

Principles

All contract awards partially or totally financed by the Budget and EDF must obey the principles of

- *transparency,*
- *proportionality,*
- *equal treatment and*
- *non-discrimination*
- *rules of origin and nationality*

Principles

The contract must be awarded to the tender offering best value for money (i.e. the tender offering the best price-quality ratio) or, as appropriate, to the tender offering the lowest price. In doing so, the Beneficiary(ies) shall avoid any conflict of interests and respect the following basic principles:

- *Where the Beneficiary does not launch an open tender procedure it shall justify the choice of tenderers that are invited to submit an offer.*
- *The Beneficiary shall evaluate the offers received against objective criteria which enable measuring the quality of the offers and which take into account the price (the offer with the lowest price shall be awarded the highest score for the price criterion).*
- *The Beneficiary shall keep sufficient and appropriate documentation with regard to the procedures applied and which justify the decision on the pre-selection of tenderers (where an open tender procedure is not used) and the award decision.*

The rules of nationality and origin

All supplies purchased under a procurement contract financed under the EU budget shall originate from an eligible country under the IPA II rules.

However, according to the CIR, when the value of the supplies to be purchased is below 100.000 € per purchase, the supplies do not have to originate from an eligible country. Art.8(4) of REG No 236/2014

Restricted procedure

In 'restricted' calls for tender, all economic operators may ask to submit a tender but only those who satisfy the selection criteria may be invited to do so.

The selection criteria and the tasks to be undertaken are described in the published contract notice.

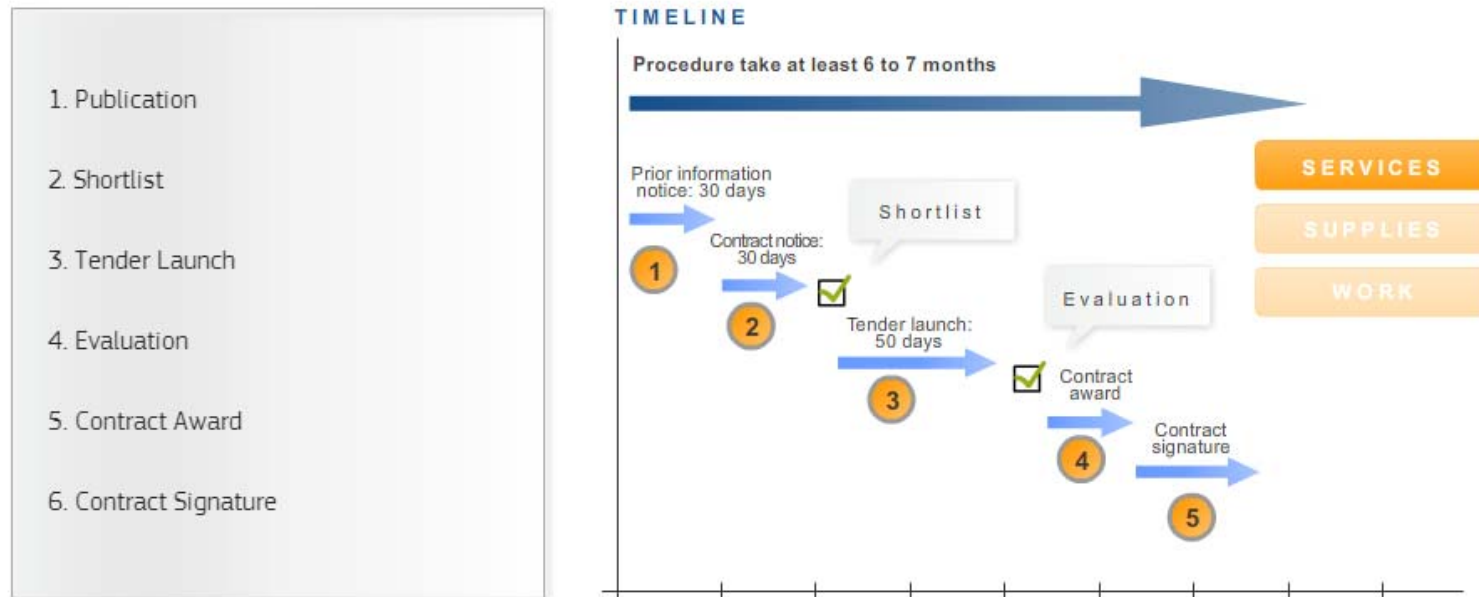
A 'long list' of all the candidates replying to the notice is cut down to a shortlist of the best qualified, on the basis of their replies. At the shortlisting stage, before the list is approved by the evaluation committee, the contracting authority checks that none of the candidates or their partners is in exclusion situation in the Early Detection and Exclusion System.

The contract is given maximum publicity by publishing a notice in the Official Journal of the European Union (S series), in the official journals of all the ACP States (for EDF programmes), on the EuropeAid website, and in any other appropriate media.

The contracting authority prepares the shortlist notice using the appropriate template and sends it in due time, in electronic form to the European Commission for publication on the EuropeAid website

The contracting authority also sends the tender dossier to the shortlisted candidates.

International restricted procedure



Competitive Negotiated Procedure

Under the competitive negotiated procedure, the contracting authority invites at least three candidates with a justification of the choice to submit tenders. From the technically compliant tenderers, it selects the one that offers the most economically advantageous tender.

The evaluation (including the use of an evaluation committee) and the award of the contract follow the rules of the restricted procedure.

Single tender procedure

Negotiation report must be produced, explaining how participant(s) in the negotiations were chosen, how the price was set and the grounds for the award decision (Annex 10b – PRAG)

The specific annexes for simplified tenders must be used (administrative compliance grid, contract, contract notice, invitation letter, instructions to tenderers, and tender form) for this procedure. They can be adjusted to the procedure, including deleting non relevant sections, without this requiring derogation.

Single tender procedure

Selection of participants

Criteria, rationale and means used for selecting potential participants and information regarding its verification

Number of potential participants contacted

Participant compliance of applicable eligibility criteria (e.g. rules of nationality)

Verification of compliance with the selection criteria

Single tender procedure

Selection of participants

Verification that the participants are not in a situation for rejection

If more than one participant is invited, explain the number of participants actually selected and consequently invited to negotiations

Single tender procedure

Description of the negotiation process

Description how the negotiation (including financial details) was conducted and possible problems related to such negotiations

Negotiation result

Describe precisely the outcome of the negotiation. Justify in particular the choice of the successful participant to whom the contract may be awarded including the verification that it does not fall into any of the exclusion situations

CHALLENGES - Above market prices

- *Invite more than one company in order to create competition and avoid increasing the prices by the single invited tenderer.*
- *Preliminary market research/analysis to establish the market price standards for the planned purchases. The beneficiary should have clear indication of the market prices before the start of the evaluation. In case of significant discrepancies between the financial offers and price market standards the procedure should be cancelled and negotiations with one or several tenderer initiated if applicable.*
- *Market analysis or similar can be taken into account to establish appropriateness of the per-unit prices.*

Exclusion criteria from participation in procurement

- a) it is bankrupt, subject to insolvency or winding-up procedures*
- b) is not in breach of its obligations relating to the payment of taxes or social security*
- c) misrepresenting information, distorting competition, violating intellectual property rights, influence the decision-making process, attempting to obtain confidential information in the procurement;*
- d) guilty of fraud, corruption, criminal, money laundering, terrorist activities, child labour;*
- e) significant deficiencies in complying with main obligations in the performance of a contract financed by the EU,*
- f) economic operator has committed an irregularity*

Person who is official in the firm is in a situation listed in points c), d), e) or f).

Rejection from a given procedure

- a) is in one of the exclusion situations;
- b) has misrepresented the information required by the contracting authority as a condition for participating in the procedure or has failed to supply that information;
- c) was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise;
- d) Have conflict of interest

Exclusion criteria

Candidates, tenderers or applicants other than those in a restricted procedure, negotiated procedure or competitive dialogue, must sign a declaration together with their applications, certifying that the entity does not fall into any of the exclusion situations. However, for procurement contracts with a value of EUR 20 000 or less, the contracting authority may refrain from requiring a declaration depending on its risk assessment. Following the notification of award, tenderer(s) to which the contract is to be awarded (including consortium members), must supply evidence that they do not fall into the exclusion situations, unless such evidence has already been submitted earlier in the procedure. The CA might waive this requirement in the case of lower value tender, upon its judgement.

Other essential points

Conflicts of interest

Standard contracts and document formats must be used.

Written records of the entire procurement and grant award procedure must be kept

Before initiating any procedure, the funds must be available

Environmental matters must be duly considered

Language to be used ≤ 20 k national

CHALLENGES - Conflict of interest

- *Use independent experts in the process of preparation of tender documentation and in the selection process.*
- *Check potential connections between involved individuals and tenderers (on the basis of their CV)*
- *Internet search*

Selection criteria

Purpose: to determine if the operator has the necessary capacity to perform the contract. 3 types:

- Economic and financial capacity Example: the tenderer's average annual turnover in the last three years must exceed the annualized maximum budget of the contract / financial proposal of the tender*
- Professional capacity Examples: - number of permanent staff or in a concrete field in last 3 years - the tenderer has an ISO 9000 certificate*
- Technical capacity Example: "x" implemented projects in the last 3 years (5 for works) of at least a certain amount*

Selection criteria

The contracting authorities must draw up clear and non-discriminatory selection criteria for the purpose of assessing that the candidate/tenderer has sufficient financial, economic, technical and professional capacity to implement the tasks of the contract. The chosen criteria shall be proportionate and may not go beyond the scope of the contract.

- *For service procedures, the documents supporting the information in response to the selection criteria shall be submitted by all the tenderers together with the tender.*
- *For supply procedures, only successful tenderers have to supply proof documents to support the information submitted in the tender before the award of the contract.*
- *For works procedures however, the mentioned proofs have to be submitted in accordance with the tender dossier.*

Selection criteria

Proof of economic and financial capacity may be furnished by one or more of the following documents, by way of example:

- *appropriate statements from banks;*
- *evidence of professional risk indemnity insurance;*
- *presentation of balance sheets or extracts from balance sheets for a period equal to or less than the last three years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;*
- *a statement of overall turnover and turnover for works, supplies or services covered by a contract during a period of no more than the last three financial years.*

Selection criteria

Proof of the technical and professional capacity of the candidate/tenderer may be furnished by one or more of the following documents, by way of example:

- *the educational and professional qualifications of the service provider or contractor;*
- *a list of the principal services provided and supplies delivered in the past five/three years,*
- *of the works carried out in the last eight/five years, with the sums, dates and place.*
- *a description of the technical equipment, tools and plant to be employed by the firm for performing a service or works contract;*
- *for supplies: samples, descriptions and/or authentic photographs and/or certificates*
- *a statement of the average annual manpower and the number of managerial staff*
- *an indication of the proportion of the contract which the tenderer may intend to subcontract. The contracting authority may also require the candidate or tenderer to submit any information on the financial, economic, technical and professional capacities of the envisaged subcontractor, in particular when subcontracting represents a significant part of the contract.*

Award criteria

Contracts are awarded on the basis of the most economically advantageous tender established for the call for tender in one of the following two ways:

- *Services under the best price-quality ratio, in which case the contracting authority takes into account the price and other quality criteria linked to the subject matter of the contract, and apply a weighting formula;*

I envelope - Technical Score x 0.80 (organisation and methodology, CVs of Experts)

+

Second envelope - Financial Score x 0.20 - (price)

- *Supply and works under the lowest price, provided the tender satisfies the minimum requirements laid down.*

The criteria must be precise, non-discriminatory and not prejudicial to fair competition.

Contract value

Care must be taken to design projects to allow for maximum value of the contract.

This is to avoid splitting programmes unnecessarily into a series of small contracts while ensuring maximum coordination between related activities and simplifying programme administration

Terms of reference and technical specifications

The terms of reference and the technical specifications must allow equal access for candidates and tenderers and must not have the effect of creating unjustified obstacles to competitive tendering. They must be clear and non-discriminatory, and proportionate to the objective and/or the budget for the project. They specify what is required of the service, supply or work to be purchased. They also specify the minimum requirements whose non-compliance entails the rejection of the tender.

Make the terms of reference and technical specifications clear and concise. Technical specifications may not point to particular brands and types, and they may not limit competition by being too specific.

The terms of reference and the technical specifications may not be disclosed to any third party and must be kept confidential until they are made available to the tenderers simultaneously as part of the procedure.

The Evaluation Committee

There must be a odd number and a minimum of three evaluators for all procedures except for single tenders

All members of the evaluation committee and any observers must sign a Declaration of Impartiality and Confidentiality (Annex A4).

Any evaluation committee member or observer who has or might have an actual or potential conflict of interest with any tenderer or applicant must declare it and immediately withdraw from the evaluation committee.

Modifying contracts

Contracts may need to be modified if the circumstances of project implementation have changed since the contract was signed. However, the subject matter of the contract cannot be altered. Contracts can only be modified during their execution period. Any changes to the contract must be made officially by means of an administrative order or an addendum

Contract-award Procedures

Services	$\geq \text{€}300,000$ Restricted international tender	$< \text{€}300,000$ but $> \text{€}20,000$ Competitive negotiated procedure		$\leq \text{€}20,000$ but > 2.500 Single tender	$\leq \text{€}2,500$ A payment may be made against invoice without prior acceptance of a tender
Supplies	$\geq \text{€}300,000$ International open tender procedure	$< \text{€}300,000$ but $\geq \text{€}100,000$ Local open tender Procedure	$< \text{€}100,000$ but $> \text{€}20,000$ Competitive negotiated procedure	$\leq \text{€}20,000$ Single tender	
Works	$\geq \text{€}5,000,000$ International open tender procedure	$< \text{€} 5,000,000$ but $\geq \text{€}300,000$ Local open tender procedure	$< \text{€}300,000$ but $> \text{€}20,000$ Competitive negotiated procedure	$\leq \text{€}20,000$ Single tender	

Type of service contract

a) Global price - where specified outputs are set out. The service will be paid on the basis of the delivery of the specified outputs.

b) Fee-based - where the output is unpredictable, or where the workload to achieve the specified output is impossible to quantify in advance. Therefore it is economically more advantageous to pay the services on the basis of time actually worked.

Global price contracts may include where relevant a price breakdown based on outputs/deliverables against which partial payments can be made (e.g. the deliverables could be related to the progress inception report/interim report/final report or to the different parts of a study/report/event) depending on the project in question.

For fee-based service contracts Statements of Exclusivity and Availability (SoEA) are obligatory and time sheets are required on which partial payments can be made

WORKS – Financial offer

Model financial bid (per lot) must be tailored to the specific project

1. Lump-Sums in the overall price contracts

- *-> Breakdown – firm quantity*

2. Unit prices – based on Bill of Quantities

- *-> Price Schedule – actual quantity*

3. Hybrid contracts (mixes 1. and 2.)

Procurement plans

Scheme: Example of procurement plan Budget line	Amount (EUR)	Item	Type	Procedure	Planned publication date	Planned contract signature
3.2.	22.500,00	Supply of computers	Supply	Competitive negotiated	20.12.2016	31.01.2017
5.2.	11.350,00	Printing services	Services	Single tender	15.03.2016	30.03.2017

Potential cases of discrepancies

- *Failure of delivery by secondary provider/supplier of the agreed services, supplies or works*
- *Delays in delivery of services, supplies or works, having negative impact on overall timing of the grant financed project*
- *Provision of inadequate quality or specifications of services, supplies or works by the secondary provider/supplier (for example second hand equipment or specifications other than agreed)*
- *Arguments in relation to the price of agreed/delivered services, supplies or works*

Recommended approach

- *Clear definition of the Contracting Authority's requirements for services, supplies or works, with specifications and time frame*
- *Communication of requirements to tenderers in written, possibly in standardised format*
- *Receiving tenderers offers in written, possibly in standardised format*
- *Checking of compliance of received tenders with the original requirements (in case of receipt of several tenders, evaluation of tenders to identify most advantageous offer)*
- *Preparation of simplified evaluation report*
- *Signature of contract with the successful tender*

Tender documentation

- *Clearly stated requirements from the contracting authority, in particular specifications about services, supplies or works (the CA should provide sufficient details, in particularly in the sense of technical specifications for supplies/works and any specific requirements for services – scope, required inputs etc.);*
- *Required timing of deliveries and/or services;*
- *Format of the contract*

Offer to be provided

- *Submission form, indicating tenderers contact details, acceptance of the CA's conditions and signature;*
- *Clear indication of the offered services, supplies or works – the offer should reflect the CA's requirement but could provide more details, such as indication of brand and making in case of supplies or involved inputs in case of services;*
- *Clear indication of the offered priced for indicated items.*

Good practice

- i. Market research*
- ii. Three invited tenderers*
- iii. Evaluation committee of three*
- iv. Declaration of impartiality and confidentiality Annex A4 – Prag*
- v. Full simplified tender dossier Annex b80 – PRAG or at least Part A: Information for the tenderer and Part B: Format of offer and Contract from Annex.7.1_b1_4_IPA Procurement Manual from IPA CBC documents*
- vi. Annex a10b Negotiation report for single tender procedures, with clear justification of price and selection of tenderers*