Explanations and information regarding the suitability check

Please note the following:

- Please complete the form in full and sign in the space provided.

- In the case of bidding consortia, a separate form must be completed for each member and submitted with the tender. Self-declarations then refer to the declarations of the individual members of the consortium.

- The form is also to be used by other entities (e.g. subcontractors or affiliated companies) who are to perform parts of the contract or whose suitability the bidder/bidding consortium is reliant upon (“reliance on the resources of other businesses” pursuant to Section 34 of the Sub-Threshold Procurement Ordinance); they are to submit the information or declarations required for them.

- Insofar as the service to be provided entails activities that are subject to registration, notification or authorization, the contracting authority may at any time during the process request appropriate proof of qualification and authorization to perform the professional activity.

- A business for which there are grounds for exclusion under no. 1 and nos. 3 to 7 of the declaration regarding suitability will not be excluded from participation in the contract award procedure if it has provided proof that it:
  - Has paid or has pledged to pay compensation for any damage caused by a criminal offense or misconduct;
  - Has fully clarified the facts and circumstances relating to the offense or misconduct and the damage caused, through active cooperation with the investigating authorities and the public contracting authority; and
  - Has taken such concrete technical, organizational and HR measures as to prevent further criminal offenses or misconduct.

- Businesses for which there are grounds for exclusion under no. 2 of the declaration regarding suitability will not be excluded from participation in the contract award procedure if proof is provided that they have fulfilled their obligations by paying or by undertaking to pay taxes, duties and social security contributions, including interest as well as late payment and penalty fees.

- For estimated contract values of EUR 30,000 and above (gross), the contracting authority is required, as per Section 21(4) of the Posted Workers Act (Arbeitnehmerentsendegesetz - AEntG) and Section 19 (4) of the Minimum Wage Act (Mindestarbeitsbedingungengesetz - MiLoG), to request a disclosure from the central trade register as per Section 150a of the Trade Regulations Act (Gewerbeordnung) concerning the prospective contractor before awarding the contract. The data to be provided by candidates and tenderers in no. 12 of the self-declaration are required in order to fulfill this legal obligation. Failure to provide this data or providing incomplete data will result in exclusion from the tendering process.

- For estimated contract values of EUR 15,000 (gross) and above, the contracting authority is required pursuant to Section 6 of the Corruption Register Act (Korruptionsregistergesetz - KRG) to inquire, before awarding the contract, whether there are any entries against the contractor in the corruption register. The contracting authority is also entitled to make inquiries regarding subcontractors. The data to be provided by candidates and tenderers in no. 12 of the self-declaration are required in order to fulfill this legal obligation. Failure to do so or providing incomplete data will result in exclusion from the tendering process.

- Independent of the requirement to conduct a suitability check, the contracting authority is obliged - in accordance with the Procurement Statistics Ordinance (Vergabestatistikverordnung - VergStatVO) - to forward certain data regarding the awarding procedure for contracts with a value of EUR 25,000 (net) or above to the Federal Ministry for Economic Affairs and Energy. The data to be provided by candidates and tenderers (micro, small, and small and medium-sized enterprises) in no. 13 of the self-declaration are required in order to fulfill this legal obligation. Failure to provide this data or providing incomplete data will result in exclusion from the tendering process.
Self-declaration regarding suitability

1. I/We understand that pursuant to Section 31 (1) UVgO read in conjunction with Section 123 (1) of the Act Against Restraints of Competition (GWB), a company must be excluded from a contract award procedure at any time during the procedure should the contracting authority become aware that a person whose conduct is attributable to the company has been convicted or that a fine has been imposed by law on the company pursuant to Section 30 of the Administrative Offense Act for a criminal offense referred to in:

a) Section 129 of the Criminal Code (forming criminal groups), Section 129a of the Criminal Code (forming terrorist groups), Section 129b of the Criminal Code (criminal and terrorist groups abroad);

b) Section 89c of the Criminal Code (financing of terrorism), or for involvement in such an act or for providing or raising funds in knowledge of the fact that these funds are, in full or in part, being used or are intended for use to commit an offense as defined in Section 89a (2) no. 2 of the Criminal Code;

c) Section 261 of the Criminal Code (money laundering, concealment of illegally acquired assets);

d) Section 263 of the Criminal Code (fraud), insofar as the offense is targeted at public budgets;

e) Section 264 of the Criminal Code (subsidy fraud), insofar as the offense is targeted against the budget of the European Union or budgets managed by or on behalf of the European Union;

f) Section 299 of the Criminal Code (bribery and corruption in commercial transactions);

Sections 299a and 299b of the Criminal Code (bribery and corruption in the health sector);

g) Section 108e of the Criminal Code (active and passive bribery of elected officials);

h) Section 333 and 334 of the Criminal Code (granting of advantages and bribery), respectively also in conjunction with Section 335a of the Criminal Code (foreign and international staff);

i) Article 2, Section 2 of the Act on Combating International Bribery (bribery of foreign members of parliament in connection with international business transactions); or

j) Sections 232, 233a paragraphs 1 to 5, 232b to 233a of the Criminal Code (human trafficking, forced prostitution, forced labor, exploitation of labor, exploitation involving deprivation of liberty).

A conviction or the imposition of a fine is here equivalent to a conviction or the imposition of a fine under comparable legislation of other states. The conduct of a person convicted by final judgment is deemed attributable to a company if said person was acting as the person responsible for the management of the company in the conduct of its affairs; this includes supervision of management or other exercise of supervisory powers in a managerial capacity.

2. I/We understand that, pursuant to Section 31 (1) UVgO in conjunction with Section 123 (4) of the Act Against Restraints of Competition (GWB), a company must at any time during a contract award procedure be strictly excluded from participation if the contracting authority is aware that the company has failed to meet its obligations to pay taxes, duties or social security contributions and this has been established by a final court decision or a final administrative decision or the violation of the obligations listed is proven in any other way by the contracting authority.
3. I/we understand that a business can be excluded from a tendering procedure in accordance with Section 31 (1) UVgO read in conjunction with Section 124 (1) GWB if:

a) The business has been found to have infringed applicable environmental, social or labor law obligations in the execution of public contracts;

b) The company is insolvent, insolvency proceedings or similar proceedings have been applied for or initiated in respect of the company's assets, the commencement of such proceedings has been refused due to insufficiency of assets, the company is in liquidation or has ceased trading;

c) The company has been shown to have committed serious misconduct in the course of its professional activities, such as calls into question the integrity of the company; Section 123 (3) GWB applies accordingly;

d) The public contracting authority has sufficient evidence that the company has concluded agreements with other businesses which have as their object or effect the prevention, restriction or distortion of competition;

e) A conflict of interest exists in the conduct of the procurement procedure which may affect the impartiality and independence of a person working for the contracting authority regarding the performance of the award procedure and which cannot be effectively redressed by other less restrictive measures;

f) A distortion of competition results from the fact that the company was already involved in the preparation of the award procedure and that this distortion of competition cannot be effectively redressed by other, less restrictive measures;

g) The company has substantially or continuously failed to fulfill an essential requirement in the performance of a previous public contract or concession contract, insofar as this has led to premature termination of the contract, damages or a comparable legal consequence;

h) The company has been guilty of serious misrepresentation in relation to the grounds for exclusion or selection criteria, has withheld information or is unable to provide the required proof; or

i) The company has sought to unduly influence the contracting authority's decision-making process, has tried to obtain confidential information which might provide it with improper advantages in the award procedure, or has negligently or intentionally supplied or attempted to supply misleading information which would significantly influence the contracting authority's award decision.

4. I/We understand that, pursuant to Section 21 of the Posted Workers Act (AEntG), tenderers that have been fined at least EUR two thousand five hundred for an infringement under Section 23 AEntG are to be excluded for a reasonable period of time until their trustworthiness has been re-established from participation in a competition for a supply, works or service contract of the contracting authorities referred to in Section 99 of the act against restraints of competition (GWB). The same applies even before fine proceedings are conducted if, in individual cases, there is no reasonable doubt of serious misconduct in view of the evidence.

5. I/We understand that pursuant to Section 98c of the Residence Act (Aufenthaltsgesetz - AufenthG) candidates may be excluded from participation in a competition for a supply, works or service contract of the contracting authorities referred to in Section 99 of the Act Against Restraints of Competition (GWB), if those candidates - or their authorized representatives under the articles of association or by law - have been fined at least EUR two thousand five hundred under Section 404 (2) no. 3 of Book III of the Social Code or have received a custodial sentence of more than three months or a fine of more than 90 daily remuneration rates under Sections 10, 10a or 11 of the Act to Combat Clandestine Employment (Schwarzarbeitsbekämpfungsgesetz - SchwarzArbG).

6. I/We understand that pursuant to Section 19 of the Minimum Wage Act (MiLoG), tenderers that have been fined at least EUR two thousand five hundred for an infringement under Section 21 MiLoG are to be excluded for a reasonable period of time until their trustworthiness has been re-established from participation in a competition for a supply, works or service contract of the contracting authorities referred to in Section 99 of the Act Against Restraints of Competition (GWB).
7. I/We understand that pursuant to Section 21 of the Act to Combat Clandestine Employment (SchwarzArbG), candidates are excluded for a period of up to three years from participation in a competition for a supply, works or service contract of the contracting authorities referred to in Section 99 of the Act Against Restraints of Competition, if those candidates - or their authorized representatives under the articles of association or by law - have received a custodial sentence of more than three months or a fine of more than ninety daily remuneration rates or have been fined at least EUR two thousand five hundred under Section 8 (1), no. 2 and Sections 10 to 11 of SchwarzArbG, Section 404 (1) or (2), no. 3 of Book III of the Social Code, Sections 15, 15a, 16 (1), nos. 1, 1c, 1d, 1f or 2 of the Employee Leasing Act (Arbeitnehmerüberlassungsgesetz - AÜG) or Section 266a (1) to (4) of the Criminal Code. The same applies even before criminal or fine proceedings are conducted if, in individual cases, there is no reasonable doubt of serious misconduct in view of the evidence.

8. I/We hereby declare:
   - That no penalties or fines for the above-mentioned offenses or under comparable legislation of other states have been imposed on my/our company or a person whose conduct is attributable to my/our company; and
   - That there are no reasons mentioned above which could justify the exclusion of my/our company from participation in the contract award procedure.

9. I/We understand that the non-submission or incorrectness of the above declarations may lead to my/our exclusion from this and future award procedures and to the termination of any contract awarded.

10. I/We understand that the contracting authority may require that my/our company demand the above declarations from subcontractors and that these declarations must be submitted prior to the contracting authority’s approval.

11. I/We fulfill the legal requirements for the performance of the services offered, in particular those concerning the capacity and authorization to exercise the professional activities.

12. I/We declare that I am/we are not aware of any entry in the central trade register or in the Berlin corruption register concerning the company or person(s) acting with responsibility.
Details of the owner of the company or of the person authorized to represent the company according to the articles of association or the law
(All fields must be filled in!)

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Description of the candidate or tenderer (e.g. company, association, institution, corporation, foundation):

Legal form:

Registration court (if applicable):

Registration number (if applicable):

13. I/We meet the conditions for micro, small and medium-sized companies as defined in Commission Recommendation 2003/361/EC (no more than 249 employees and an annual turnover not exceeding EUR 50 million or a balance sheet total not exceeding EUR 43 million).

Yes: ☐ No: ☐

X

(Date, signature) Last name, first name in block letters