



Proposed changes to the Procurement Rules

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SWOT Analysis

STRENGTHS

- Mechanisms in place to achieve balanced industrial return amongst Member States (MS): alignment and Limited Tendering (LT)

WEAKNESSES

- The number of MS under 0.4 has decreased (less competition for LT and potentially higher prices)
- Once MS industrial return >0.4 no possibility to contact firm originating from this MS: yo-yo effect

THREATS

- Lengthy and cumbersome tendering procedures for relative low value contracts: the number of bids has decreased over time
- Procurement Service is overloaded (the number of procedures treated by person has doubled compared to 2019): burnouts, no time for higher value activities
- Having to request FC for prior approval for BVFM adjudications adds time to the tendering process: decreases competition

OPPORTUNITIES

- Right timing to make a review of the Financial Rules

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

Thresholds in place since **1965**:

- Generates additional work for CERN and FC delegates
- Creates lengthy procedures which also reduces CERN attractiveness (reduces competition and response rates)

Some tools (e.g. limited tendering) available aren't used as much as initially foreseen:

- Difficult to achieve a balanced/ reasonable industrial return for all MS

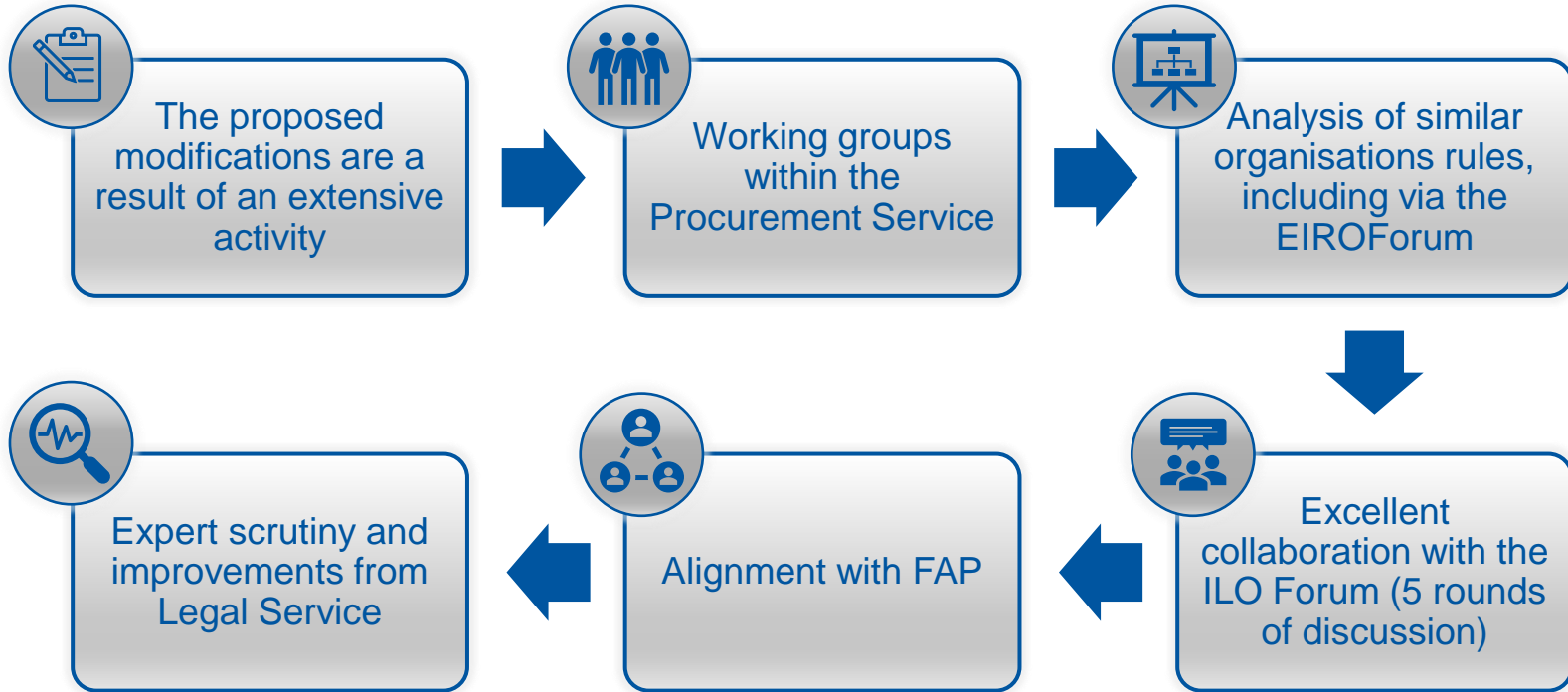
Some elements (e.g. adjudication to lowest compliant bid) not up-to-date with best practices in Big Science or EU Rules:

- Reduces CERN attractiveness

Opportunity

- Lighten the Financial Rules by removing procedures. Procedures are available in our webpage (e.g. under [here](#))
- Target is to focus on real value-added activities

Process Followed



Risk Analysis

No particular risks have been identified by the introduction of the proposed changes

There is always some risk when changing Rules which have shown stability over time, but this has been mitigated by the careful consultation process

One could consider mitigation of the potential risks such as:

- Work overload
- Lightening of processes for all stakeholders
- Schedule reduction on some procurements
- Balancing returns to Member States
- Retaining attractiveness to industry

It is considered that the risk of changing is lower than the risk of no change

Proposed objectives for the revisions

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

**Consider quality and
environmental aspects in CERN
adjudications in line with
applicable rules in Big Science
organisations**

**Increase CERN attractivity and
competition to obtain best
conditions for CERN**

**Optimize resources and time
usage of CERN resources,
whilst ensuring reporting and
visibility for ILOs**

Supplies and services were not defined in the current rules

Definitions

Supplies: goods, equipment and material

Services: all services or works

Civil engineering works

Industrial services: services performed on the CERN site for a multi-year period

Country of origin

Where the supplies are manufactured or of the last major modification (as today)

Services that are not carried out on the CERN site: where the services are performed

Services on the CERN site: the country in which the firm is established (as today for IS)

Return coef

Return coefficient for Supplies: Supplies + Services (except IS)

Return coefficient for Industrial Services: only Industrial Services (as today)

Definitions

(main changes)

Old version

Not covered previously

New version

“External Funds”: all funds from sources other than MS contributions. This includes additional revenue to the CERN budget, and funding for Third Party accounts.

Rules covered under Section 7.

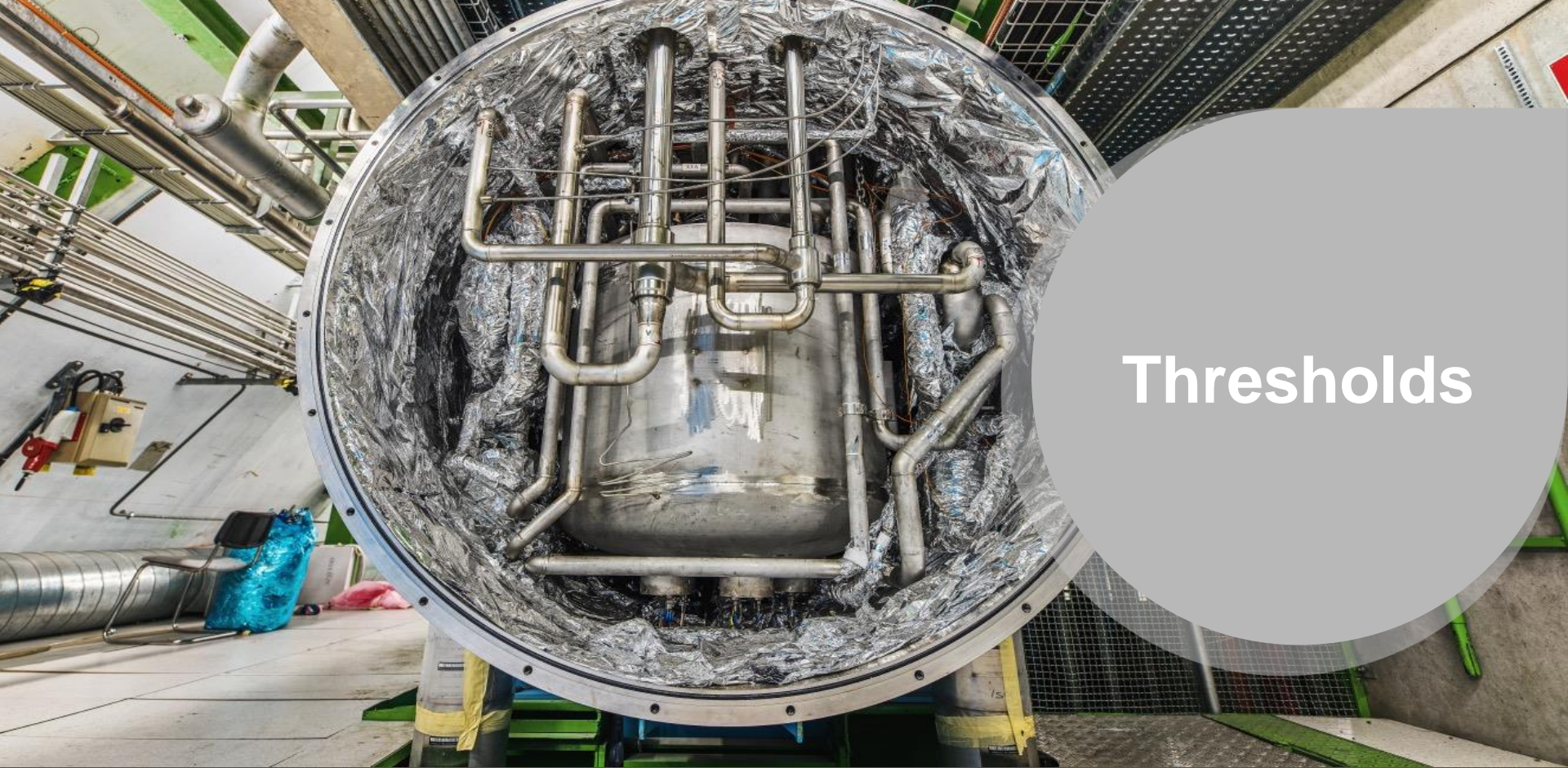
Currency

Old version

For adjudication purposes, CERN shall convert any amount quoted in another currency into CHF using ECB

New version

.... using Swiss National Bank or ECB
To be precise SNB for EUR, USD, JPY and GBP. The other currencies using the ECB.



Thresholds

Thresholds in CHF

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

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

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

** Construction contracts

Competitive tender subject to FC approval

Time saving and
increase CERN
attractivity

Current

750 000
CHF

Proposal

1.5 MCHF

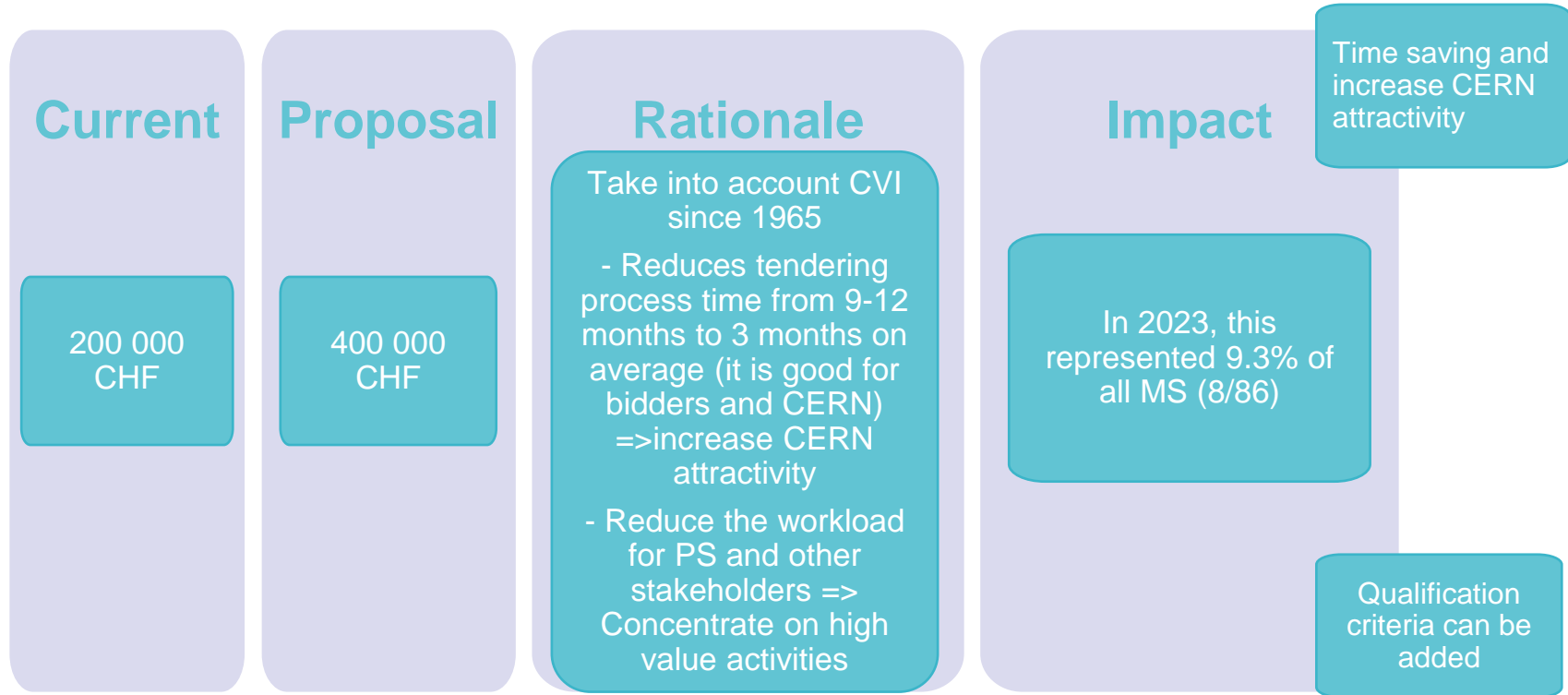
Rationale

- Take into account CVI since 1965
- Tendering process will last ~3 months less (it is good for bidders and CERN) =>increase CERN attractivity
- Reduce the workload for PS and other stakeholders => Concentrate on high value activities

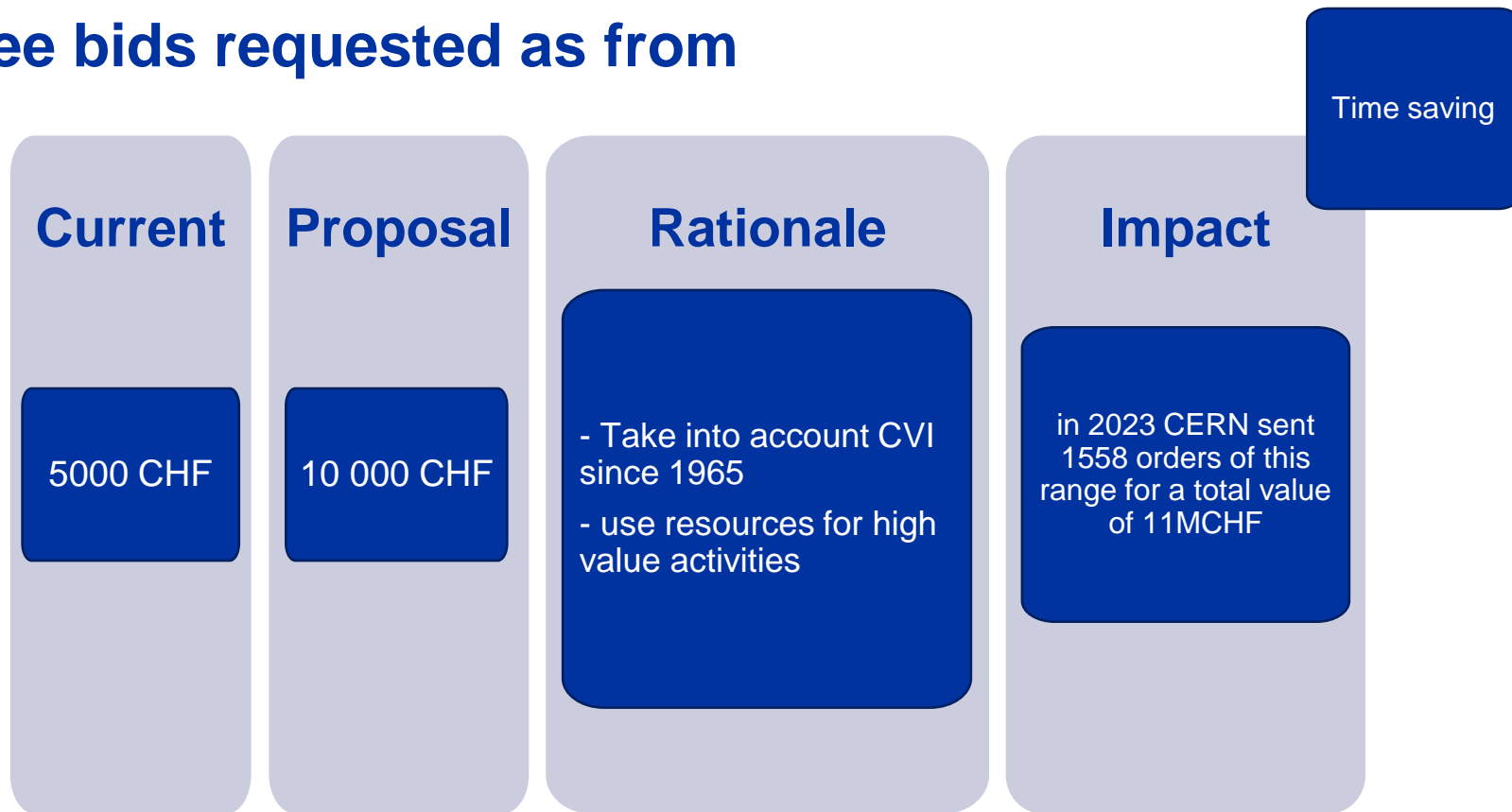
Impact

~12% of FC
adjudications (9
documents in 2023)
will not be presented

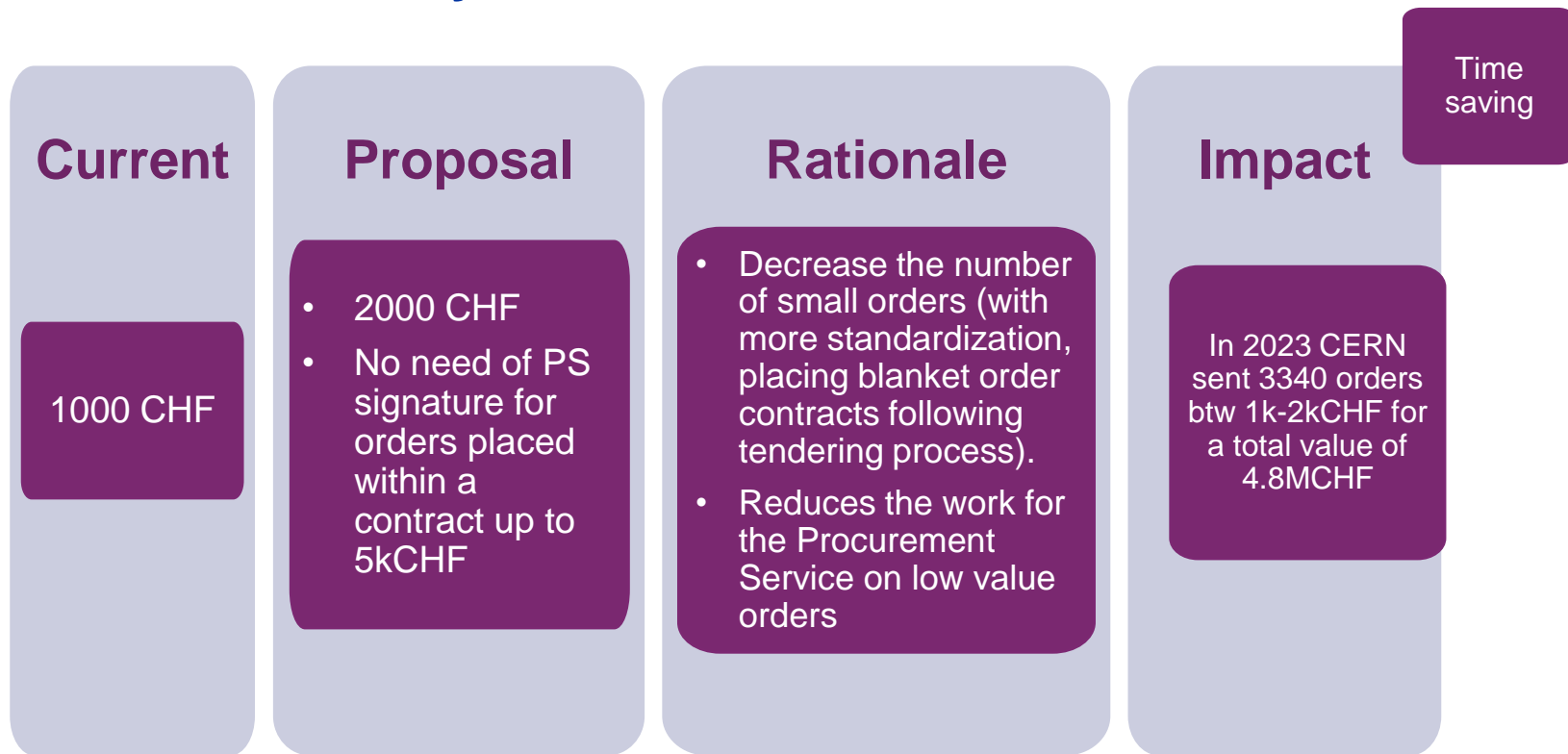
DO procedure up to 400kCHF (no Market Survey needed < 400kCHF)



Three bids requested as from



Small orders made by the users without the intervention of the PS



Thresholds (Summary)

	Current thresholds in CHF	Proposed change in CHF
Competitive tender subject to FC approval	750 000	1 500 000
Market Survey/Invitation to Tender required as from	200 000	400 000
Single source subject to FC approval	200 000	200 000 No change
Three 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

Increase CERN attractiveness and competition to obtain best conditions for CERN

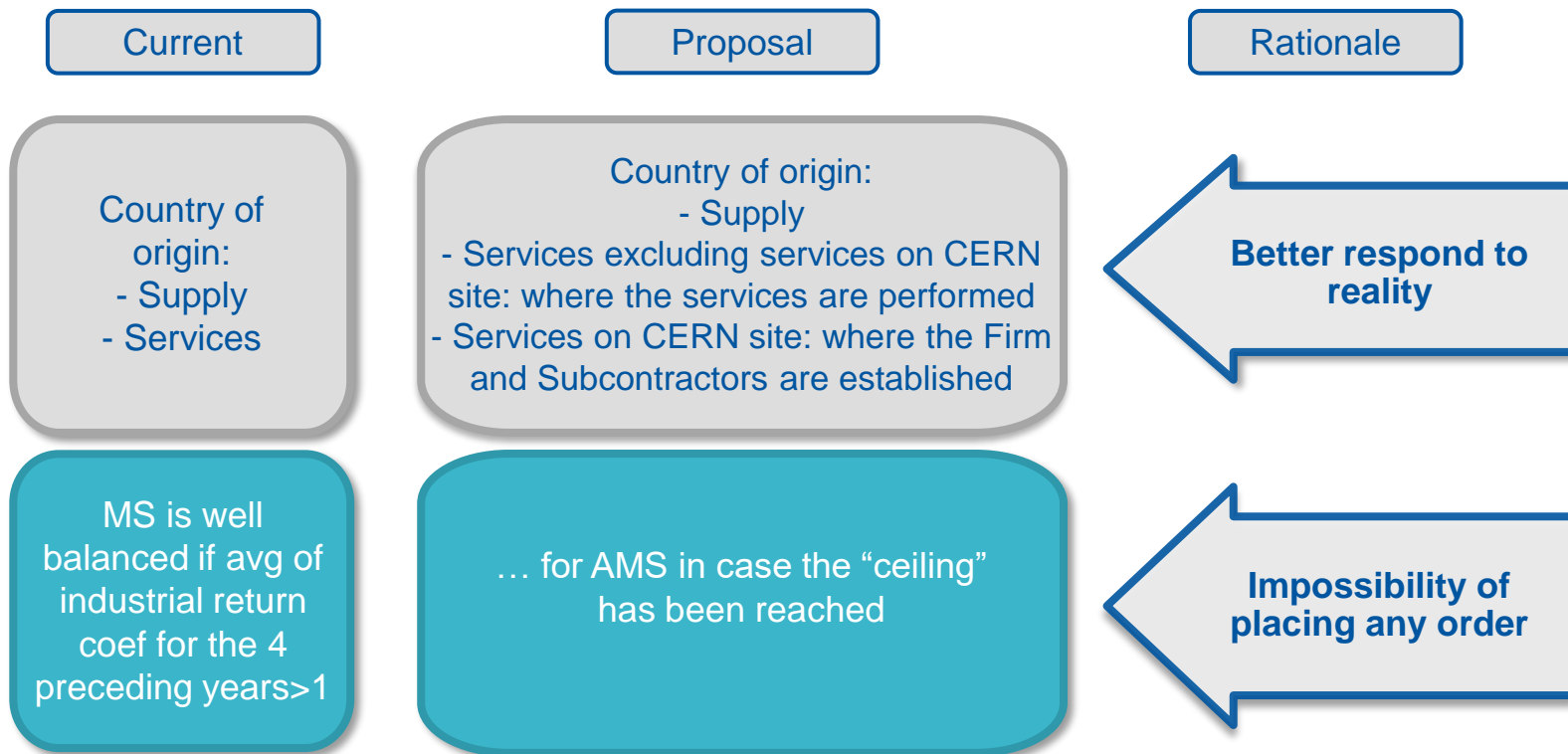
Optimize resources and time usage or CERN resources, whilst ensuring reporting and visibility for ILOs

No impact on industrial return

A photograph of an industrial facility, likely a particle accelerator component, featuring a complex network of stainless steel pipes and large blue pumps. The pipes are labeled with numbers such as 202, 203, 204, and 205. The background shows orange electrical cabinets and a wall covered in silver insulation. A large blue circle is overlaid on the left side of the image, containing white text.

Participation in Tendering Procedure, country of origin and status of bids

Country of origin and status of a MS



Limited Tendering

New conditions

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

Current text

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

If an AMS has reached its “ceiling”, it

CERN may conduct a Tendering Procedure open to all MS and a LT one. If the winning bid from the LT is significantly higher than the open one, the contract on LT may not be awarded.

Rationale

- Obtain a balanced/reasonable IR for all MS
- Avoid the yo-yo effect
In 2023 the LT was only used for 8/133 DOs and 3/126 ITs
- Avoid over costs by doing LT

When is BVFM will be used?

High technical contracts for which the bidder is asked to make a technical bid based on a functional specification and where some environmental or technical solutions can be scored. The criteria used to score the quality will bring value to the supply but these features are not compulsory, there a nice-to-have.

- **For most Industrial service contracts (except for low value contracts or no possibility for bidders to add value to its technical bid) as today**
- **Other services (e.g. cloud services, design services, consultancy services, supervision services, etc.)**

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)



Rationale:

- increase CERN attractiveness
- take into consideration environmental aspects
- increase competition/ response rate

2 ways of adjudicating contracts:

- ✓ Lowest compliant basis (alignment rule applicable)
- ✓ BVFM (no alignment possible)

Consider quality and environmental aspects in CERN adjudications in line with applicable rules in Big Science organisations



Procurement with External Funds

Section 7: Procurement rules for Requirements funded wholly or partially by External Funds

Case A

Cases which do not involve MS contributions and where contracting parties intend to act independently of CERN

Case B

Cases which do not involve MS contributions but where CERN is requested to be the contracting party

Case C

Cases where MS contribute to the financing but excluding case D (mixed funding cases: external + MS contributions)

Case D:

Cases funded by an approved or recognized experiment on a Collaboration account (and to which CERN may contribute)

Rationale:

Establish the rules for placing contracts non funded by MS contributions

Case B: cases which do not involve MS contributions but where CERN is requested to be the contracting party

(e.g.: procurements financed through donations or funds coming from external parties or on behalf of external institutes)

The Procurement Rules and GCCC shall be applicable except:

In case CERN carries out the tendering procedure:

- The alignment shall not be applicable as no taken into account for the calculation of IR

For approved or recognised experiments only:

- The external institute may select the contractor if the collaboration certifies that the applicable laws have been complied with;
- No FC approval is necessary in case a transfer of risk and liability or an MOU (transferring the risk to the contributor) is signed by CERN and the contributor;
- The collaboration may mention at least 50% COO coming from the same country that the contributor.

**No change to
current PR**

Case C : cases where MS contribute to the financing but excluding case D (mixed funding)

No exceptions to the Procurement Rules:

- Only MS Firms can be invited to tender;
- FC shall be sought if CERN contribution to the Contract value exceeds the defined thresholds.

Case D: cases funded by an approved or recognised experiment on a Collaboration account

The Procurement Rules and GCCC shall be applicable except:

**No change to
current PR**

- **CERN can contact firm outside MS during the tendering procedure in case those firms producing from the contributor's country.**

- **Alignment rule is not applicable**

- **FC shall be sought if CERN contribution to the Contract value exceeds the defined thresholds.**

Thank you



Head the Procurement Service (new)

- Art 4.1 (could be removed)
- Art. 4.4: to inform some or all ILOs (to avoid spam).
- Art. 4.4: I do not want to the user dept. to decide
- Art. 8.1: previously, anybody could issue a DO
- Art. 9.1: very exceptional cases, could be removed
- Art. 9.4: responsibility was on the user dept before (should give the PO more weight to ensure faire competition)
- Art. 18: responsibility was not clear before

Structure of the document

Old structure (Chapters)

Definitions for Financial Rules

1. Introduction

2. General tendering procedures

3. Specific Tendering Cases

4. Contract Approval and Follow-up

5. Procurement Rules for Approved or Recognised Experiments at CERN

New structure (Sections)

Definitions for Financial Rules

1. Introduction

2. General Rules

3. Procurement Procedures and Submission of Bids

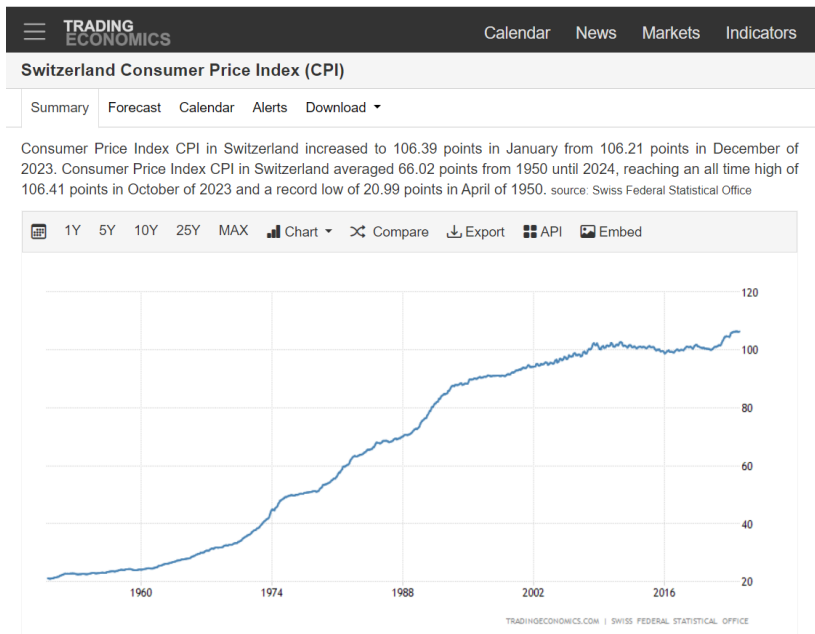
4. Assessment of Bids and Negotiations

5. Award of the Contract

6. Contract Approval and Follow-up

7. Procurement Rules for Contracts Funded wholly or partially by External Funds

Switzerland Consumer price index



Overall CVI

