project implementation.

Please find below the specific procurement procedures to be applied, according to the thresholds:

1. DIRECT PURCHASES

For purchases with a value up to **CHF 1,000 (including)**, the EA and/or partner/s will make direct purchases.

2. MARKET PRICE RESEARCH

For purchases with a value **between CHF 1,001 and 18,000 (including)**, the EA and/or partner/s must follow a market price research.

The EA and/or partner/s must consult the prices available on the market (catalogues, brochures, leaflets, internet etc.) from at least 3 suppliers. The prices that were consulted must be valid at the moment of purchase.

After making the market price research, the responsible person will draw a decision note that must contain at least the following information:

- the description of the product/service/work
- the name of the suppliers/ manufacturers, their prices and the date when the prices were consulted
- the decision of selecting the most advantageous offer according to the market price research.

Proofs of consulting the market prices (catalogues, brochures, leaflets, internet print screen etc. valid at the moment of purchase) will be annexed to the decision note.

3. REQUEST FOR OFFERS

For purchases with a value **from CHF 18,001 upwards**, the EA and/or partner/s must apply the following steps:

STEP 1: Establishing the value of the purchase

The value of the purchase will be established in accordance to the needs of the project, planned activities, the budget of the project and present Procurement Rules.

The EA and/or partner/s will draw an evaluation note regarding the estimation of the value of the purchase. The estimation will be done in Swiss Francs, without VAT.

In case the EA and/or partner/s wish to announce the equivalent in other currency than CHF, it will consider the NBR exchange rate valid on the date the procurement procedure is launched. Moreover, in case the offers received are in a currency other than CHF, the above mentioned exchange rate will be taken into consideration in calculating the value of the offer.

STEP 2: Sending invitations or launching request for offers

The EA and/or partner/s will have the possibility to choose between the following two methods of inviting bidders to the procurement procedure:

- A. sending invitations for participation at the procurement procedure to at least 3 suppliers/manufacturers after studying the market of products/services/works to be purchased, **OR**
- B. launching a general invitation through an announcement posted in a visible manner on its own website and/or in mass-media.

The proof of sending invitations and/or posting the announcement on the website and/ or in mass-media will be attached to the procurement dossier.

The person responsible for procurement procedures will have the following responsibilities:

- preparing and sending the invitations, respectively launching the request for offer;
- helpdesk for the potential bidders;
- communication with the bidders after submitting the offers.

The request for offers will contain at least the following information:

- the deadline (day, hour) by which offers can be submitted;
- modality and address for the submission of offers;

- name of the project according to the Activity Agreement, for which the procurement occurs;
- mentioning where the specification conditions and the bidder's declaration of eligibility can be obtained (either attached to the invitation and/or available on the website of the organization);
- contact person for further information regarding the submission process of the offers;
- the requirement that the value of the offer to be expressed in Romanian Lei (RON) and its equivalent in Swiss Francs, for purchases made in Romania;
- conditions for exclusion from the participation in the procurement process and award of contracts;
- the successful bidder will be subject to the same rules of verification and auditing as the EA and partner/s, according to Annex III - *General Conditions*, Article 16.3.

The request for offers does not need to include the budget of the project for the respective product/service/works.

The specification conditions will include detailed technical specifications of products, services and/ or works for which the procurement needs to be realized. Technical specifications shall include only descriptions and characteristics of products/ services/ works, without mentioning any brand.

The requested documentation from suppliers/ manufacturers consists of:

- technical and financial offer made in accordance with the specification conditions, signed and stamped (if applicable)
- declaration of eligibility of the bidder, signed and stamped (if applicable).

The declaration of eligibility of the bidder will contain at least the following information:

- declares in writing that he is eligible;
- acknowledges the conditions of the request for offers, respectively verification and auditing rules;
- declares the correctness and veracity of the information in the offer submitted;
- signature and stamp (if applicable) of the bidder.

The bidder is considered eligible if he does not fall under at least one of the following situations:

- a) subject to a conflict of interest;
- b) bankrupt, entered in judicial administration or under liquidation, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure stipulated in national legislation or regulations in force;
- c) is guilty of grave professional misconduct proven by any means which the EA/ partner/s can justify;
- d) has been the subject of a judgment which has the force of *res judicata* for professional misconduct or for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to financial interests, without evidence of substantial correction measures taken in the past year;
- e) has been declared to be in serious breach of contract for failure to comply with their contractual obligations in connection with a procurement procedure or other grant award procedures.

STEP 3: Receiving the offers

The EA and/or partner/s must ensure that they will receive at least 2 offers in accordance with the requirements of the invitation for participation and the specification conditions.

Thus, after sending the invitations, respectively launching the request for offers, the EA and/or partner/s should provide interested parties reasonable and adequate time to prepare and submit the offers. Depending on the complexity of the procurement contract, the period may vary between minimum 3 working days and maximum 15 working days. Please note that the offers to be received must be submitted in sealed envelopes.

In case the EA and/or partner/s do not receive at least 2 offers, one of the following options will be applied:

- (1) extending the time for offers' submission OR
- (2) repeating the procedure (request for offers).

If the EA and/or partner/s decide to extend the time for submitting the offers, the new deadline must be published through the same promotion method (respectively by informing in writing all participants involved in the procedure or by announcing the extended deadline on the website and/or in mass-media).

If not at least two offers are received within the extended deadline, the procedure will be repeated. In case the EA and/or partner/s do not choose to extend the period for submitting the offers, the procurement procedure will be repeated beginning with step 1. For that, the current procedure must be cancelled. The EA and/or partner/s organizing the procurement procedure are required to announce the bidder in writing, within 3 working days from the date of cancellation, the termination of obligations that were initiated by submitting the offer and the concrete reason which determined the cancellation decision.

In case of repeating the request for offers, it is important to make the necessary changes/ reviews (such as specification conditions, method of inviting bidders etc.) in order to ensure that the next process will be successful (the invitations will be sent also to suppliers other than those it was originally sent). In this case, the EA and/or partner/s will insure a greater visibility toward the potential bidders, by using both methods indicated under step 1 (sending invitations to at least 3 suppliers and publishing the announcement on its website/ mass media).

In case EA and/or partner/s receive only one offer after repeating the whole procurement process the second time, the procedure will continue with step 4.

In case EA and/or partner/s receive no offer after repeating the whole procurement process the second time, the EA and/or partner/s will again repeat the procedure, beginning with step 1.

STEP 4: Evaluation of the received offers

In order to evaluate the offers, an **Evaluation Committee** will be nominated through an internal decision.

This internal decision will include at least the following information:

- name of the project according to the Activity Agreement for which the procurement is made;
- the name of the committee members and the corresponding area of expertise (technical, financial, juridical);
- the procurement for which they were designated as members of the Evaluation Committee.

This Evaluation Committee must have at least three members (if more, an odd number of members must be insured). They must have technical and administrative capacities in order to give a correct and informed opinion about the offers. If possible, it is recommended that one board member of the organisation that is making the purchase is a member of the Evaluation Committee.

Evaluation Committee members will sign a declaration of impartiality and confidentiality that shall include at least the following information:

- name of person proposed as member of the Evaluation Committee;
- stating that it is not aware of a conflict of interest within the offers' evaluation process;
- stating that it is familiar with the contents and specifications of the procurement procedure and the specification conditions;
- stating the confidentiality of information.

For evaluating the offers, the Evaluation Committee will take into consideration only the offers that meet the following criteria:

- submitted within the deadline;
- include the declaration of eligibility;
- include a technical and financial offer.

The Evaluation Committee will evaluate the offers received on the basis of exclusion, selection and award of contract criteria announced in advance and according to the most advantageous offer from an economical point of view (the best price/ quality ratio) or to the bidder with the lowest price.

Following the evaluation, the Committee shall prepare and sign an evaluation report of the offers received, containing at least the following information:

- date and place where the evaluation process took place;
- number of bids received until deadline;
- the names of bidders which are not eligible;
- the name of bidders which are eligible and prices/rates offered by each, in order to allow their comparison;
- the Committee's decision of selecting the winning offer and its justification;
- if the case, the reason of cancelling the procurement procedure.

The procurement dossier must contain the following documents:

1. evaluation note regarding the estimation of the value of the purchase;
2. the decision of appointing the Evaluation Committee made up of an odd number of members;

3. signed declarations of impartiality and confidentiality of all Evaluation Committee members;
4. proofs of invitations for participation in the procurement procedure sent to suppliers/manufacturers, and/or the proof of posting the invitation on their own website and/or the proof of mass-media announcement about launching the procurement procedure;
5. specification conditions (includes technical requirements) and subsequent addenda/ clarifications/ errata (if the case);
6. the technical and financial offers received (including the declaration of eligibility of bidders);
7. the bidders' evaluation report signed by all members of the Evaluation Committee;
8. the contract/s with the winning bidder/s, together with the Annexes, addenda and minutes for reception of goods/ services/ works;
9. any other relevant documents (communication and information during the process, cancellation decision etc.).