



Discussion of proposed revisions of the Procurement Rules

24th ILO Forum Meeting, 3rd October 2023



BACKGROUND



Financial Rules were revised in 2013 and 2017 with main objective to increase return to all MS, BUT

- Thresholds in place since **1965**;
- Some tools (e.g. limited tendering) available aren't used as much as initially foreseen
- CERN Procurement Rules may not be attractive to industrial partners:
 - Reduces competition and response rates
- Some elements (e.g. adjudication to lowest compliant bid) not up-to-date with best practices in Big Science or EU Rules
- Some aspects of the rules also lead to additional work for industry and for FC delegates
- Target is to focus on real value-added activities



Proposed objectives for the revisions

Adapt existing tools to better balance industrial returns amongst MS/AMS

Consider quality and environmental aspects in CERN adjudications

Increase CERN attractiveness and competition

Optimize resources and time usage of the Procurement Service to concentrate on sourcing initiatives and strategies, whilst ensuring reporting and visibility for ILOs





THRESHOLDS



Importance of Thresholds in the Financial Rules



Thresholds ensure that Member States have oversight and control over the most significant procurements

Thus, high value Contract Adjudications are approved by the Finance Committee

It is not the purpose of these changes proposed here to lower control nor visibility, it is to increase the focus where it makes a difference

Additional checks and controls are introduced – for example in low value procurements where detection of patterns is needed when internal customers have more autonomy

Context of old Current Thresholds

1965

- Thresholds were increased :
- 100 kCHF → 200 kCHF (DOs)
- 500 kCHF → 750 kCHF
- Budget contributions payable by MS were 126.4 MCHF
- 750 KCHF threshold was 0.6% of the budget

“The adoption of these new amounts would greatly lighten the work of the Organization, especially in the next stage of development.”

2023

- 0.6% of the budget (1.2 BCHF) would be 7.2 MCHF
- The spirit of lightening the work has got lost over the last 50 years

1 – Thresholds

Benchmark with other organisations (for the purpose of this exercise, 1CHF = 1EUR)

In CHF

	CERN	EMBL	ESA	ESO	ESRF	ESS	F4E	ILL	ITER	SKAO
Competitive tenders subject to FC approval (or equivalent) (a)	750k	1M	2M*	500k	500k	NA	20M	500k	2.5/5M**	500k
Single source subject to FC approval (or equivalent)	200k	1M	2M*	250k	500k	NA	20M	500k	1M	250k
MS/IT required as from	200k	As needed	As needed	150k	50k	As needed	2M	25k	As needed	200k
3 bids required as from	5k	12.5k	10k	5k	8k	25k	17k	10k	10k	10k
Average annual expenditure (b)	500M	78M	2.5B	120M	50M	130M	200M	50M	350M	115M
% of (a) wrt (b)	0.15%	1.28%	0.08%	0.41%	1%		1%	1%	0.71%	0.43%

* 4 different thresholds depending on the supply (studies, technological programmes, non-MS, other contracts). The thresholds mentioned here refer to 'other contracts'.

** Construction contracts



1- Threshold: Competitive tender subject to FC approval

Current

750 000
CHF

Proposal

1.5 MCHF

Impact

~19% of FC adjudications (~8.6 documents/year) will not be presented

Advantages

Tendering process will last ~3 months less (it is good for bidders and CERN)

Time saved for about 15 persons involved in the preparation of documents

Comments

- Technical auditing for procurements >200kCHF will remain
- ILOs will receive tables I (no. of firms contacted), II (list of firms invited to the IT) and III (Prices at the opening) before the contract is placed. ILOs will have 2 weeks for questions.

1- Threshold: DO procedure up to 400kCHF (no MS needed below 400kCHF)

Current

200 000
CHF

Proposal

400 000
CHF

Impact

In 2022, this
represents
24% of all MS
(17/72)

Advantages

- ✓ Reduces tendering process time from 9-12 months to 3 months in average
- ✓ Increases competition
- ✓ Decreases work for the PS

Comments

- Forthcoming needs could be announced in the same page than today (some technical development will be needed) <https://forthcoming-ms.app.cern.ch/#!/> Only for needs > 200kCHF
- Eligibility criteria could be introduced in the tendering documentation, if deemed necessary
- ILOs will continue to receive all DO/MS/IT launched
- The information available in the ILO Info will remain (for every DO above 50kCHF)
- Whenever possible, 6 weeks for bidding will be granted

1- Threshold: 3 bids requested as from

Current

5000 CHF

Proposal

10 000 CHF

Impact

in 2022
CERN sent
1353 orders
of this range
for a total
value of
9.6MCHF

Advantages

Allows PS to
concentrate its
time in higher
value procedures
and identifying
possible future
contracts

Comments

PS will reinforce the “a posteriori”
checks to:

- avoid abuses;
- identify products that can be standardized or for which a blanket order contract can be placed following tendering process

The final objective is to reduce
the number of low-value orders.






1- Threshold: Small orders made by the users without the intervention of the PS

Current	Proposal	Impact	Advantages	Comments
1000 CHF	2000 CHF	in 2022 CERN sent 3000 orders btw 1k- 2kCHF for a total value of 4.2MCHF	Reduces the work for the Procurement Service on low value orders	Objective is to continue decreasing the number of small orders (with more standardization, placing blanket order contracts following tendering process). Reporting and analysis of data will be necessary to detect possible patterns

Country of origin for orders below 1kCHF

Table 7: Individual orders < 1 000 CHF in 2014











Year: 2014

Country		Number of orders	Paid in CHF	Percentage
Switzerland		4 975	1 849 949	39.53
France		3 365	1 313 132	28.06
Germany		1 431	558 421	11.93
Other countries		1 206	495 235	10.58
United States		599	206 844	4.42
United Kingdom		469	171 470	3.66
Italy		191	84 514	1.81
Total		12 236	4 679 565	

Note: Excluded for the calculation of Industrial Return.

Table 7: Individual orders < 1 000 CHF in 2022

Year: 2022

Country		Number of orders	Paid in CHF	Percentage
Switzerland		3 954	1 067 091	31.4
France		2 473	801 021	23.6
Germany		1 913	552 971	16.3
Other countries		878	277 154	8
United States		641	184 348	5.4
United Kingdom		576	187 200	5.5
China		278	63 267	1.9
Italy		272	93 082	2.7
Czech Republic		177	53 292	1.6
Netherlands		157	51 534	1.5
Belgium		121	43 057	1.3
Spain		84	26 223	0.8
Total		11 524	3 400 240	

1 – Thresholds (Summary)

	Current thresholds in CHF	Proposed change in CHF
Competitive tender subject to FC approval	750 000	1 500 000
MS/IT required as from	200 000	400 000
3 bids required as from	5 000	10 000
Price enquiry (DO) handled by the Procurement Service as from	5 000	10 000
Users can make their own orders	< 1 000	< 2 000

All thresholds will be reviewed periodically (every 5 years) according to CVI





Limited Tendering



Number of Limited Tendering procedures (since its creation)

	LT DOs/Total DOs	LT ITs/Total ITs
2023	8/105	3/88
2022	14/150	3/78
2021	4/90	1/76
2020	0/114	0/62
2019	4/107	0/82
2018	1/180	0/80

2- Extension of Limited Tendering (ELT)

Current Text

“contact only firms from MS with a return coefficient below 0.4”

Proposed

Contact firms manufacturing in the 12 least balanced Member States (1/3 of MS in 2024)
If an AMS reaches its annual ceiling, it will be replaced by the next least favourable MS

Advantages

- ✓ ELT would be used more often than LT
- ✓ More competition - potentially lower prices
- ✓ Would prevent yo-yo effect at 0.4

Comments

- ✓ No more than 20% of the number of ITs/DOs will be LT
- ✓ Whenever possible, following an MS, 2 ITs will be launched (one open to all MS and the second restricted to firms manufacturing in countries entitled to LT)
- ✓ If the price of the LT IT is more than 30% higher compared to the IT open for all MS, CERN reserves the right not to place a contract following LT IT
- ✓ The status of MS could be: countries with an $IR > 1$ and < 1 (sub-category: MS entitled to LT)



Best Value For Money (BVFM)



3- Use of BVFM for supplies

Situation

- ✓ BVFM can be applied for service contracts w/o prior approval from FC.
 - ✓ Reminder: CERN definition of services: pluri-annual service on the CERN site.
- ✓ CERN is the only entity that cannot opt for BVFM for supplies w/o prior approval from FC;
- ✓ BVFM rarely used at CERN, although potentially relevant for consultants, services performed outside CERN site, artistic projects, software (all currently considered as supply contracts)



Proposal

- ✓ Clarify the definition of services (for which BVFM applies by default): a service contract concerns the performance of services such as maintenance, works, facilities management or professional services. The deliverables typically consist of non-physical results such as completed tasks, works, reports, recommendations or improved conditions.
- ✓ However, only contract services (pluri-annual on the CERN site) will be considered for the calculation of the IR

3- How to ensure transparency and objectivity

CERN intends to apply BVFM for supplies using the same guiding principles as for industrial services:

- The price weighs for at least 50% of the adjudication
- Quality criteria and points for each criterion are defined by Procurement Service before sending out the IT
- Only fully compliant bids are score
- A bid complying with the tech spec is worth 0 quality pt. The points are allocated only when the bid brings value-added compared to minimum requirements
- Any bidder can request detailed feedback on their technical score following adjudication
- The country of origin **will not** be taken into account for the adjudication

Other foreseen changes

Remove
obsolete
procedures

- *e.g. days before opening paper bids, max. number of firms to contact for DO/IT, obsolete links, list of criteria that may be used for BVFM adjudications, contract-follow-up procedure, etc.*
- Objective to simplify documents and to only have rules not procedures.

AMS

- Only consider their status on the 5th year of membership
- Once the annual contribution is reached, exclude the country from the list of poorly/well balanced country as we no longer can place any order with that country (change naming convention)

IR
calculation

Clearly exclude any procurement not funded by MS/AMS (e.g. donations, external institutes, etc.)

Extend
chapter 5.

Extend chapter 5 to procurements not funded by **MS/AMS**.

Open to
discussion

Accept insurances guarantees instead of bank guarantees, etc.

Next steps

- ✓ **Taking into account your comments, a white paper will be presented to December FC**
- ✓ **Finalise all changes in the Procurement Rules by March 2024 FC or June 2024 FC**





Back-up Slides

FC papers over the last 5 years

	Nb over 5 years	Yearly average nb	Percentage	Cumulated percentage
<750kCHF	22	4.4	9.6%	9.6%
750kCHF to 1MCHF	8	1.6	3.5%	13.2%
1MCHF to 1.5MCHF	35	7	15.4%	28.5%
1.5MCHF to 2MCHF	17	3.4	7.5%	36.0%
2MCHF to 2.5MCHF	18	3.6	7.9%	43.9%
2.5MCHF to 3MCHF	20	4	8.8%	52.6%
3MCHF to 4MCHF	16	3.2	7.0%	59.6%
4MCHF to 5MCHF	22	4.4	9.6%	69.3%
>5MCHF	70	14	30.7%	100.0%

Number of orders and value of orders (including team accounts)

Number of orders								
	<1k	1-2k	2-5k	5-10k	10-50k	50-200k	200-400k	>400k
2022	9,792	2,927	3,562	1,353	1,484	390	95	52
2020	9,925	3,035	3,482	1,253	1,358	455	55	33
2018	5,913	3,873	4,857	1,736	1,928	523	100	55

Value of orders in CHF								
	<1k	1-2k	2-5k	5-10k	10-50k	50-200k	200-400k	>400k
2022	3,728,377.19	4,204,795.81	11,737,718.73	9,606,578.89	32,081,754.82	37,968,725.56	26,570,341.98	47,872,609.52
2020	3,860,816.74	4,379,656.83	11,485,455.40	8,928,577.41	29,719,251.22	44,058,973.78	14,989,504.46	31,219,199.53
2018	4,756,316.98	5,595,347.55	16,077,972.80	12,415,615.47	42,536,631.77	53,033,868.28	27,629,457.56	45,380,003.58



Number of orders and value of orders (including team accounts)

2022

Order range	No. of orders	Total amount in kCHF
0k-1k CHF	9'792	3'728
1k-2k CHF	2'927	4'204
2K-5k CHF	3'562	11'737
5k-10k CHF	1'353	9'606

2020

Order range	No. of orders	Total amount in kCHF
0k-1k CHF	9'925	3'861
1k-2k CHF	3'035	4'380
2K-5k CHF	3'482	11'485
5k-10k CHF	1'253	8'929

2018













Order range	No. of orders	Total amount in kCHF
0k-1k CHF	5'913*	4'756
1k-2k CHF	3'873	5'595
2K-5k CHF	4'857	16'078
5k-10k CHF	1'736	12'416

* Naming convention changed, all orders are not taken into account

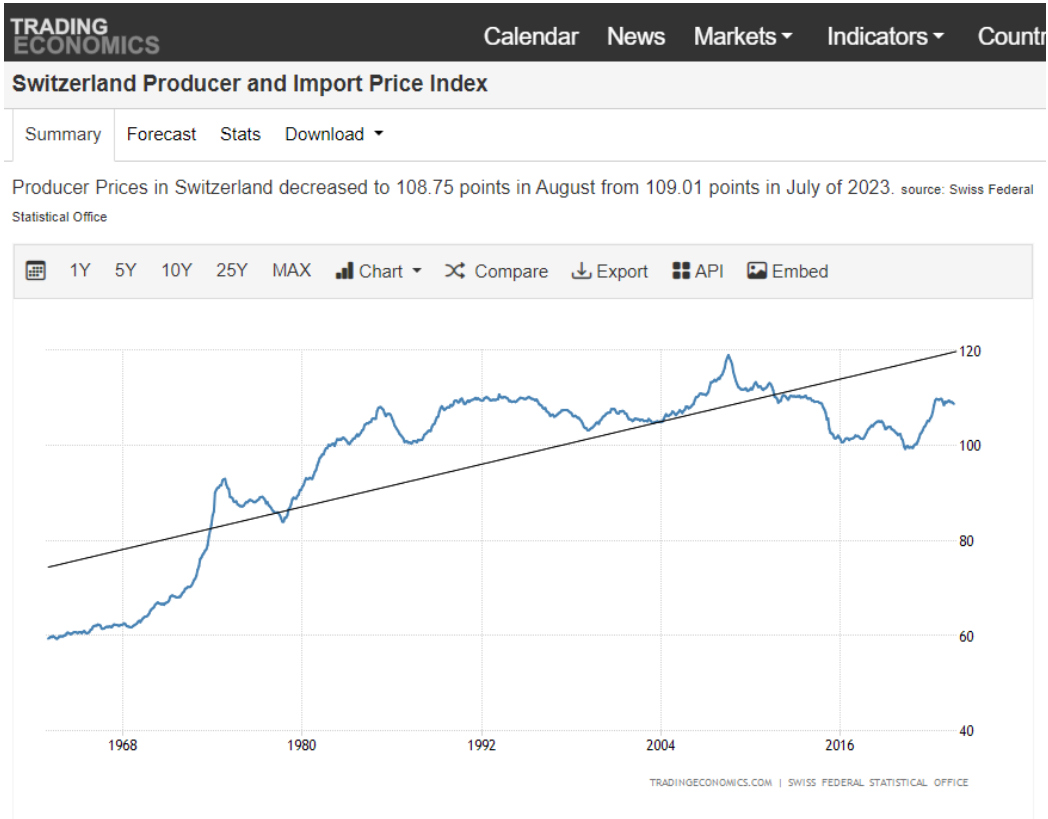


Table 3: 2022 Industrial return per order and contract range for supplies of various amounts

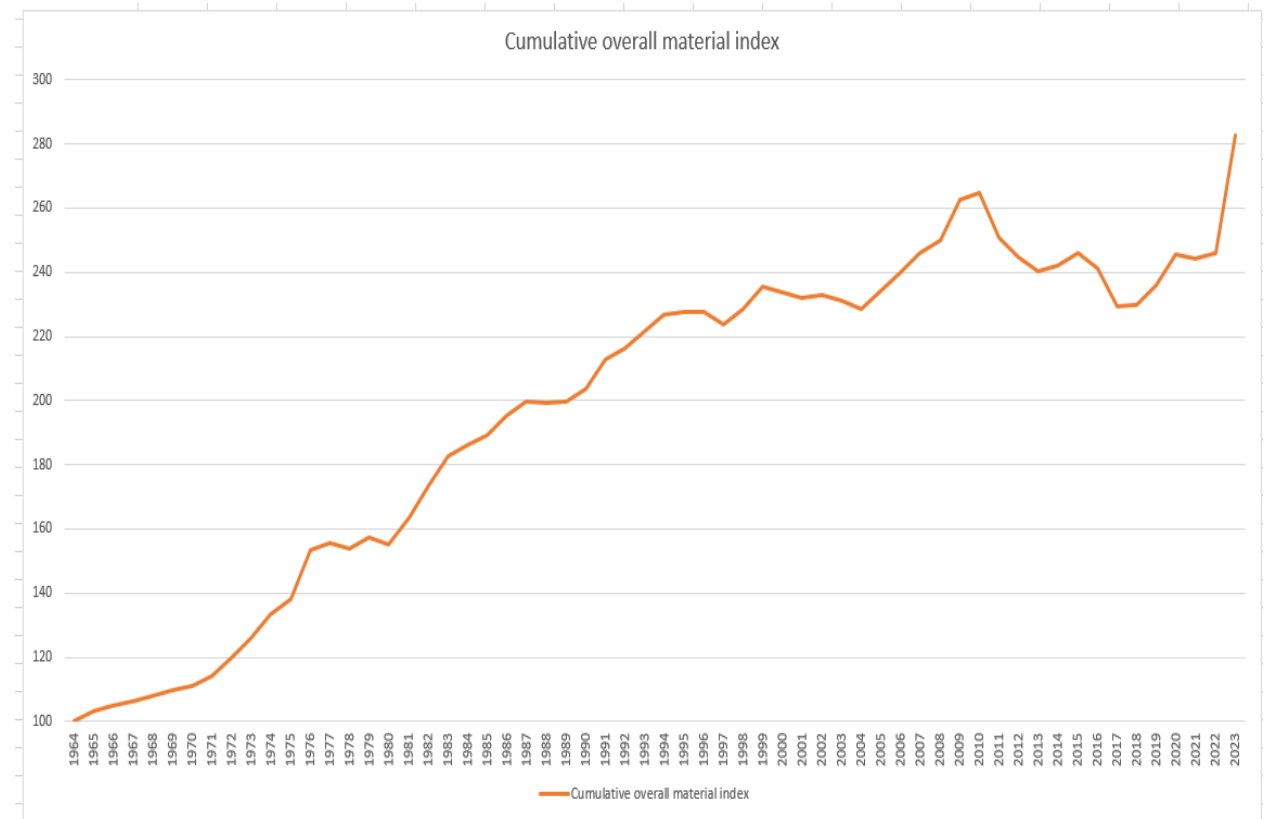
Year: Country:

Paid by amount of the order/contract (rounded kCHF)													
Country		≤ 10 kCHF		10+ to 50 kCHF		50+ to 200 kCHF		200+ to 750 kCHF		>750 kCHF		Total	Ind. Ret.
		Amount	Ind. Ret.	Amount	Ind. Ret.	Amount	Ind. Ret.	Amount	Ind. Ret.	Amount	Ind. Ret.		
Austria		262	0.57	477	1.02	575	1.11	27	0.06	3 194	1.08	4 535	0.93
Belgium		385	0.66	396	0.68	676	1.04	1 070	1.79	395	0.11	2 923	0.48
Bulgaria		42	0.59	15	0.21	-	-	-	-	58	0.13	114	0.15
Switzerland		5 730	6.97	4 255	5.12	4 180	4.53	3 019	3.57	28 445	5.4	45 629	5.25
Cyprus		-	-	33	1.81	-	-	-	-	-	-	33	0.17
Czech Republic		174	0.74	451	1.9	228	0.87	271	1.12	618	0.41	1 741	0.7
Germany		3 736	0.86	3 370	0.77	3 161	0.65	4 076	0.91	22 196	0.8	36 539	0.79
Denmark		381	1	551	1.44	303	0.71	83	0.21	12	-	1 330	0.33
Estonia		37	1.58	108	4.6	213	8.14	-	-	12	0.08	370	1.5
Spain		408	0.26	918	0.58	1 253	0.72	1 762	1.1	5 006	0.5	9 348	0.57
Finland		387	1.39	288	1.02	585	1.87	253	0.88	228	0.13	1 741	0.59
France		5 009	1.74	3 628	1.25	4 361	1.35	2 994	1.01	32 426	1.76	48 417	1.59

Switzerland producer index



Overall CVI



For Supply contracts between 01.03.2023 until 29.02.2024

The **return coefficient** of a Member State is defined as the ratio between that Member State's percentage share of the value of all Supply contracts and that Member State's percentage contribution to the CERN Budget over the same period.


A Member State is defined as **very poorly balanced** if its return coefficient for Supply contracts falls below 0.40, **poorly balanced** if its return coefficient for Supply contracts falls below 1.00 and **well balanced** if it is equal or greater than that value.

The **country of origin** is the country where the supplies (including their components and sub-assemblies) are manufactured or undergo the last major transformation by the contractor or his sub-contractor(s).






Well Balanced

 Austria
 Estonia*
 France
 Hungary
 Italy
 Lithuania*
 Switzerland
 Turkey*

Poorly Balanced

 Belgium
 Croatia*
 Cyprus*
 Czech Republic
 Finland
 Germany
 Greece
 Latvia*
 Netherlands
 Norway
 Pakistan*
 Poland
 Portugal
 Romania
 Serbia
 Slovak Republic
 Slovenia*
 Spain
 Sweden
 United Kingdom

Very Poorly Balanced

 Bulgaria
 Denmark
 India*
 Israel
 Ukraine*

