

## Declaration on social sustainability for IT

### Declaration of commitment to compliance with the ILO Core Labour Standards

#### 1.

As a contractor, the bidder<sup>1</sup> undertakes perform the contract on compliance with the regulations in which the Core Labour Standards of the International Labour Organization (ILO) have been implemented in national law<sup>2</sup>. Furthermore, the bidder undertakes to ensure that these regulations are also adhered to by all parties involved in the performance of the contract.

Parties involved within the meaning of this declaration are:

- **For IT hardware:**  
Manufacturers (product manufacturers)<sup>3</sup> and direct suppliers to manufacturers (not including sole retail functions)<sup>4</sup>
- **For IT services**  
Contractors and sub-contractors in as far as they perform the main work forming the subject matter of the contract.

The tenor of the respective ILO Core Labour Standards must also be adhered to if the national law of a country is applicable in which one or more Core Labour Standards have not been ratified or transposed to national law.

This means that at the time of performance:

no forced labour, including slave and [5] prison labour<sup>5</sup>, is performed in violation of *Convention No. 29* concerning Forced or Compulsory Labour of 28 June 1930, (Federal Gazette [BGBl.] 1956 II p. 641) and *Convention No. 105* concerning the Abolition of Forced Labour of 25 June 1957 (Federal Gazette 1959 II p. 442);

all employees are granted the right to organise unions and to become members of such unions, as well as the right to bargain collectively according to *Convention No. 87* concerning Freedom of Association and Protection of the Right to Organise of 9 July 1948 (Federal Gazette 1956 II p. 2073) and *Convention No. 98* concerning the Right to Organise and the Right to Bargain Collectively of 1 July 1949 (Federal Gazette 1955 II p. 1123);

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<sup>1</sup> A bidder group is also considered to be a bidder within the meaning of this declaration of commitment.

<sup>2</sup> The Core Labour Standards are Convention Nos. 29, 87, 98, 100, 105, 111, 138 and 182. The standards can be downloaded at: <http://www.ilo.org>

<sup>3</sup> A product manufacturer is the manufacturer of the goods forming the subject matter of the contract within the meaning of section 4 (1) of the German Product Liability Act [§ 4 Abs. 1 ProduktHaftG].

<sup>4</sup> A company's function as a direct supplier continues to exist even if there is an intermediary company with a solely retail function.

<sup>5</sup> Non-voluntary



no discrimination, exclusion or preference takes place on the grounds of race, skin colour, sex, religion, political opinion, national or social origin in violation of *Convention No. 111* concerning Discrimination in Employment and Occupation of 25 June 1958 (Federal Gazette 1961 II p. 98) which results in the elimination or impairment of equal opportunities and equal treatment in respect of employment and occupation;

men and women receive the same remuneration pursuant to *Convention No. 100* concerning the Equal Remuneration for Men and Women Workers for Work of Equal Value of 29 June 1951 (Federal Gazette 1956 II p. 24);

no child labour in its worst forms is carried out in violation of *Convention No. 182* concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 17 June 1999 (Federal Gazette 2001 II p. 1291) and *Convention No. 138* concerning the Minimum Age for Admission to Employment of 19 June 1976.

## 2.

If awarded the contract, the bidder has the following obligations with a view to adherence to the requirements listed in No. 1 above:

He shall independently check adherence to the obligations laid down in No. 1

After the contract has been awarded, the contractor shall demand from the parties involved the necessary proof of adherence to the requirements in the manner described in No. 3 and then pass such documents on to the contracting entity no later than 6 weeks after the contract was awarded unless such deadline cannot be upheld for material reasons. In such a case, the contracting entity shall determine a new deadline on the basis of the material reasons. The contractor is responsible for selecting the type of proof (see No. 3 below).

This obligation also applies to the contractor even during the term of the contract in as far as he becomes or should have become aware that a change in the performance process by him or the other parties involved no longer covers the content of the proof submitted up to such point in time.

This obligation also applies to the contractor at any time when requested by the contracting entity.

The contracting entity is entitled to perform checks or to have checks performed by independent third parties commissioned by the contracting entity. Such checks must be co-ordinated with the contractor. The contractor shall support the contracting entity here from an organisational perspective. In the event that the contracting entity commissions third parties, a non-disclosure agreement must first be signed.

3.

The proof to be submitted will enable the contracting entity to perform a plausibility check regarding adherence to the ILO Core Labour Standards.

#### **Proof No. 1**

The contractor declares adherence to the "ILO Core Labour Standards" during the performance of the contract and to the extent stated in No. 1 above. The contractor also warrants this by regularly verifying the working conditions during the performance of the contract as contemplated in No. 1 above. If violations are detected, countermeasures shall be initiated.

##### a) Proof at the time the contract commences

When the contract commences, the contractor will be required to show how he will ensure that the "ILO Core Labour Standards" are adhered to by his sub-contractors, e.g.

- by being able to name the sub-contractors,
- by showing how he will verify the working conditions at his sub-contractors,
- by outlining specific measures that ensure the best-possible consideration of the ILO Core Labour Standards.

##### a) Proof during the term of the contract

In as far as proof must be furnished pursuant to No. 2 above during the term of the contract, the contractor shall present the measures which he has taken during the term of the contract in order to adhere to the ILO Core Labour Standards as contemplated herein.

These presentations must refer to all of the contract work covered by this declaration. In the event that the contractor considers the presentation of all of the work to be unreasonable during the specified period of time due to the complexity of the work portfolio, he shall then reach agreement with the contracting entity and can restrict his presentation to important individual parts of the work. The contracting entity and the contractor shall mutually select the important individual parts of the work.

The contractor could, for instance, address the following issues:

- In which country will the important parts for this contract be manufactured and work performed?
- Who are the other parties involved within the meaning of this declaration?
- To what extent does the contractor maintain structures (e.g. a complaints office and complaints management) where a violation of the ILO Core Labour Standards can be reported within the scope of this contract?
- How and when did the contractor last verify the working conditions at the other parties involved as contemplated in this declaration? Is this kind of information regularly requested according to a schedule?
- To what extent have the contractor and the other parties involved entered into agreements or agreed to rules as contemplated in this declaration which promote adherence to the ILO Core Labour Standards according to this agreement?

- To what extent have the contractor and the other parties involved entered into agreements or agreed to rules as contemplated in this declaration which penalise failure to adhere to the ILO Core Labour Standards according to this agreement?
- Is the contractor aware of difficulties concerning adherence to the ILO Core Labour Standards, either for himself or for the other parties involved, within the meaning of this declaration? If so, what difficulties existed and what has been undertaken in order to eliminate these difficulties? What has been undertaken in order to avoid similar cases in future?
- Is the contractor planning other measures related to adherence to the ILO Core Labour Standards?

## **Proof No. 2**

If the contract is awarded, proof can be furnished through a valid seal, label or certificate, or proof of membership in an initiative pursuant to lit. \_\_\_\_ of the list below. The respective parts of the seal portfolio (e.g. report excerpts) must be submitted which refer to the ILO Core Labour Standards unless based on an audit by an independent third party. Furthermore, the contractor is required to declare that the proof selected also actually refers to the work that is the subject matter of the contract.

- a) EICC
- b) UN Global Compact
- c) GRI
- d) FTSE4Good
- e) BSCI
- f) SAI
- g) TCO certified
- h) In the event that the contract is awarded, proof can also be furnished through a different seal, label, certificate, membership in another initiative<sup>6</sup> or through another declaration by an independent third party commissioned by the contractor and his sub-contractors. The requirements referred to in sentence 2 and 3 above apply accordingly.

PLACE, DATE

SIGNATURE OR STAMP AND LEGALLY BINDING SIGNATURE

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<sup>6</sup> For more information about category 1 and 2 proof, please go to the website of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ): <http://www.kompass-nachhaltigkeit.de> or of Verbraucherinitiative e.V.: <http://www.label-online.de>.

## Declaration on social sustainability for IT

### Text block - contractual terms and provisions

In as far as a framework agreement or an individual contract is made and entered into, it is recommended that the following text block be embedded in the contract as a special paragraph. In as far as an EVB-IT contract is made and entered into, we recommend embedding the text block under "Other agreements":

"The parties hereto are aware of the importance of social sustainability for public procurement. For this reason, the contractor has undertaken with the submission of his bid to ensure adherence to the the Core Labour Standards of the International Labour Organization (ILO)<sup>1</sup> during the performance of the contract.

Taking this into account, the contracting entity can demand that the contractor provide a remedy within a reasonable period of time in the following cases: during the performance of the contract, the contractor himself or the parties commissioned by him to perform the contract fails/fail to adhere to the "ILO Core Labour Standards" as contemplated in No. 1 of the declaration of commitment, fails/fail to submit proof as contemplated in No. 2 of the declaration of commitment concerning adherence to the "ILO Core Labour Standards" or fails/fail to enable the examination of the working conditions as contemplated in the declaration of commitment concerning adherence to the "ILO Core Labour Standards" (see No. 2, final paragraph).

In the event that the contractor fails to remedy the situation within the period of time granted and due to reasons for which the contractor is responsible, the contracting entity can demand payment of a fine or terminate for cause.

If a penalty is imposed, the contracting entity can demand payment of a penalty amounting to 0.2% of the contract value for each calendar day on which the contractor is in default with adherence to the deadline set. In the event of partial work, the penalty shall be calculated on the basis of the percentage of the partial work in the contract value. However, the total penalty amount to be paid pursuant to this provision shall not exceed 5% of the contract value.

Notwithstanding section 341 (3) of the German Civil Code [§ 341 Abs. 3 BGB], the penalty can be imposed up until payment of the final invoice. The foregoing shall not apply if the contracting entity did not withhold the penalty at the time of acceptance despite being requested to do so by the contractor. Penalties shall be offset against claims for damages. Any claims for damages by the contracting entity as well as other legal claims and rights shall not be affected by the foregoing.

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<sup>1</sup> The Core Labour Standards are Convention Nos. 29, 87, 98, 100, 105, 111, 138 and 182. The standards can be downloaded at: <http://www.ilo.org>.



## Declaration on social sustainability for IT

### Definition of the area of application according to EVB-IT

1. Type of services according to the EVB-IT service agreement<sup>1</sup>

The contractor shall perform the following services for the contracting entity:

- Consultancy
- Project management support
- Training
- Introduction support
- Operator services
- User support services
- Provider services without responsibility for content
- Other services (irrespective of whether this involves legal classification as a work or as a service):
  - o Programming of individual software
  - o Data migration

2. Hardware definition

Devices and/or machines, including their optional, additional equipment according to manufacturer specifications which are listed in the contract; such devices and/or machines are generally specified in more detail by their manufacturers using order numbers, type descriptions, if applicable, together with the model name.

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<sup>1</sup> Can be retrieved at [http://www.cio.bund.de/SharedDocs/Publikationen/DE/IT-Beschaffung/EVB-IT\\_Vertragstypen/EVB-IT\\_Dienstleistung/evb\\_it\\_dienstleistungen\\_dienstvertrag\\_pdf\\_download.pdf?blob=publicationFile](http://www.cio.bund.de/SharedDocs/Publikationen/DE/IT-Beschaffung/EVB-IT_Vertragstypen/EVB-IT_Dienstleistung/evb_it_dienstleistungen_dienstvertrag_pdf_download.pdf?blob=publicationFile)

