

Valid: January 2014

General Contract Award Conditions
(in short: GCA)
of Österreichische Rundfunksender GmbH & Co KG (in short: ORS)

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1. Scope of application

Unless ORS determines otherwise in individual cases, the following provisions (in the event of any conflicts, the first document or specification specified in each case shall apply) shall apply between ORS and the contractor :

- Procurement-specific specifications ORS
- General Contract Award Conditions of ORS, as of January 2014
- ÖNORM A 2050, edition 2006-11-01, Award of contracts for services: Tender, offer, contract award, procedural standard.

2. Procedures and material specifications

- 2.1 ORS shall be entitled to award contracts with an estimated contract value of up to EUR 100,000.00 directly, if necessary after obtaining comparable offers and following negotiations.
- 2.2 ORS shall be free in its choice of procedure. It shall determine the procedure to be applied at the beginning of the procurement process.
- 2.3 Announcements shall be made as follows (list of announcement methods in order of importance):
- Direct contact with the bidders concerned
 - Procurement page of ORS (<http://ors.epaxios.com>)
 - Electronic advice notice (published by Wiener Zeitung GmbH)
 - Other publication media deemed appropriate by ORS in the respective case.
- 2.4 In a procurement procedure, all questions, documents and offers shall be handled exclusively by or addressed to the contact person(s) designated by ORS. Notifications to other individuals at ORS shall be invalid. The risk that the submitted questions, documents and offers are forwarded to the contact person within ORS on time and intact shall be borne by the respective bidder. Communication shall be exclusively in writing; by email/fax/letter. The risk that electronically transmitted questions/information reach the respective recipient shall be borne by the bidder. The bidder must ask at least three days before the submission deadline whether a

general answer to the question has been sent if they have not received a list of answers to questions pertaining to the respective procurement project.

- 2.5 Unless expressly stated otherwise, offers must be submitted in physical form (not fax/email). The same applies to requests to participate. Documents must always be submitted in duplicate (originals) and enclosed with the tender in electronic form (data carrier).
- 2.6 Members of a bidding consortium shall be obliged to form a working group in the event of the contract being awarded. They shall be jointly and severally liable for the contractual performance of the service in accordance with the contract; this includes joint and several liability for the consultants/subcontractors consulted in each case. If several invited bidders intend to form a bidding consortium, this must be announced to ORS within the first half of the bidding period. In this case, ORS shall be entitled to invite further bidders to submit bids and to extend the bidding period.
- 2.7 ORS shall be free to put the services out to tender either functionally or in individual positions. ORS shall be free to advertise the services either jointly or separately. ORS shall also be free to award/revoke part of the services for which an invitation to tender has been issued. If possible, ORS shall specify, at the beginning of the procurement procedure, the service parts that are accessible to a partial award of contract. Only in such cases shall bidders be entitled to submit partial bids.
- 2.8 ORS shall be entitled to amend calculation errors without restriction and to award the contract on the basis of the amended tender prices.
- 2.9 ORS shall be fully entitled to revoke the award procedure until expiry of the bidding period. Upon expiry of the bidding period, ORS shall be entitled to revoke the award procedure for objective reasons or compelling circumstances. In the event of a justified revocation of the award procedure, claims on the part of the bidders shall be excluded for any reason whatsoever.

3. Deadlines

- 3.1 The deadline for offers shall be determined by ORS at the beginning of each procurement process.

3.2 The deadline for the award shall be five months, unless otherwise agreed in individual cases.

4. Suitability

- 4.1 Bidders shall declare on oath in their application/offer that they have the required reliability and authorisation, as well as the economic and technical capacity. They have to specify their authorisation in the application for participation/offer.
- 4.2 Bidders shall be obliged to submit current copies (not older than six months) of all evidence of suitability (in particular an extract from the commercial register, extract from the trade register, bank confirmation, liability insurance confirmation, reference lists, client confirmations, declaration of annual sales, information on key persons, information on existing quality assurance / environmental management, information on existing plants / equipment) within five working days of ORS's request. ORS shall be entitled to determine further proof of suitability in individual cases. If the required proof of suitability is not submitted within the set deadline, the application for participation/the offer shall be rejected.

5. Offers

- 5.1 Bidders shall not receive any remuneration for participation in the award procedure, the submission of applications for participation and/or offers, including any tests/concept development/delivery of samples. They shall participate in procurement procedures solely for their own business interests. ORS shall not require any special designs. If, in the opinion of the bidders, special designs are required, the bidder must inform ORS of this within the first half of the bidding period. In this case, ORS will return the special designs to the bidder after completion of the award procedure. Intellectual property rights to the documents submitted by the bidders shall remain with the bidders, unless they are commissioned with the tendered work. With the awarding of the contract, the bidders shall grant ORS an exclusive right of use to the submitted documents for materially, locally and temporally unrestricted use, distribution, reproduction and processing.
- 5.2 The bidders/applicants shall waive any claims for damages against ORS arising from and in connection with the award procedures conducted by ORS, unless ORS is accused of deliberate and unlawful conduct.
- 5.3 Unless otherwise specified, all information in the procurement procedure shall be provided in German and in euro (EUR).

- 5.4 Requests to participate/offers must only be made using the forms provided by ORS. Expressions of interest/requests to participate/offers which are not made using the forms provided by ORS or which are modified in contravention of ORS requirements and which also result in a change in content shall be rejected.
- 5.5 Unless otherwise specified, the prices shall be fixed prices.
- 5.6 Prices shall be net prices, unless expressly stated otherwise. In addition, the statutory value-added tax shall be charged. The prices shall reflect all costs associated with the service advertised, taking into account the applicable labour law regulations, all ancillary services and costs (including all travel and accommodation costs, postage, telephone costs, copying costs), taking into account all expected hindrances/conditions and taking into account the General Terms and Conditions of ORS.
- 5.7 If there are doubts regarding the subject matter of the tender or other circumstances, the bidder shall be obliged to submit an enquiry to the contact person(s). The bidder shall explore the detailed circumstances under which the service is to be provided, in particular by carrying out the surveys on site.
- 5.8 Unless expressly stated otherwise, alternative offers and modification offers shall be excluded.
- 5.9 Insofar as alternative offers are expressly permitted, they are only permitted in addition to an offer corresponding to the defined Specifications (main offer). They are only permitted if marked separately as an “alternative offer”. The burden of proving the equivalence of alternative bids shall lie with the bidder. In particular, all consequential costs and difficulties affecting the customer must also be taken into account when proving equivalence.
- 5.10 The bidder shall be obliged to offer all advertised optional and contingent items. These optional and contingent items should not be included in the totals. If optional and contingent positions are included in the totals by mistake, ORS shall treat this as a calculation error and amend them accordingly.
- 5.11 If ORS invites tenders for variants, the bidder shall not be obliged to offer each variant. However, the bidder must provide a separate offer price for each variant offered. ORS shall decide which variant to award on the basis of the criteria announced in the procurement procedures. With this in mind, it is possible that the

best offer for a variant does not receive the order because this variant is not selected.

- 5.12 Discounts without further information shall be deemed general discounts. Price reductions shall also be deducted from cost-plus services and/or subsequently ordered services, unless otherwise expressly stated in the offer. A discount will be set in relation to the offer amount and deducted in the same proportion from the final invoice sum, unless otherwise expressly stated in the offer.
- 5.13 By submitting an offer, the bidder waives the right to contest his offer due to error, frustration or laesio enormis (Sec. 934 of the Austrian Civil Code). Bidders shall have no right for ORS to check the bids submitted for possible errors or to detect them.
- 5.14 By submitting the offer, the bidder confirms that they have investigated and thoroughly examined all circumstances and local conditions essential for the performance of the contract; this applies both to the local conditions and to temporal/meteorological circumstances and economic conditions. The bidder further confirms that they have thoroughly examined all tender documents and have taken them into account in the submission of the tender/calculation; this applies in particular to the plans attached to the tender and other calculation documents.
- 5.15 The bidder undertakes to keep confidential all documents/information and data disclosed to them or their employees or assistants in connection with this procurement procedure. They shall be obliged to treat all these documents/information and data confidentially and to keep them secret. Said obligation to maintain secrecy shall continue to apply without restriction even after the end of the procurement procedure.
- 5.16 ORS shall be unreservedly entitled to the exclusive rights of use of all tender documents or plans/samples/forms handed over to ORS. Bidders shall be entitled to use these documents exclusively for the purpose of submitting tenders. The passing on of these documents to third parties shall not be permitted, unless this is done for the purpose of submitting an offer in the relevant procurement procedure.
- 5.17 The bidder agrees to the electronic processing of their personal data insofar as this is necessary for the examination and evaluation of their application/offer including their suitability. With this in mind, the bidder agrees to be investigated/explored by ORS, notably in respect of their reliability.

- 5.18 In addition to the bank details, the IBAN and BIC codes must also be stated in the offers or the relevant accompanying letters

6. Award procedure

- 6.1 Insofar as bidders are entitled to participate in the opening of the bid, they are obliged to inform ORS, immediately upon the opening of the bid, of any shortcomings in the reading. If a bidder fails to make such an indication, they must accept all resulting disadvantages; in particular the evaluation of their bid without any discounts not read out.
- 6.2 ORS shall evaluate the offers submitted in accordance with the criteria it has announced (best bidder principle). If no criteria are announced, the principle of the lowest bid shall apply.
- 6.3 ORS shall inform all bidders of the intended contract award, stating the main reasons and features, and shall wait at least ten days before awarding the contract, unless there is a risk of delay or other material reasons for awarding the contract immediately.
- 6.4 The acceptance of a bid and thus the conclusion of a contract under civil law shall generally take the form of a written order by ORS. The order confirmation is returned by the contractor purely for organisational reasons. The contract under civil law shall come into effect with the transmission of the order. Deletions/amendments to the order shall be invalid. Even the potential signing of a contractual document following an order by both parties shall be solely for organisational or documentation reasons. Only in the event that both contracting parties sign just one contractual document (i.e. no order is placed) shall the civil law contract come into being when the contract is signed by ORS.
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