

# GUIDELINES FOR ETF PUBLIC PROCUREMENT

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# 1. INTRODUCTION

This document provides general information on procurement procedures organised by the ETF as well as guidance and instruction for participating in those procedures. It is not designed however, to address the specific circumstances of any particular individual or entity.

The procurement procedures to which these guidelines apply are the means by which the ETF procures the services or supplies it requires to implement its work programme, maintain the day-to-day functioning of its internal services, maintenance of its premises, etc.

These guidelines complement the tender dossier for each specific procurement procedure. The tender dossier describes the service or supply that the ETF intends to procure, the timetable for the procedure, what the participating tenderers are required to provide and the resulting contractual terms.

In the case of any inconsistency between these guidelines and the specific tender dossier, the tender dossier prevails.

The ETF publishes information related to all its procurement procedures on its website: <https://www.etf.europa.eu/en/about/procurement>.

## 1.1 TYPES OF PROCUREMENT PROCEDURE

The ETF may use any one of four types of procurement procedure: a) negotiated, b) open, c) restricted and d) call for expression of interest.

The type of procedure used is selected in accordance with the minimum and maximum values of the resulting contract. The two types most commonly used by the ETF are the negotiated procedure and the open procedure. The most significant difference between these procedures is the way in which potential tenderers are invited to participate.

The **negotiated procedure** can be used when the resulting contract is estimated to have a value of less or equal to €139,000.

In this type of procedure, the ETF draws up a shortlist of potential tenderers, based on their field of activity and the ETF's needs. The shortlisted candidates are invited to tender and only tenders received from these candidates are evaluated.

The **open procedure** is most frequently used when the resulting contract is estimated to have a value above €139,000, but it can also be used for contracts below that value.

All ETF open procedures are published in the Official Journal of the European Union, through a contract notice. Each procedure is subsequently posted on the ETF's website where a link is provided to the e-Tendering portal through which tenderers can access the procurement documents (specifications and the draft contract).

The ETF does not draw up a shortlist or send specific invitation letters to potential tenderers. Participation in this procedure is open on equal terms to all interested economic operators as described in the section on

'participants in ETF procurement procedures' below.

The **restricted procedure** is similar to the open procedure but is organised in two phases:

- In the first phase, a contract notice is published in the Official Journal of the European Union and on the ETF website, the applications are assessed against the exclusion and selection criteria and a shortlist of minimum five candidates is drawn up.
- In the second phase, the shortlisted candidates are invited to tender and only tenders received from these candidates are evaluated.

A **call for expression of interest** serves to invite economic operators to put themselves forward to be included either in a list of pre-selected candidates or on a list of vendors for contracts estimated to have a value of less or equal to €139,000. The list remains open for four years and any economic operator can apply to be included in the list at any time during this period, except for the last three months.

- In the list of pre-selected candidates, applications are assessed against the exclusion and selection criteria and a shortlist is drawn up. When the ETF intends to award a specific contract, the candidates on the list are invited to submit a tender.
- In the list of vendors, any economic operator can register on the list without having to submit an application. When the ETF intends to award a specific contract, all vendors on the list are invited to submit a tender.

## 1.2 PARTICIPANTS IN ETF PROCUREMENT PROCEDURES

Participation in ETF procurement procedures is open on equal terms to all economic operators (natural and legal persons) established in the EU, in North Macedonia, Albania, Montenegro, Serbia, Bosnia and Herzegovina, Kosovo\*, Iceland, Norway and Liechtenstein, it is also open to international organisations.

On exceptional basis, some procurement procedures in the operational field are also open to the ETF partner countries.

The specific conditions related to access to a particular ETF procurement procedure are included in the tender dossier.

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

## 2. PREPARING TENDERS

Before starting to prepare a tender, the specific tender dossier and these Guidelines for ETF public procurement are essential reading material. Tenderers are asked to confirm that they have read and understood these documents before submitting tenders.

Tenders must be prepared in one of the official languages of the European Union. Please note that the ETF's working language is English.

The tender must include the required **supporting documentation (regarding the natural or legal person) and the technical and financial proposal (tender)** as described in the tender dossier.

### 2.1 SUPPORTING DOCUMENTATION

To be eligible for evaluation, a full set of supporting documents to be assessed by the evaluation committee must be submitted. All standard documents and forms mentioned can be found on the ETF website and links are provided at the end of these Guidelines.

The required supporting documents are:

- *The declaration on honour on exclusion criteria and selection criteria*
- *Standard forms: 'Legal Entity Form' and 'Financial Identification Form'*

### 2.2 YOUR TENDER

In most ETF procurement procedures, a tender containing both a technical proposal and a financial proposal will be requested. The tender received from the successful tenderer will become an integral part of the awarded contract.

#### i) Technical proposal

The technical proposal should describe the tenderers service(s) or supply(s) offered to the ETF, in line with the requirements of the terms of reference contained in Part A of the tender dossier and be presented clearly and concisely.

The technical proposal must meet the minimum requirements of the tender specifications. The technical proposal should be prepared in line with the award criteria against which it will be evaluated.

#### ii) Financial proposal

The financial proposal is the price(s) offered for the requested service(s) or supply(s). The financial proposal must be presented in the format found in Part B of the tender dossier and all prices must be quoted in Euro.

Where a maximum budget is mentioned in the tender specifications, financial proposals exceeding this amount will be rejected.

The tenderer is responsible for the proper application of the rules on taxes, duties, charges (including VAT) at the place where he is taxable. In general, prices must

be quoted free of all duties, taxes and other charges (including VAT) as the ETF is exempt from such charges under Articles 3 and 4 of the Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union. For tenderers to which this exemption does not apply, the tender should clearly state the basic price exclusive of tax and the corresponding tax separately. In such cases, the total price inclusive of tax will be evaluated.

## 3. CONTACTING THE ETF ABOUT PROCUREMENT PROCEDURES

### 3.1 WRITTEN QUESTIONS BEFORE THE SUBMISSION DATE

The ETF may provide additional information on request solely for the purpose of clarifying any element of the tender specifications.

For negotiated procedures: Questions must be sent in writing, addressed to the Finance and Procurement Unit by email to:

**procurement@etf.europa.eu**. Your message or request must clearly state the Call for Tender (CFT) reference number or the title of the procurement procedure.

For open procedures: Questions must be sent in writing using the e-Tendering portal in Tenders Electronic Daily using the "questions and answers" tab, by clicking "create a question". Access to the e-Tendering portal is via the link published on the ETF website under each specific open procedure.

The questions must be submitted before the deadline specified in the timetable in the tender dossier. Provided the request is received within the deadline, the ETF will provide an answer on the e-Tendering portal within two working days from the date of the question.

If the ETF discovers an error, a lack of precision, an omission or any other type of clerical error in the contract notice, invitation letter or tender dossier, all tenderers will be informed.

Any additional information will be sent simultaneously to all tenderers shortlisted or posted on e-Tendering.

In the case of open tenders, tenderers should regularly check the e-Tendering for questions, answers or additional information.

### 3.2 WRITTEN QUESTIONS AFTER THE OPENING OF THE TENDER

Tenderers who have failed to submit administrative documents, statements or evidence as required in the procurement documents will be contacted in writing by the ETF to provide the missing information or clarify supporting documents.

The ETF may correct obvious clerical errors in the tender after confirmation of the correction by the tenderer.

Such requests for clarification should not lead to any alteration of the terms of your tender submitted to the ETF.

## 4. SUBMITTING YOUR TENDER

### 4.1 FOR NEGOTIATED PROCEDURES

Tenders must be submitted exclusively by electronic mail to **procurement@etf.europa.eu**. The ETF will send a confirmation e-mail of receipt.

The time-limit for receipt of tenders is indicated in the timetable in the tender dossier. A tender received after the time-limit for receipt of tenders will be rejected.

Tenderers must ensure that their submitted tenders contain all the information and documents required by the ETF as set out in the procurement documents. A checklist is available in the tender dossier to support tenderers in the preparation of the documents to be submitted.

The ETF may require a signed original tender from the successful tenderer.

### 4.2 FOR OPEN TENDERS

Tenders must be submitted exclusively via the electronic submission system (e-Submission) available from the TED e-Tendering website.

Tenders submitted in any other way (e.g. e-mail or by letter) will be disregarded.

For detailed technical instructions on how to submit a tender please consult the e-Submission Quick Guide available at: [https://webgate.ec.europa.eu/esubmission/assets/documents/manual/quickGuide\\_en.pdf](https://webgate.ec.europa.eu/esubmission/assets/documents/manual/quickGuide_en.pdf). In case of technical problems, please contact the e-Submission Helpdesk (see contact details in the Quick Guide) as soon as possible.

In order to submit a tender using e-Submission, tenderers (each member of the group in the case of a joint tender) will need to register in the European Commission's Participant Register - an online register of economic operators participating in EU procurement procedures. On registering each operator obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the above register. Instructions on how to create a PIC can be found in the PIC-management Quick Guide for Economic Operators. Tenderers already registered in the Participant Register shall reuse their existing PICs when preparing tenders in e-Submission.

The time-limit for receipt of tenders is indicated in the tender dossier and in the contract notice. Local time will be understood as local time in Turin, Italy, at the ETF's location.

Tenderers are advised to start completing their tender early to avoid any complications in case of technical problems with the electronic submission. The time it takes to submit the tender and upload the documents may vary considerably depending on the number of concurrent submissions by other economic operators, the size of your tender and the type of internet service you are using,

A tender received after the time-limit for receipt of tenders will be rejected. The tender reception confirmation provided by e-Submission with the official date and time

of receipt of the tender (timestamp) constitutes proof of compliance with the time-limit for receipt of tenders.

Tenderers must ensure that their submitted tenders contain all the information and documents required by the ETF at the time of submission as set out in the procurement documents. A checklist is available in the tender dossier to support tenderers in the preparation of the documents to be submitted.

The following documents must be dated and signed, either by hand or by applying an advanced electronic signature based on a qualified certificate:

- Declaration(s) on honour on exclusion and selection criteria (template available at <https://www.etf.europa.eu/en/about/procurement>).
- The tender report (a document generated by e-Submission and listing all the documents included in the tender, to be signed by the tenderer or the group leader in case of a joint tender).

When the declaration(s) of honour and the tender report are signed by hand, a scanned copy must be attached to the tender in e-Submission. The hand-signed originals must be sent by letter at the latest on the first working day following the electronic submission of the tender to:

Finance and Procurement Unit  
European Training Foundation  
Villa Gualino, Viale Settimio Severo, 65  
10133 Torino, Italy

Only the originals of the declaration on honour and the tender report are to be sent by letter, not other documents.

After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender, or withdraw it and replace it with a new one. In these cases the tenderer must send a withdrawal/ replacement notification, clearly specifying the call for tender's reference and the e-Submission ID of the tender being withdrawn/replaced. The notification must be dated, signed by the tenderer or the group leader in case of a joint tender and sent as follows:

- if signed using an advanced electronic signature based on a qualified certificate: by e-mail sent before the deadline for receipt of tenders to **procurement@etf.europa.eu**;
- if signed by hand: by letter, sent before the deadline for receipt of tenders to the ETF's postal address with an advanced scanned copy by e-mail to **procurement@etf.europa.eu**.

To submit a new version, the tenderer must create a new tender in e-Submission and include all the information and documents required in the procurement documents with the submission of a tender, even if some of them have already been included in the replaced tender.

## 5. OTHER CONSIDERATIONS

### 5.1 MEANS OF REDRESS

You may submit any observations concerning the procurement procedure to the ETF at **procurement@etf.europa.eu**.

Tenderers may lodge an action for annulment against the contract award decision. This must be done within two months of receipt of the notification letter (see point 7). The court responsible for hearing annulment procedures is the General Court:

General Court  
E-mail: **GC.Registry@curia.europa.eu**  
Tel. +352 4303 1  
Fax +352 4303 2100  
<http://curia.europa.eu>

Tenderers may also lodge a complaint to the European Ombudsman if they believe that the ETF has failed in a procurement procedure to respect the principles of good administration. This must be done within two years of the date when they became aware of the facts on which the complaint is based:

European Ombudsman  
Tel. +33 388 17 23 13  
Fax +33 388 17 90 62  
<http://www.ombudsman.europa.eu>

Any request you may make and any reply from the ETF, or any complaint for maladministration, will have neither the purpose nor the effect of suspending the time-limit for launching an action for annulment or to open a new period for launching an action for annulment.

### 5.2 DATA PROTECTION

In all procurement procedures, data will be processed in accordance with Regulation (EU) No 2018/1725 and the related data protection notice available at <https://www.etf.europa.eu/en/about/procurement>.

### 5.3 EXPENSES RELATED TO THE PREPARATION AND SUBMISSION OF TENDERS

The ETF will not reimburse expenses incurred in the preparation and submission of tenders, including expenses related to site visits, attending clarification meetings or opening sessions and interviews.

### 5.4 GUARANTEES

The ETF may require a pre-financing guarantee or a performance guarantee or a retention money guarantee from the winning tenderer. When such a guarantee is requested, the specific conditions related to its provision are included in the draft contract. The costs of any such guarantee shall be borne by the contractor.

### 5.5 LOTS

When a procurement procedure is divided into lots, this is explicitly mentioned in the contract notice and the tender dossier. In the case of lots, tenderers may submit tenders for one lot only, a combination, or all of them.

Each individual lot is evaluated independently of the other lots.

### 5.6 NO OBLIGATION TO AWARD

The ETF has no obligation to award a contract as a result of a procurement procedure.

The ETF shall not be liable for any compensation with respect to tenderers whose offers have not been accepted, nor shall the ETF be liable when deciding not to award the contract or to cancel the procedure at any time before the award.

### 5.7 PREPARING A TENDER WITH OTHER ECONOMIC OPERATORS

Unless otherwise stated in the contract notice and/or the tender dossier, both **subcontracting** and **joint tenders** are allowed.

Tenderers planning to prepare tenders with another economic operator(s) should follow the instructions in the tender dossier on what exclusion and selection criteria are applicable to the other economic operator(s).

#### i. Subcontracting

Subcontracting is when the contractor enters into a legal commitment (subcontracts) with one or more economic operator(s) in order to deliver part of the work, service or supply described in the tender dossier.

During contract performance, the ETF will have no direct legal commitment towards such subcontractor(s) and only the main contractor is liable to the ETF for the performance of the contract as a whole.

In case the contractor proposes to subcontract a part of the service/supply after contract signature i.e. not envisaged at the time of the procurement procedure, or to replace a subcontractor named in the original tender, a written request should be sent to the ETF stating the estimated value or percentage of the total service/supply the contractor proposes to subcontract. The request to subcontract or change subcontractor will be assessed by the ETF and contractors may proceed with the arrangement only once they have received written confirmation from the ETF.

#### ii. Joint tenders

A joint tender is an offer submitted by a group of two or more tenderers. If awarded the contract, the ETF may require the group of tenderers to give a formal status to their cooperation and the contract will be signed by one member of the group duly authorised by the other members. All tenderers in the group will have an equal standing towards the ETF in executing the contract and each member of the group will assume joint liability for the performance of the contract as a whole.

### 5.8 VARIANTS

Variants are departures from any technical or financial requirement of the tender, or from any contractual condition, described in the tender dossier.



Unless otherwise stated in the contract notice and/or the tender dossier, variants are not permitted.

The ETF will disregard any variants described in a tender, and reserves the right to reject such tenders without further evaluation on the grounds that they do not comply with the tender specifications.

## 5.9 VALIDITY OF THE OFFER

Tenderers are bound by their offers for a period of 180 days following the closing date for submission of offers. The successful tenderer must maintain its offer for a further 60 days from the date of notification of the award.

## 6. TENDER OPENING AND EVALUATION

The opening of tenders, assessment of supporting documentation and evaluation of offers are carried out by members of the **opening and evaluation committee(s)**. Upon completion and careful recording of each of these three steps, it is the committee's role to provide a recommendation to the ETF manager responsible on which eligible offer represents the 'most economically advantageous tender' and should be considered for contract.

Each member of the committee(s) signs a declaration of absence of conflict of interest and of confidentiality.

### 6.1 OPENING

The tender opening session will take place at the ETF's premises on the date indicated in the timetable in the tender dossier.

The opening committee will check the integrity of the tender received and if it has been submitted within the deadline specified in the tender dossier. The names of the tenders received will be announced and recorded.

For open tenders only:

Tenderers wishing to attend the opening session, should notify the ETF two working days in advance by e-mail to **procurement@etf.europa.eu**.

A maximum of one representative per tenderer may attend the opening session as an observer.

Tenderers not present at the opening session may send an information request to **procurement@etf.europa.eu** if they wish to be provided with the information announced during the opening.

### 6.2 ASSESSMENT

Tenders complying with the formal requirements checked during the opening session will be assessed to ensure that there are no grounds for exclusion of the tenderer and that they have the capacity to perform the contract. Tenders will also be checked for compliance against the minimum requirements of the tender specifications.

### i. Exclusion

Tenderers are requested to provide a completed and signed declaration on honour on exclusion criteria and selection criteria. In case tenderers refuse to submit a signed declaration or are later found to be in any of the situations listed in the declaration, they will be excluded from the procurement procedure and may be subject to administrative sanctions.

Tenderers will be excluded if:

- (a) they are bankrupt, subject to insolvency or winding up procedures, their assets are being administered by a liquidator or by a court, they are in an arrangement with creditors, their business activities are suspended or they are in any analogous situation arising from a similar procedure provided for under EU or national legislation or regulations;
- (b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;
- (c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:
  - (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;
  - (ii) entering into agreement with other persons with the aim of distorting competition;
  - (iii) violating intellectual property rights;
  - (iv) attempting to influence the decision-making process of the contracting authority during the award procedure;
  - (v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;
- (d) it has been established by a final judgement that the person is guilty of any of the following:
  - (i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;
  - (ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law;
  - (iii) conduct related to a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;

(iv) money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;

(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;

(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;

(e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract or on agreement financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;

(f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;

(g) it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business;

(h) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g);

(i) for the situations referred to in points (c) to (h) above the person is subject to:

(i) facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office after its establishment, the Court of Auditors, the European Anti-Fraud Office (OLAF) or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;

(ii) non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;

(iii) facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;

(iv) information transmitted by Member States implementing Union funds;

(v) decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or

(vi) decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.

The situations described in points (c) to (h) apply also to a natural or legal person who is a member of the administrative, management or supervisory body of the legal person, or who has powers of representation, decision or control with regard to the legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849).

For tenderers where the natural or legal person assumes unlimited liability for the debts of the tenderer, the situation described in point (a) and (b) also apply.

The contract will not be awarded to tenderers who, during the procurement procedure are guilty of misrepresentation in the information provided to the ETF for the purposes of their participation in the tender or have distorted competition by being previously involved in the preparation of the procurement documents.

If the tenderer declares one of the situations of exclusion listed above, it should indicate the measures it has taken to remedy the exclusion situation, demonstrating its reliability. They may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence, which appropriately illustrates the remedial measures taken should be annexed to the declaration. This does not apply for the situations described in point (d).

#### **Additional documentation to support the declaration on honour**

The ETF may ask tenderers to provide additional documentation to support their declaration at any time.

To demonstrate that the tenderer is not in one of the situations described in points (a), (c), (d), (f), (g) or (h) the ETF will accept a recent extract from the judicial record or a recent equivalent document issued by a judicial or administrative authority in the country of establishment showing that those requirements are satisfied.

To demonstrate that the tenderer is not in one of the situations described in points (b), the ETF will accept a recent certificate issued by the competent authority of the country concerned. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

Where no such certificate is issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

If the tenderer already submitted such evidence for the purpose of another procedure and the issuing date does not exceed one year and it is still valid, the tenderer will declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.



**ii. Capacity to perform the contract**

Provided there are no grounds for exclusion of the tenderer, the tenderer’s capacity to perform the contract is assessed based on their proven:

- technical and professional capacity;
- economic and financial capacity.

Tenderers are requested to provide a completed and signed declaration on honour on exclusion criteria and selection criteria to prove that they meet the selection criteria stated in the tender dossier.

The ETF may ask tenderers to provide additional documentation to support their declaration at any time.

The documents provided by tenderers to prove that they meet the selection criteria will be used solely to assess their capacity to perform the contract and will not be considered when offers are evaluated against the award criteria.

**iii. Compliance with the technical specifications (minimum requirements)**

Provided there are no grounds for exclusion of the tenderer and the tenderer’s capacity is demonstrated, tenders will be assessed for compliance against the minimum requirements of the tender specifications.

Tenders not meeting the minimum requirements will be rejected and will not evaluated against the award criteria.

The documents required to prove compliance with the minimum requirements are stated in the tender dossier.

**6.3 EVALUATION**

In case there are no grounds for exclusion and the tenderer’s capacity to perform the contract is demonstrated and the tender complies with the minimum requirements, the evaluation committee will evaluate the tender against the award criteria stated in the tender dossier. No criteria other than those stated will be used.

Depending on the nature of the purchase, the award criteria are established on the basis of one of the following two principles:

- Most economically advantageous tender

The ‘most economically advantageous tender’ principle takes into account the combination of two main elements: technical quality of the tender and the price i.e. best price-quality ratio. The technical quality of tender is evaluated against one or more technical award criteria stated in the tender dossier. The technical award criteria are established taking into account the terms of reference and the technical proposal.

The weighting applied to each of the technical award criteria and to the price is stated in the tender dossier.

The formula used by the ETF to calculate which offer represents the best value for money incorporates the score for technical quality and the price:

$$\left\{ \begin{array}{l} \text{Score} \\ \text{for} \\ \text{tender A} \end{array} \right\} = \sum \text{all} \begin{array}{l} \text{technical} \\ \text{award} \\ \text{criteria}^* \end{array} \left[ \begin{array}{l} \text{Score for} \\ \text{technical} \\ \text{award} \\ \text{criteria of} \\ \text{tender A} \end{array} \right] \times \left[ \begin{array}{l} \text{Weighting} \\ \text{for} \\ \text{technical} \\ \text{award} \\ \text{criteria} \end{array} \right] + \frac{\text{Cheapest price}}{\text{Price of tender A}} \times \left[ \begin{array}{l} \text{Price} \\ \text{weighting} \end{array} \right]$$

\*where Σ is the sum

The score for technical award criteria is the score between 0 (for the lowest quality) and 10 (for the best quality). The result is the score for the technical award criteria.

The weighting given to each criteria is expressed in absolute values (between 1-100).

The formula gives a total final score out of 100. The offer receiving the highest score as a result of the evaluation, provided it reaches any minimum quality thresholds specified in the tender dossier, will be recommended for contract.

The tender dossier may state minimum quality thresholds for the score obtained against each of the technical criteria (for open tenders only); offers scoring below such thresholds will be eliminated.

#### ■ Lowest price

In this case, only the financial award criteria is used which implies the award of the contract to the lowest price(s) offered.

### **i. Negotiations**

In case of negotiated procedures, the ETF may negotiate the tenders submitted in order to adapt them to the procurement documents and to find the most economically advantageous tender. The minimum requirements are not subject to negotiation. During the negotiations equal treatment of all tenderers will be ensured. The conditions for negotiation will be indicated in the tender dossier.

The ETF reserves the right not to negotiate and to award the contract on the basis of the tenderer initially received.

### **ii. Early detection and exclusion system**

Before the decision to award a contract is taken, the ETF consults the early detection and exclusion system set up and operated by the European Commission in compliance with EU rules on the protection of personal data.

The system facilitates the early detection of risks threatening the Union's financial interests.

It contains information on early detection or exclusion and/or financial penalty imposed on candidates and tenderers.

In case the proposed contractor is included in the database, the ETF may decide not to award the contract.

## **7. NOTIFICATION OF RESULTS**

### **7.1 INFORMING TENDERERS**

When the ETF has signed the contract award decision, a notification letter will be sent simultaneously to all tenderers. The letters to unsuccessful tenderers will state the grounds on which the decision was taken.

Contract award however, will not be complete until the contract has been signed by both the successful tenderer and the ETF.

Tenderers wishing to request additional information on the outcomes of the evaluation may do so in writing to the Finance and Procurement Unit, by email to [procurement@etf.europa.eu](mailto:procurement@etf.europa.eu). The request must clearly state the Call for Tender (CFT) reference number.

The ETF may provide the name of the successful tender, the contract value, the characteristics and relative advantages of the successful tender taken from the signed evaluation record such as total scores awarded and a summary of the comments of the evaluation committee on the quality of the tender received from the tenderer requesting additional information and that of the winning tenderer. The ETF will not disclose any information affecting the commercial interests of other tenderers.

The ETF may suspend the contract award for additional examination if this is justified by requests and/or comments received by the unsuccessful tenderers.

For contracts above above 139,000 €, the ETF will sign a contract only after the standstill period of 10 calendar days has elapsed. Any contract signed before the end of this standstill period shall be null and void.

## **7.2 INFORMING THE PUBLIC**

The ETF publishes each year information on contracts awarded, the values and the names of the contractors.

## **8. CONTRACT AWARD**

The contract awarded will comprise the draft contract from the tender dossier, the terms of reference and the successful tenderer's offer. Together they will constitute the contractual conditions under which the service/supply will be delivered. The main types of contract used by ETF are listed below.

### **8.1 FIXED VALUE SERVICE / SUPPLY CONTRACT**

The fixed value contract is used when the volume and timing of delivery of the service(s) or supply(s) is defined in the tender dossier. The fixed value of the contract will be the price quoted by the successful tenderer in their financial proposal.

### **8.2 FRAMEWORK CONTRACT**

The framework contract is used when the volume and timing of the delivery of the services/supplies are not yet defined in the tender dossier. The framework contract is of fixed duration but with no fixed value, apart from a maximum for the whole duration of the contract, which may not be exceeded.

The framework contract forms the basis for possible future purchases of services/supplies by the ETF. It contains, among others, a description of the scope of services/supplies that the ETF can purchase, methodology, timing and prices as quoted by the successful tenderer in their financial proposal. The framework contract itself is not an order for services/supplies and does not constitute a commitment to purchase. Specific services/supplies are requested by the ETF through 'order forms' describing the volume, timing and resulting value.

The framework contract can be 'simple' or 'multiple':

- A procurement procedure resulting in a simple framework contract means that the ETF will award one contract to the tenderer with the highest score as a result of the evaluation.

- A procurement procedure resulting in multiple framework contracts, means that the ETF will award more than one contract to the tenderers with the highest scores as a result of the evaluation. Multiple framework contracts can be competing or cascading.

The type of framework contract to be awarded will be clearly stated in the tender dossier.

### 8.3 ORDER FORMS

A simplified contract or 'order form' can be used in cases of simple or low-value services/supplies. The contractor will provide the requested services/ supplies in accordance with the terms set out in the terms of reference and in the ETF General Conditions available on the ETF website at <https://www.etf.europa.eu/en/about/procurement>.

## 9. LEGAL BASIS

These are the main legal provisions applicable to calls for tender issued by the ETF for the supply of services, goods and works.

ETF procurement procedures are governed by the following provisions:

**Regulation (EU, Euratom) 2018/1046** of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and amending Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 233/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012;

**Directive No. 2014/24/EU** of the European Parliament and of the Council of 26 February 2014 on public procurement and Directive No. 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts .


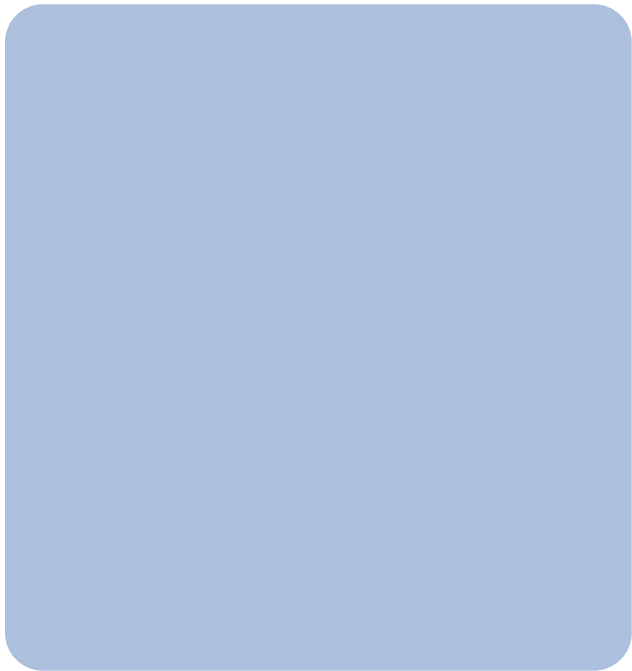
The principles arising from the jurisprudence of the European Court of Justice in the Public Procurement field.

## 10. FORMS

The following forms can be accessed via the ETF website:

<https://www.etf.europa.eu/en/about/procurement>[http://www.etf.europa.eu/web.nsf/pages/How\\_to\\_become\\_an\\_ETF\\_supplier](http://www.etf.europa.eu/web.nsf/pages/How_to_become_an_ETF_supplier).

- Declaration of honour on exclusion criteria and selection criteria
- Legal Entity Form
- Financial Identification Form
- General Conditions of the Contract
- Europass CV



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