**Annex 7.4**

**IPA Procurement Manual**

**IPA Procurement Manual**

**Procurement Manual for the beneficiaries of INTERREG IPA CBC Programmes**

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| GLOSSARY |  |
| Interreg - IPA CBC | IPA cross-border cooperation in this Manual refers to CBC implemented under shared management | |
| Contracting Authority (CA) | The party concluding the contract. | |
| Contractor | A generic term for the firm, consortium, or individuals with whom any of the contract types (service, supply, works) is signed. Counterpart of the contractor is the Contracting Authority, which is also bound by the contract to pay the price to the contractor, against the delivery of service, supply or work. | |
| Contract | An agreement with specific terms between two or more persons or entities in which there is a promise and an obligation to provide services and/or supplies for an agreed price. According to the type there are service contracts, supply contracts and works contracts. In the financial regulation the definition is: “Contract for pecuniary interest between economic operators and contracting authorities, in order to obtain, against payment of a price the supply of movable or immovable assets, the execution of works or the provision of services.” | |
| CBC | Cross-border cooperation – cooperation between neighbouring regions across the EU internal or external borders with the aim of promoting regional development and improvement of living conditions. | |
| IPA beneficiary country | A country which is using IPA funds, see also CC | |
| IPA IR | IPA Implementing Regulation -  COMMISSION IMPLEMENTING REGULATION (EU) No 447/2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II) | |
| CIR | Common rules and procedures for the implementation of the Union's instruments for financing external action (CIR; Council Regulation 236/2014) REGULATION (EU) No 236/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL - laying down common rules and procedures for the implementation of the Union's instruments for  financing external action | |
| IPA II Regulation | REGULATION (EU) No 231/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL - establishing an Instrument for Pre-accession Assistance (IPA II) | |
| Financial regulation | Legal act defining principles for the establishment and implementation of the general budget of the EU. Financial regulation applicable to the general budget of the European Communities – Council regulation (EC) No. 966/2012, detailed implementing rules are contained in the Commission regulation (EC) No. 1268/2012 | |
| EU | European Union | |
| MS | Member State | |
| MA | Managing Authority – authority designated by the Member State to manage the cross-border programme | |
| PRAG | Procurement and Grants for European Union external actions – a Practical Guide. Document providing guidance and formats for procurement procedures, including IPA pre-accession funds. The manual is based on the EU Financial Regulation and the Common Rules and Procedures for the Implementation of the Union’s instruments for External Action (Council Regulation 236/2014)  <http://ec.europa.eu/europeaid/prag/?header_description=DEVCO+Prag+to+financial+and+contractual+procedures+applicable+to+external+actions+financed+from+the+general+budget+of+the+EU+and+from+the+11th+EDF&header_keywords=ePrag%2C+europa> | |
| FLC | First Level Control | |
| Managing bodies | General term for all authorities involved in direct management of CBC programmes. In the context of this manual these are the bodies implementing the programme under shared management. | |
| Cert.A | Certifying Authority – a body in charge of certifying a statement of expenditure and applications for payment before they are sent to the EC. | |
| AA | Audit Authority. In charge of the audit of programme expenditures (system audit and sample audits), also called second level control | |
| Subsidy contract | Contract between Managing Authority and Lead beneficiary. The purpose of the contract is a instead of purchase of service, supply and work, which is the typical purpose of the contract referred to in this manual. | |
| Beneficiary | Recipient of a grant. Either the lead beneficiary or project partner. The lead partner signs the subsidy contract with the programme Managing Authority, while the other partners sign a partnership agreement with the lead partner. | |
| Public procurement | Public procurement contracts cover supplies, services and works financed from the project budget with aim of implementation of the project activities. Public procurement also includes the expenditures made necessary for managing the programme, paid out of Technical Assistance budget. NOTE: this definition refers to procurements under grants (see definition below of ‘secondary procurement’). | |
| Secondary procurement (procurement under grants) | In the Interreg - IPA CBC Programmes − where funds are allocated to final beneficiaries in the form of grants following an open call for proposals− ‘secondary procurement’ means the procurement of supply, service or works carried out by the beneficiary for the purpose of implementing the project for which he/she received the grant. In this context, the beneficiary becomes the Contracting authority of these procurements. | |
| Works contract | A contract between a construction firm and the Contracting Authority for the execution of works of building of the structure | |
| Supply contract | A contract between a supplier and the Contracting Authority for the purchase, lease, hire or hire-purchase (with or without the option to buy) of goods. It may also cover such tasks as installation, servicing, repairs, training and after-sales service. | |
| Service contract | A contract between a service provider and the Contracting Authority for the provision of services such as studies, etc. | |
| Sub-contracting | The power of the contractor, who signed a contract upon selection following on a call for tender, to sub-contract the object of the service, supply or work to a third party, which is usually regulated in the contract and specified in the tender dossier (also referred to as secondary contractor). | |
| Call for proposals | In Interreg - IPA CBC implemented in the shared management mode, this is a public invitation by the programme Managing Authority for the submission of project proposals by clearly identified eligible types of applicants and eligible actions falling within the context of a specific EU policy programme and programming document agreed by partner countries | |
| Tender | A written or formal offer to supply goods or perform services/works for an agreed price | |
| Tenderer | Any natural or legal person or group of such persons submitting a tender with a view to concluding a contract | |
| Tender procedure | The overall process of putting a contract out for tender, starting with the publication of a procurement notice and ending with the award of the tendered contract. There are various types of tender procedures: open, restricted, local, international, negotiated, simplified | |
| Tender dossier | Set of documents compiled by the Contracting Authority. It includes a set of documents which indicate requirements of tender and related information and a set of documents which need to be submitted by the tenderers when preparing a tender. | |
| Most economically advantageous tender | The tender regarded as the best according to the criteria laid down for the contract in question e.g. quality, technical properties, functional qualities, after sales service and technical assistance, delivery date or performance period and the price. These criteria must be published in the procurement notice or stated in the tender dossier, | |
| ETC | European Territorial Cooperation - In the programming period 2014-2020, Objective 2 of the EU Cohesion Policy aiming at strengthening cross-border, transnational and interregional/paneuropean cooperation. More commonly known as INTERREG. | |
| ERDF | European Regional Development Fund | |
| EC | European Commission | |
| DG NEAR | Directorate General for European Neighbourhood Policy and Enlargement Negotiations. A part of the EC in charge of the EU’s enlargement policy. In terms of financial assistance it is responsible for implementation of IPA | |
| DG REGIO | Directorate General for Regional and Urban Policy - A part of the EC in charge of the EU cohesion policy. In terms of pre-accession assistance it is responsible for IPA for cross-border cooperation between MS and pre-accession countries (IPA shared management programmes) | |
| Shared management | Method of implementation of EU budget where certain implementation tasks are delegated by the European Commission to the Member States. | |
| Expression of Interest | A document, in a pre-designed format, completed by companies who, following the publication of a procurement notice for a restricted service tender procedure, wish to be considered for the short list for a service, work and supply provision (sometimes also called project). | |
| Negotiated procedure | Procedure without prior publication of a procurement notice, in which the Contracting Authority consults the candidate or candidates of its choice and negotiates the terms of the contract with one or more of them. This procedure is used only in exceptional circumstances. | |
| Eligibility criteria | A set of conditions for a candidate to be allowed to take part in a tender or to be awarded a subsidy contract. Three different types apply: eligibility of applicant, eligibility of action, eligibility of costs. | |
| Rule of Origin | A rule by which origin of all supplies and equipment financed from an EU assistance programme is defined. In external aid environment specific rules of origin apply for external actions public procurement as defined by Financial regulation. | |
| Rule of Nationality | An external aid rule by which a legal person participating in a tender for a project financed by an EU assistance programme must be registered in the EU or an eligible country as defined by programme rules. Natural persons (experts) may be of any nationality | |
| Publication of tenders | Depending on the tender procedure, tenders can be published locally or at European level. On the European level they should be published in the Official Journal of the European Communities and on the European Commission websites (TED or EuropeAid). Also, publication in the local press and/or specialised publications may be advisory. | |
| TED | Tenderers Electronic Daily - Data base of all public procurement under obligation to be published in the Official Journal of the European Union (OJ). Website: <http://ted.europa.eu/> | |
| Tender evaluation | Evaluation of tenders received in response to a call for tenders | |
| Evaluation Committee | A committee made up of an odd number of voting members, appointed by the Contracting Authority. Members of the Evaluation committee should possess the necessary technical, linguistic and administrative capacities to evaluate submitted tenders. | |
| General conditions | The general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of all contracts of particular type (service, supply, works) | |
| Special conditions | Clauses specific to the contract laid down by the Contracting Authority as an integral part of the contract, including amendments to the General conditions | |
| Annex to the contract | Documents attached to the contract and representing its constituent part. | |
| Open procedure | Procedure in which any natural or legal person or group may submit a tender in response to a procurement notice | |
| Restricted procedure | Procedure in which, after publication of a procurement notice, only candidates invited by the Contracting Authority may submit a tender | |
| Simplified procedure | Procedure without prior publication of procurement notice, in which only candidates invited by the Contracting Authority may submit a tender | |
| Contract award procedure | Procedure followed by the Contracting Authority to identify a consultant/supplier/contractor to provide defined services/supplies/works and conclude a contract with them. | |
| External actions | Programmes which EU finances in third countries. Pre-accession programmes are considered third country programmes by their nature, and are in the area of responsibility of DG Enlargement or DG Regional and Urban Policy | |
| Contract budget | Breakdown of costs performing the contract. The total of these costs is contract value. | |
| Budget breakdown | Specification of project costs per budget lines | |
| Supplies | All items which supplier is required to supply to the beneficiary, including, where necessary, services such as installation, testing, provision of expertise, supervision, maintenance, repair, training, and other such obligations connected with the items to be provided under the contract | |
| Technical offer | The part of the tender which contains all non-financial elements of the tender dossier. Technical offer must not contain any financial indications. | |
| Financial offer | The part of tender which contains all financial elements of the tender, including its summary budget and any detailed price breakdown or cash flow forecast required by the tender dossier | |
| ToR | Terms of Reference – In case of service contracts this document defines the tasks required of a contractor and indicating project background and objectives, planned activities, expected inputs and outputs, budget, time tables and job descriptions | |
| Technical specification | Document drawn up by the Contracting Authority setting out the requirements and/or objectives in respect of the provision of supplies or works, specifying where relevant the methods and resources to be used and/or the results to be achieved | |
| Bill of Quantities | In the context of works contracts, this document contains and itemised breakdown of the tasks to be carried out in a unit price contract, indicating a quantity for each item and the corresponding unit price. | |
| EuropeAid | EuropeAid Cooperation Office – Directorate General of EC in charge of implementing and monitoring external aid instruments of the EC which are funded by the EC budget and EDF. Although its area of responsibility does not include pre-accession programmes, the website contains useful information on tenders under those programmes <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome&userlanguage=en> | |

**The following scheme demonstrates perspectives and issues in secondary procurement procedures.**

**BENEFICIARY PERSPECTIVE**

* Financial responsibility for the project
* Procedural responsibility
* Limited funds – motivation to maximise result for given funds
* Motivation to control secondary procurement procedures and contractors

**MA PERSPECTIVE**

* Financial responsibility for the programme
* Responsibility for monitoring of project beneficiaries
* Guardian of procedures, including principles of transparency and equal treatment of tenderers

**SET OF STANDARD FORMATS AND PROCEDURES FOR PROCUREMENT BY BENEFICIARIES**

* Compliance with the procedures (Regulations, Programme rules, PRAG)
* Compliance with practical needs – ensuring maximum impact of funding and protecting grant beneficiaries
* Clarity, transparency, minimum possible administrative burden for beneficiaries and MA
* Efficient use of funds and maximisation of results

1. Minimisation of possible mistakes in procedures or Compliance with the procedures (Regulations, Programme rules, PRAG)
2. Compliance with practical needs – ensuring maximum impact of funding and protecting beneficiaries
3. Clarity, transparency, minimum possible administrative burden for beneficiaries and MA

* misconduct by the secondary providers/suppliers
* Compliance with procedures, based on reference rules and formats
* Increased efficiency at the level of the programme
* Possibility of support to project beneficiaries, based on standard formats and rules
* Increased efficiency of monitoring and control functions

## INTRODUCTION

The cross-border cooperation is defined specifically in the IPA II Commission Implementing Regulation 447/2014, under TITLE VI CROSS-BORDER COOPERATION. More specifically this Manual refers to cross-border cooperation programme between Greece and the IPA Beneficiary country as described in Chapter II of Title IV Cross-border cooperation between Member States and IPA II beneficiaries. In the programme the general rule is that the Managing Authority (MA,) in Greece as the participating MS, takes over the responsibility for implementation of the programme.

Article 45 the IPA II Implementing Regulation indicates that

1. for the award of service, supply and work contracts, by beneficiaries the procurement procedures shall follow the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012, which apply on the entire Programme area, both on Member State and on the IPA country.
2. For the award of service, supply and work contracts by the managing authority under the specific budget allocation for technical assistance operations, the procurement procedures applied by the managing authority may either be those referred to in paragraph 1 or those of its national law

Regarding the award of service, supply and work contracts by the managing authority and the Greek beneficiaries, the procurement procedures shall follow, in addition, the EU Directives 2014/24/EE and 2014/25/EE as they are transferred into the Greek national law (Law 4412/2016 as amended and in force). As mentioned in Commission’s letter with Ref. Ares(2018)316145 - 18/01/2018 regarding procurement procedures, the implementation of stricter rules foreseen by the national law, will not be opposed by the Commission.

This effectively means that the EU External Action procurement rules are to be used in awarding of service, supply and works contracts from the CBC grant scheme financed projects.

This type of procurement is applicable when beneficiaries are awarded grants on the basis of public calls for proposals (CfP) and following the grant award some of the budget items might be sub-contracted to third parties in case when the beneficiary does not possess internal resources necessary for realisation of these budget items (example: supply of equipment, recruitment of external services, works and renovations).

This ‘’second step’’ procurement procedures are addressed throughout this document as **‘’secondary procurement’’.**

In addition to the formal rules stipulated by the regulations, the secondary procurement procedures of the beneficiaries have a number of practical implications. The implementation of competitive procurement procedures allows the beneficiaries to obtain the best possible result for the given funds and thus maximise the effects of the grant. In addition to that the secondary procurement formalises relations with the secondary contractors. By this the beneficiary avoids eventual issues with the secondary contractors (for example failure of delivery, delays, and inadequate deliveries in quality and quantity sense).

**This manual aims at providing proposal for balanced and procedurally compliant approach to procurement by the project beneficiaries (secondary procurement).**

### Legal context

Rules for public procurement in case of award for service, supply and work contracts for Interreg - IPA CBC are defined in Article 45 of the Commission Implementing Regulation 447/2014.

According to this article:

*1. For the award of* ***service, supply and work contracts****,* ***by beneficiaries*** *the procurement procedures shall follow the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012 which* ***apply in the whole programme area****, both on the* ***Member State and on the IPA II beneficiary/ies' territory****.*

*2. For the award of* ***service, supply and work contracts by the managing authority*** *under the specific budget allocation for* ***technical assistance operations****, the procurement procedures applied by the managing authority may* ***either be those referred to in paragraph 1 or those of its national law****.*

Regarding the award of service, supply and work contracts by the managing authority and the Greek beneficiaries, the procurement procedures shall follow, in addition, the EU Directives 2014/24/EE and 2014/25/EE as they are transferred into the Greek national law (Law 4412/2016 as amended and in force). As mentioned in Commission’s letter with Ref. Ares(2018)316145 - 18/01/2018 regarding procurement procedures, the implementation of stricter rules foreseen by the national law, will not be opposed by the Commission.

# METHODOLOGY

## 2.1. Basic documents

The main principles used in this Manual are those described in the provisions of:

* **Articles 190 and 191 of Chapter 3 of Title IV of Part Two of the Financial Regulation (EU, Euratom) 966/2012 and**
* **Articles 260-276 of Chapter 3 of Title II of Part Two of the Commission Delegated Regulation (EU) No 1268/2012 as amended by the Commission Delegated Regulation (EU) 2462/2015.**

which apply in the whole Programme area, both on the Member State and on the IPA II beneficiary/ies' territory.

The provisions of article 102 par.1 of the Title V of Part One of Regulation (EU, Euratom) No 966/2012 should always be respected:

*“All public contracts financed in whole or in part by the budget shall respect the principles of transparency, proportionality, equal treatment and non-discrimination.”*

**The Practical Guide PRAG will be used only as a reference and general guidance** in description of practical application of the procedures and definition of standard documents for the implementation of the procedures with aim to achieve more simplified and harmonised approach.

## 2.2. Target groups

The target groups of the IPA Procurement manual are primarily bodies, either public or private, **organisations or individuals involved in the implementation of projects financed by the INTERREG IPA II CBC Programme**. The perspective of the Manual will be more on management issues in order to help project beneficiaries, in particular with the provided formats of simplified tender documentation.

## 2.3. Approach

The Procurement Manual will promote standardised and harmonised approach for the implementation of projects in relation to the rules they are following on public procurement when financed by an INTERREG IPA CBC Programme implemented in shared management. This includes use of standard procedures and use of standard documents as far as possible. The intention is to create **a common framework** that could be used by all in order to facilitate easier implementation of public procurement according to external rules.

## 2.4. Key elements

Contracting procedures for EU external actions are defining an extensive area of interventions related to different types of contracts. The procedures are covering steps in contracting procedures from basic principles and programming to selection procedure and implementation.

The structure of the manual is based on the **type of procurement** (services, supplies and works) and on the applicable **financial thresholds**. The latter namely defines the level of complexity which is applied for each procedure (single tenders, simplified procedure, and open procedure – as indicated below). For each type of the procurement the manual is describing the following key elements:

• **Procedure**. The financial thresholds define the level of complexity for each procedure. For example single tender procedures require limited time and efforts while the open procedures are complex and lengthy. Each chapter describing specific type of procurement provides an overview of the applicable procedure.

• **Use of standard format documents**. In order to enable comparison and control the Financial Regulation lists mandatory documents and PRAG provides a number of standardised templates, covering every step in the procedure. Depending on the financial threshold and type of procurement specific provisions apply. Each chapter reflects on the tender documentation required for specific procedure. The basic logic is that the complexity and extent of the documentation rises with the financial thresholds. The Manual provides example formats of the documentation in Annexes.

• **Evaluation procedure.** Following the submission of the tenders within each procurement procedures the Contracting Authority needs to select a tenderer on the basis of the type of the selection criterion used or, in the case of single tender procedures, decide on the compliance of the one received offer. Each of the chapters for specific types of procurement provides description and practical instructions on the evaluation procedures.

# BASIC RULES

The PRAG 2018 recognized a new management mode ‘’shared management’’. **In the case of ‘’shared management’’ the EU delegates implementation tasks to Greece as the EU Member State in this INTERREG IPA CBC Programme.**

Based on the definitions from CIR 236/2014, **the procurement rules for EU external action apply for all the beneficiaries in INTERREG IPA CBC Programme**. The minimum legal requirements (basic rules, types of contracts, financial thresholds) are indicated in the Implementing Regulation 1268/2012 and the practical guidance is provided in the PRAG Manual.

<http://ec.europa.eu/europeaid/prag/>

During the project implementation PRAG may be amended. In case of substantial changes in the rules and procedures of PRAG, the MA will reflect the relevant changes in the Procurement Manual. Nevertheless, the Beneficiaries have the obligation to keep a close watch on the latest version of PRAG and to apply the current procedures and annexes.

In case of modification of PRAG rules/annexes, the procedures launched before the new version was officially published shall be procured and contracted following the previous version of the Guide

## 3.1. The rules of nationality and origin

The usual rule of nationality, applicable on the level of subsidy contract states that *“the beneficiaries of grants comply with the eligibility rules for public procurement foreseen in the respective regulations for different cooperation programmes...”* – meaning that grants are made to final beneficiaries according to programme rules and territorial eligibility for applicants usually specified in the programme documents, such as calls for proposal at programme level. The rules of nationality are laid down in CIR.

The nationality of experts and other natural persons employed or legally contracted does not have to follow the nationality rules. Therefore, unless otherwise provided for in the applicable financing decision/agreement, experts recruited or otherwise legally contracted by an eligible contractor / sub-contractor, may be of any nationality.

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[[1]](#footnote-1).**

This derogation will practically mean that a relatively small share of purchases will apply the origin rule. In case when the rule is applied the tenderers are required to state the origin of their supplies in their tenders and provide certificates of origin as applicable with the delivery of supplies.

### 3.1.1. Derogation from the Rule of Origin

As indicated in the previous point the general derogation applies for purchases under 100.000 €.

For the supplies higher than 100.000 € a derogation from the rule of origin can be approved in exceptional cases. The derogation needs to be done prior to publication of tender and indicated in the procurement notice.

Derogations may be granted, depending on derogations provided for in the basic acts, on the grounds of economic, traditional, trade or geographical links with neighbouring countries, on the grounds that products and services are unavailable in the markets of the related countries concerned; for reasons of extreme urgency; or if the eligibility rules would make it extremely difficult to carry out a project, programme or other action.

**Note, however, that the argument that a product of ineligible origin is cheaper than the EU or local product would NOT alone constitute grounds for awarding derogation.**

## 3.2 Eligibility under the IPA II REGULATION 231/2014:

For actions implemented in shared management under the INTERREG IPA CBC Programme the MA shall be entitled to accept as eligible, on behalf of the Commission, tenderers, applicants and candidates from non-eligible countries or goods from a non-eligible origin[[2]](#footnote-2).

In particular, tenderers, applicants and candidates are eligible for funding:

* Member States, beneficiaries listed in Annex I to Regulation (EU) No 231/2014, contracting parties to the Agreement on the European Economic Area and partner countries covered by the ENI
* Tenderers, applicants and candidates from non-eligible countries or goods from a non-eligible origin may be accepted as eligible by the Commission in cases involving an urgency or the unavailability of products and services in the markets of the countries concerned, or in other duly substantiated cases where application of the eligibility rules would make the realization of a project, programme or action impossible or exceedingly difficult.
* For actions implemented in shared management, the relevant Member State to which the Commission has delegated implementation tasks shall be entitled to accept as eligible, on behalf of the Commission, tenderers, applicants and candidates or goods from non-eligible countries as referred to in par.2 of article 10 of the CIR.

Some of the possible challenges related to rules of nationality and origin are presented in the Table 1.

**TABLE 1**

|  |  |
| --- | --- |
| **CHALLENGES** | **RECOMMENDATIONS** |
| **Specific professional equipment**. Some projects require purchase of specific professional equipment which is supposedly not available as EU or other eligible countries’ origin. | - A wider analysis of potential suppliers should be implemented.  - In case of non-availability ask for derogation from the MA well in advance, providing proper justification (e.g. Proof of sufficient research that no such product |
| **Compatibility of equipment.** On a number of occasions the purchase of equipment is focused on up-grading existing equipment which is non-EU or other eligible countries’ origin. Such cases are particularly frequent in computer equipment and software purchase. | - In general avoid upgrading of existing equipment. In case of such projects check compatibility with similar EU or other eligible countries’ origin equipment. |

## 3.3. Fair and transparent competition

## 

If the implementation of an action is funded by the Programme for the purposes of external actions requires procurement by the project beneficiary, the contract must be awarded to the **most economically advantageous tender** (i.e. the tender offering the best price-quality ratio), in accordance with the principles of transparency and fair competition for potential contractors and taking care to avoid any conflicts of interest.

In the event of failure to comply with these rules, planned or occurred expenditures related to the projects and activities in question **will not be eligible** for EU financing.

Some of the possible challenges related to the fair and transparent competition are presented in the Table 2.

**Table 2: Challenges related to fair and transparent competition**

|  |  |
| --- | --- |
| **CHALLENGES** | **RECOMMENDATIONS** |
| **Above market prices**. In case of simplified or in open procedures if the tenderers contact each other, they could raise the tender price above market standards. In single tenders the only invited tenderer could propose price above market standards. | -Even if the financial thresholds stipulate single tender procedure the Contracting Authority should be encouraged to invite more than one company in order to create competition and avoid increasing the prices by the single invited tenderer.  - The project beneficiary could implement preliminary market research/analysis to establish the market price standards for the planned purchases. Other beneficiaries implementing similar purchases could be advised. 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.  - Be aware that the MA will check the per-unit prices as presented by the beneficiaries in the proposed budgets during the budget clearing process. Historical data, market analysis or similar can be taken into account to establish appropriateness of the proposed per-unit prices. |
| **Conflict of interest**. Some of the individuals involved in the process are one way or another connected with one or more tenderers. | - 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) |

## 3.4. Grounds for exclusion

1. **Exclusion criteria applicable for participation in procurement procedures:**

Candidates, tenderers or applicants will be excluded from participation in the procurement procedures if:

(a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

(b) they, or persons having powers of representation, decision making or control over them, have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*; (i.e. against which no appeal is possible);

(c) they have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify, including by decisions of the European Investment Bank and international organisations;

(d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;

(e) they, or persons having powers of representation, decision making or control over them, have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such an illegal activity is detrimental to the EU’s financial interests;

(f) they are currently subject to an administrative penalty referred to in Article 109(1) of the EU Financial Regulation (for programmes funded by the EU budget and the 11th EDF) and in Article 99 of the 10th EDF Financial Regulation (for programmes funded by the 10th EDF).

The cases referred to in point (e) are the following:

1) cases of fraud as referred to in Article 1 of the Convention on the protection of the European Communities’ financial interests drawn up by the Council Act of 26 July 1995;

2) cases of corruption as referred to in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997;

3) cases of involvement in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA

4) cases of money laundering as defined in Article 1 of Directive 2005/60/EC of the European Parliament and the Council;

5) cases of terrorist offences, offences linked to terrorist activities, and inciting, aiding, abetting or attempting to commit such offences, as defined in Articles 1, 3 and 4 of Council Framework Decision 2002/475/JHA

1. **Exclusion criteria applicable during the procurement procedures**

Contracts may not be awarded to candidates, applicants or tenderers who, during the procurement procedures:

a) are subject to a conflict of interest;

b) are guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the contract procedure or fail to supply this information;

c) find themselves in one of the exclusion situations for this procurement procedure.

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 cited under points I and II.

Information on the ownership/management, control and power of representation of the entity and a certification that they do not fall into the relevant exclusion situations must be provided where specifically requested by the Contracting Authority. This may be the case where there are doubts about the personal situation and in consideration of the national legislation of the country in which the tenderer, candidate or applicant is established.

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.

As satisfactory evidence that the candidate, tenderer or applicant is not in one of the situations described in:

- (a), (b) or (e) of point I (Exclusion criteria applicable for participation in procurement procedures), the Contracting Authority will accept a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that the requirements are satisfied. For (d), the Contracting Authority will accept a recent certificate issued by the competent authority of the State concerned. Where no such document or certificate is issued in the country concerned17 and for the other exclusion criteria listed in point I, it may be replaced by a sworn/solemn statement made before a judicial or administrative authority, a notary or a qualified professional body in the country of origin or provenance.

Whenever one candidate, tenderer or applicant, due to its nature or the legal provisions for the given issue in the state where it is registered (for instance, national public administrations and international organisations), cannot fall into some of the categories above and/or cannot provide the documents indicated above, a simple declaration explaining their situation will suffice.

**TIPS**

***Tip 1:*** *The tenderer submission form includes a tenderer’s statement which among other confirms that the tenderer is not in any of the above situations. The statement should be included in the simplified tender dossier and the tender dossier for single tender procedures. The format of the latter provided in this Manual includes indication to the exclusion criteria.*

***Tip 2:*** *The CA should decide on case-by-case basis which of the above situations should be confirmed by documentary evidence. For example the evidence could be asked for larger tenders or in cases where the exclusion criteria directly jeopardise the delivery of the secondary contract. The CA should nevertheless bear in mind that obtaining of the documentary proof means additional cost and effort for the beneficiaries. The documents could possibly be asked only from successful tenderer before the signature of the contract.*

*If national rules are stricter than external, they still apply*

## 3.5. Administrative and financial penalties

## 

Candidates, tenderers and applicants, who have made false declarations, made substantial errors, committed irregularities or fraud may be excluded from participation in all procurement and call for proposal procedures financed by the EU for a maximum of five years from the date on which the infringement is established, following an adversarial procedure with the contractor or beneficiary. That period may be extended to 10 years in the event of a repeated offence within five years of that date. The decision is adopted by the relevant Authorising Officer following an adversal procedure.

Tenderers, candidates or applicants who have made false declarations, or who have committed substantial errors, or irregularities, or fraud, may also be subject to financial penalties representing 2 % to 10 % of the total estimated value of the contract being awarded. The percentage is decided in accordance with the principle of proportionality. Where the award procedure proves to have been subject to substantial errors, irregularities or fraud, the Contracting Authority must suspend the procedure and may take whatever measures are necessary, including cancellation. Where, after the award of the contract, the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud, the Contracting Authority may, depending on the stage reached in the procedure, refrain from concluding the contract or suspend performance of the contract or, where appropriate, terminate the contract. Where such errors, irregularities or fraud are attributable to the contractor or beneficiary, the European Commission, as a consequence, may also refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with this contractor or beneficiary, in proportion to the seriousness of the errors, irregularities or fraud.

## 3.6. Visibility

## 

Unless otherwise requested or agreed by the European Commission, all EU partners, whether they may be contractors, beneficiaries or entities managing funds on behalf of the European Commission, must ensure the visibility of EU financing. National rules might require additional visibility arrangements and they have to be taken into account

## 3.7. The rule on the language to be used

## 

It is recommended to use English for secondary procurement procedures above 20.000 €. For single tender procedures below 20.000€ it is allowed the use of the official national languages. The use of English could contribute to efficiency of the programme, standardisation of the approach and enable comparison between procedures.

The **use of the English language also increases the possibility for tenderers from different countries** to be properly informed; therefore this may not be fulfilled if only national languages are used. Some tenderers might decide to publish tenders in both English and the official national language, however this approach somewhat gives advantage to the local tenderers against the third country tenderers (those not using English as a mother tongue). Similarly as the tender documentation also the tenderers offers should be as a general principles in English. For smaller size tenders of below 20.000€ the tendering in the official national language is an acceptable option.

# PROCEDURES

Main procedures that should be implemented in case of procurement according to external rules are described in the following chapters. Which procedure is applicable always depends on the type and size of the contract. The initial part of this chapter describes the procedures which are equally applicable for all types of procurement. The chapters on specific procedures are describing the following elements:

- Procedural overview;

- Preparation of tender documentation;

- Evaluation procedure;

Practical recommendations and formats of tender documentation are provided for each type of procedure.

Since the beneficiaries in the IPA country and Greece are obliged to use the EU external action procedure in their secondary procurement, they should keep in mind that minimum procedural requirements need to be respected throughout these procedures.

Detailed procedures for each type and size of contracts are also provided in the following chapters. Described procedures are based on what is **normally and commonly implemented** in public procurement in the context of EU external actions. The procedures must always respect provisions given in the Financial Regulation*.*

***NOTE***

*Templates and annexes mentioned in the description of procurement procedures are based on standard PRAG templates used for EU external action programmes. It should be noted that these templates change over time, therefore amendments might be required.*

## 4.1. Selection and award criteria

Selection criteria differ between different types of contract. They are as follows:

• **Service contracts**. The offer which provides **the best value for money** is awarded with the contract. Normally the ratio 20% price and 80% technical quality is used.

• **Supply contracts**. The contract shall be awarded to the **cheapest technically compliant** offer.

• **Works contracts**. The contract shall be awarded to the **cheapest technically compliant** offer.

## 4.2. Open procedure

The **open procedure** is applicable for **supply and works contract**. The procedure follows one step process where open invitation for submission of tenders is issued either on national and international level.

In 'open' calls for tenders (international or local), all economic operators may submit a tender. Depending on whether it is a local or international open procedure the contract notice is to be published in all appropriate media. The contract is given maximum publicity by publishing a notice in:

1. the official journal of the European Union (S series) (for international open procedure only),
2. the official journal of the partner country, the website of DG International Cooperation and Development, and in any other appropriate media.

Local calls for tender must be published in the official journal of the partner country or any other equivalent media and the contract notice must be published on the website of DG International Cooperation and Development.

It is also recommended, in particular on the **project beneficiary’s website** (in its role of Contracting Authority).

Any natural or legal person wishing to tender may ask to receive the tender dossier (which may have to be paid for), in accordance with the procedures specified in the contract notice.

For example all contract notices for supply contracts above 300.000 EUR must be published in the Official Journal of the European Union and on the EuropeAid web site.

In addition to the contract notice the CA might decide to publish a prior information notice. The use of the latter is however compulsory when the CA intends to make a use of a possibility to shorten procedure. If applied the prior-information notice is published at least 30 days before publication of the contract notice.

## 4.3. Restricted procedure

**In 'restricted' calls for tenders, all economic operators may ask to submit a tender but only those who satisfy the selection criteria may be invited to do so. Restricted procedure** applies **only in case of service contracts** and is in a way similar to open procedure in supply and works. The procedure follows **two step process**. In the **first step** a **public invitation for submission of express of interest is issued**. In the **second step** the **initial offers are reviewed and a short-list of candidates is formed**. The short-listed candidates are invited to submit full proposal.

The initial contract notice should be published in the Official Journal of the European Union (S Series), in the official journal of the partner country, on the website of DG International Cooperation and Development, and in any other appropriate media (on the EuropeAid web site if applicable).

Local calls for tender must be published in the official journal of the partner country or any other equivalent media and the contract notice must be published on the website of DG International Cooperation and Development.

The publication must state the number of candidates which will be invited to submit tenders. This number will be in the range of four to eight and must be **sufficient to ensure genuine competition**. The guidance for eventual prior-information notice follows the same logic as with the open procedure, described in the previous point.

## 4.4. Simplified procedure (formerly known as "competitive negotiated" procedure)

**Simplified procedure** applies to **service, supply and works contracts**.

Under the simplified procedure, the Beneficiary (in its role of Contracting Authority) **invites candidates of its choice to submit tenders**. At least 3 competent candidates should be invited. The procedure could be implemented using simplified tender documents in case of service and supply procedures. At the end of the procedure the Contracting Authority selects the **tender which offers the best value for money in case of service tenders** and the **cheapest technically compliant offer in case of supplies or works tenders**.

## 4.5. Orders on the basis of single tender

Orders on the basis of **single tender apply to service, supply and works contracts**.

Under the **single tender** procedure the Project Beneficiary (in its role of Contracting Authority) in principle **invites one candidate to submit offer**. Offers are normally submitted using simplified tender documents. At the end of the procedure the Contracting Authority checks whether the single offer corresponds to the requirements in case of services or is technically compliant in case of supply and works tenders.

**The Programme recommends that at least 3 candidates should be invited in the case of the single tender procedure.**

Such an approach is justified since more offers make a financially and technically sound and transparent decision to be able to get a clear information on real market prices. Efficiency and transparency are considerably improved this way.

This Manual provides recommendations (point 8.1) and examples of formats that can be used (Annex TD1).

## 4.6. Modifying contracts

Contracts may need to be modified during their duration if the circumstances affecting project implementation have changed since the initial contract was signed. **Contract modifications must** be formalised through an **administrative order or an addendum** to the contract in accordance with the provisions of the General Conditions of the contract. **Substantial modifications** to the contract must be made by means of an **addendum**. Such an addendum must be signed by the contracting parties. Changes of address and changes of bank account may simply be **notified in writing** by the contractor to the Beneficiary, in its role of Contracting Authority, although this does not affect the right of the Beneficiary (in its role of Contracting authority) to oppose the contractor's/beneficiary's choice of bank account.

Following this logic, major changes, such as a fundamental alteration of the Terms of Reference/Technical Specifications, **cannot be made** by means of an addendum or an administrative order.

A request for contract modifications **should not automatically be accepted** by the Contracting Authority (Beneficiary). There must be **justified reasons** for modifying a contract. The Contracting Authority (Beneficiary) must examine the reasons given and reject requests which have little or no substantiation. Contracts can only be modified within the execution period of the contract. The purpose of the addendum or administrative order must be closely connected with the nature of the project covered by the initial contract.

*Tip 1: It is up to the Beneficiaries in their role as Contracting Authorities to determine what constitutes as ‘significant modification’ and it is advised to be made by means of an addendum. The use of an addendum or not for contract modifications, has to be clearly justified for the needs of the control, as well as any reasons for contract modifications. No confirmation or approval prior to making a decision on significant contract modifications is to be requested by the JS/MA of the Programme.*

*Tip 2: The modifications of secondary contracts within the projects should always be observed in the context of the overall project. The beneficiaries should under no circumstances allow that modification of the secondary contract jeopardizes the implementation of the overall project. For example, delays/extensions in implementation of secondary contracts could have negative impact at overall level.*

Requests for contract modifications must be made (by one contracting party to the other) well in advance to allow for the addendum to be signed by both parties before the expiry of the execution period of the contract.

In preparing an addendum, the Beneficiary in its role as Contracting Authority must use the template for an addendum (Annex B16, C12, D117)

## 4.7. Financial thresholds and related tendering procedures

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SERVICE CONTRACTS** | ≥**EUR 300 000**  - International restricted or  open tender procedure | **< EUR 300 000 but > EUR 20 000**  - Framework contracts  or  - Simplified procedure | | ≤**EUR 20 000**  Single tender  For service and supply contracts, a payment may be made against invoice without prior acceptance of a tender if the expenditure is **≤EUR**  **2 500** |
| **SUPPLY CONTRACTS** | ≥**EUR 300 000**  International restricted or open tender procedure | **< EUR 300 000 but** ≥**EUR 100 000**  - Local open tender procedure | **<EUR 100 000 but > EUR 20 000**  - Simplified procedure |  |
| **WORKS CONTRACTS** | ≥**EUR 5 000 000**  - International open tender procedure  or  - International restricted tender procedure | **< EUR 5 000 000 but** ≥ **EUR 300 000**  Local open tender procedure | **< EUR 300 000 but> EUR 20 000**  - Simplified procedure |  |

## 4.8. Procurement plans

The secondary procurement procedures represent a significant challenge for the MA from the perspective of monitoring. Significant volume of procedures makes it difficult for the MA to follow closely the developments, what often results in delays and discrepancies at the secondary procurement as well as at the overall project level.

A possible way to facilitate the monitoring is the use of procurement plans. The beneficiaries could be encourage after the start of their project to provide a list of all procurement procedures within their projects, with indication of budget line, procedure and key milestones. The procurement plan can also be used for cross-checks, for example if proper procedure is used depending on the financial threshold. An example of procurement plan is presented in the scheme:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **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 | Simplified procedure | 20.12.2016 | 31.01.2017 |
| **5.2.** | 11.350,00 | Printing services | Services | Single tender | 15.03.2016 | 30.03.2017 |

# GREEK BENEFICIARIES

Greek beneficiaries should follow the rules of external aid on secondary procurement, according to article 45 par.1 of the Implementing Regulation 447/2014, as already indicated and explained in details in the following chapters.

In any case, the general provisions of the CIP 236/2014 on the rules of origin and nationality should be respected by the Greek Beneficiaries in their secondary procurement procedures as described in Chapter 3 of this Procurement Manual, irrespective of the legislative framework on procurement procedure they choose to follow.

# SERVICE CONTRACTS

## 5.1. What is a Service contract?

Service contracts comprise study and technical assistance contracts. The leading principle in the context of secondary procurement would be that service contracts are intended to engage support in the segments/areas which are not covered internally (within the partnership or project team) and require additional external support.

A study contract is a service contract concluded between a service provider and the CA, which includes studies for the identification and preparation of projects, feasibility studies, economic and market studies, technical studies and audits.

A Technical assistance contract is a service contract where a service provider is called on to play an advisory role, to manage or supervise a project, or to provide the expertise specified in the contract.

In a practical sense the studies would normally understand more complex and extensive services. The TA on the other hand can cover complex consultancy or advisory services but can also cover very simple and straightforward services, for example printing, catering, transport services etc.

|  |
| --- |
| **Global price vs. fee-based contracts**  A service contract may be concluded in two different ways:    - **Global price** - where specified outputs are set out. The service will be paid on the basis of the delivery of the specified outputs. Payments might be totally or partially withheld if the contractual results have not been reached. Partial payments have to be determined according to the partial implementation of the outputs, and are subject to:  - several budget lines per output, which may be required but are not compulsory  - negotiations with the service provider;  - **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.  **Examples of global price activities:**  Studies, evaluations, audits, organisation of events such as conferences, trainings. Studies include a variety of tasks like identification and preparation of projects, feasibility studies, economic and market studies, technical studies, drafting a legal document, evaluations and audits. Global price always specify the output, i.e. the contractor must provide a given product.  The tenderer must announce his intentions in terms of mobilisation of means in its tender. However, during the implementation, the technical and operational means by which the contractor achieves the specified output are not relevant for the method of measurement.  In case of global price contracts the candidates’ budget is prepared as a global figure, without further breakdown. The CA monitors delivery of outputs, which also represent the basis for issuing payments.    **Examples of fee-based activities:**  Project supervision, resident technical assistance, facilitation in a multi-stakeholder process (depending of the complexity of the environment).  In case of fee-based contracts the candidates’ budget is prepared in a manner of budget breakdown. Budget lines are presented per expert (for example see PRAG standard annex B8i2). In the implementation phase the inputs by experts provide a basis for monitoring and approval of payments. Signed time-sheets are required by experts to confirm the inputs.  The Contracting Authority would always ask for key experts in the case of fee-based contracts. Their CVs and statement of availability and exclusivity would be included in the technical offer.  In case of global price contracts the CA might decide to identify experts’ profiles in advance and ask for CVs and statements of exclusivity and availability (optional). Even if the CVs are required the experts would not be evaluated directly in global price contracts. They would only be evaluated through organisation and methodology as suggested in the standard evaluation grids.  The recent developments are pointing in the direction of increased use of global price contacts. The advantages of such contracts include absence of requirement to identify experts in advance and thus simplified procedure for change of experts (only when CVs are not required with the tender).  In the context of secondary procurement the beneficiaries should estimate which type of the contract suits better their needs. Having in mind the complexity of the fee-based contracts the beneficiaries could consider favouring global price in case of single tenders and for smaller simplified procedures. Even in the case of global price contracts the beneficiaries could introduce the profiles of required experts in the ToR and ask for CVs. |

Possible example of service procedures in the context of a project may include the following:

* **Establishment of joint tourism area in cross-border region**

The objective of the project financed from cross-border cooperation grant scheme is establishment of joint tourism destination in the border region of two countries. The activities within the project will among other include:

- Analysis of existing tourism providers, their capacities and interests

- Creation of common brand of joint tourism destination

- Establishment of tourism guides services

- Establishment of joint information centre

- Development of promotional publications

The listed activities will be implemented by a combination of internal and external resources as presented in the following table:

|  |  |  |  |
| --- | --- | --- | --- |
| **Specific activity /WP** | **Sub activities** | **Internal or external resources** | **External Services Plan** |
| Analysis of tourism providers | Preparation of questionnaire  On the spot survey  Analysis result | Analysis expert member of project team – OK  Interviewers – not part of the budget – engagement of external services | Engagement of external services – company – to provide interviewers for on the spot survey |
| Creation of common band | Development of brand, including graphical design and overall image | No such expert available internally – engagement of external services necessary | External services – company or person – to develop the brand – marketing expert |
| Establishment of tourism guide services | Engagement of experts – tourism guides  Training and certification of tourism guides | Tourism guides planned as short –term experts in the project team – OK  External services required – only certified institutions able to deliver such services | Engagement of a competent certified external institution to deliver services of training and certification of tourism guides |
| Development of promotional publications | Preparation of text and photos  Translation into a foreign language | Project manager and internal market expert competent and experienced to prepare photos and text – OK  External translator required to ensure coherent translation  External printing house required to print the materials | Engagement of qualified external translator (possibly merging all the translation services of the project)  Engagement of printing company to print the materials as required |

* **Introduction of quality standards into SMEs**

The objective of the project financed from cross-border cooperation grant scheme is improvement of performance and possibilities for cooperation between CB SMEs. The cooperation would be increased by joint introduction of quality standards (ISO 9010) into SMEs. The activities within the project will among other include:

- Motivation workshops with potential participant SMEs

- Initial training and joint workshops between SMEs from both sides of the border

- Selection of participants

- Development of quality standards and certification of selected SMEs

The listed activities will be implemented by a combination of internal and external resources as presented in the following table:

|  |  |  |  |
| --- | --- | --- | --- |
| **Specific activity /WP** | **Sub activities** | **Internal or external resources** | **External Services Plan** |
| Motivation workshops with potential participant SMEs | Organisation, logistics, invitations  Implementation of workshops  Analysis of conclusions | Training coordination, member of project team – OK  Project manager and internal SME expert – OK  Project manager and internal SME expert - OK | Engagement of external services not necessary |
| Initial training and joint workshops | Initial preparatory training of SMEs  Joint workshops with SMEs from the other side of the border | Short term trainers, members of the project team – OK  Short term trainers, members of the project team – OK  Interpreter - external expert required | Engagement of external interpreter required  Renting of space and catering services required |
| Selection of participants | Development of quality criteria  Selection of participants | In order to ensure transparent competition it is suggested that external experts – evaluation committee be invited to develop the criteria and select participants | Engagement of external experts - evaluation committee. Either one contract with company or several contracts with physical persons |
| Development of quality standards and certification | Analysis in selected companies  Development and upgrading of processed in companies  Certification | The activities can only be implemented by external certified institutions (in cooperation with SMEs staff) | Engagement of qualified external certifying institution. Cooperation of the SMEs staff assumed. |

## 5.2. Procedures for Service contracts

### 5.2.1. On the basis of single tender (up-to 20.000€)

**The tenders of 2.500 € and less can be awarded on the basis on an invoice, without prior acceptance of a tender .**

For the tenders higher than 2.500 and up-to 20.000 € **a single tender procedure** must apply. The PRAG Manual does not precisely define the details for this type of the procedure, with the exception of providing a format of negotiation report.

For further guidance on this procedure the Manual provides proposal of the procedure to be used with suggestion on the formats. The description of the single procedures for all types of contracts is available in the Point 8.1. The templates of the documentation are available in the Annex TD1.

### 5.2.2. Simplified procedure (above 20.000 to 300.000€)

**Tender documents:**

* Tender dossier

In the simplified procedure for services the beneficiaries are allowed to use simplified tender documentation. According to the Financial Regulation, Article 190, the tender documentation should include at least the following:

(a) instructions to tenderers, which must include:

(i) the type of contract;

(ii) the award criteria and their weightings;

(iii) the possibility of interviews and the timetable for them;

(iv) whether variants are permitted;

(v) the proportion of sub-contracting which may be authorised;

(vi) the maximum budget available for the contract;

(vii) the currency of tenders;

(b) shortlist of candidates selected (mentioning the ban on association);

(c) general conditions for service contracts;

(d) specific conditions which amplify, supplement or derogate from the general conditions; terms of reference indicating the planned timetable for the project and dates from which it is planned that the principal experts must be available;

(f) price schedule (for completion by the tenderer);

(g) tender form;

(h) contract form;

(i) if applicable, bank (or similar) guarantee forms for the payment of pre-financing.

On the basis of the above definitions this Manual provides example templates of simplified tender documentation for consideration and eventual use by the Programmes. The simplified templates for tender documentation for Service contracts are available in INTERACT IPA CBC Public procurement forum9. The standard PRAG templates for services (reports, grids etc.) can be downloaded from the web-site: <http://ec.europa.eu/europeaid/prag/annexes.do?group=B>

*•* Terms of reference

**The Terms of reference (ToR)** is the key document in the tender dossier for Service contracts. It describes all details of the assignment under questions. Required inputs include type and number of experts requested and any other (material) contributions. The expected outputs describe the results and outcomes of the contract. Both aspects should be covered in sufficient details to avoid problems during the implementation (non-delivery of services or results). The terms of reference document can be drafted on the basis of the standard document provided on the above mentioned EuropeAid web-page (see Annex B8).

* Special conditions

The **Special conditions** is the document defining specific provisions of contract. The document is supplementing the General conditions for service contracts. Unless the special conditions provide otherwise the General conditions remain fully in place.

***Tip:*** *The relation between General and Special conditions is very important from the perspective of the Contracting Authority in secondary procurement (beneficiary). Namely the definitions in the General conditions might not always be in line with the beneficiary’s needs. For example deliveries, payment schedules, obligations might be altered. The beneficiary should always check whether and how the provisions are defined in the General Conditions. Any changes need to be properly reflected in the Special conditions to have legally coherent documentation.*

* Contract notice

The CA might decide to provide with the tender dossier a contract notice which would define the selection criteria and rules for submission. Further details on the contract notice are provided in the chapter for restricted tenders, point 5.2.3 below. When using a contract notice the CA should ensure that sufficient number of candidates, fulfilling selection criteria are invited.

**Publication:**

In case of simplified procedure **no publication is needed**. The Beneficiary in its role as Contracting Authority **invites at least 3 tenderers** to submit offers.

**Submission of tenders:**

The invited tenderers are **normally** given a **minimum number of days** for submission of their offers according to the provisions of article 275 of the Commission Delegated Regulation 1268/2012 as amended by the Commission Delegated Regulation 2462/2015.

**Selection process:**

The selection process in simplified procedure is based on comparison of received **offers**. The selection is based on **combination of price** (20%) and **technical quality** (80%).

The **Evaluation Committee** consists of **odd number of voting members** (minimum 3), **non-voting secretary** and **non-voting president**.

***Tip:*** *Observers from programme structures (JS/Antenna, MA) could be invited to observe the evaluation process. This could be considered/recommended in case of large contracts, possible doubts in procedures, or in case of language problems e.g. when Evaluation committee has doubts about sufficient command of English language*.

The Evaluation Committee members should be appointed by official nomination of the Beneficiary in its role as Contracting Authority, based on their qualifications and skills (CVs should accompany the nomination). Each member must have a reasonable command of the language in which the applications are submitted. All members of the Evaluation Committee are obliged to sign a Declaration of Impartiality and Confidentiality (see Annex A4, under General annexes), available on the web page:

<http://ec.europa.eu/europeaid/prag/annexes.do?group=A>

The steps in the selection process are as follows:

***1. Receipt and registration of tenders***

On receiving tenders, the Beneficiary in its role as Contracting Authority must register them mentioning the date and time of reception and provide a receipt for those delivered by hand. The envelopes containing the tenders must remain sealed and be kept in a safe place until they are opened. The outer envelopes of tenders must be numbered in order of receipt (whether or not they are received before the deadline for submission of tenders).

***2. Opening of tenders***

Opening procedure is implemented in line with the **check-list provided** (see Annex B9 on the website). The Evaluation Committee must decide whether or not tenders comply with the formal submission requirements at this stage. The Summary of tenders received, which is attached to the Tender Opening Report (see Annex B10 on the EuropeAid website) should be used to record the compliance of each of the tenders with the formal submission requirements.

**NOTE**: Only the tenders received within the deadline for submission are opened.

***3. Checking of administrative compliance***

The Evaluation Committee checks the compliance of tenders with the instructions given in the tender dossier and in particular the administrative compliance grid (see Annex B8l EuropeAid website). Any major formal errors or restrictions affecting performance of the contract or distorting competition result in the rejection of the tender concerned.

***Nationality of sub-contractors:***

The Evaluation Committee must check at this stage that the nationalities of any sub-contractors identified in the technical offers satisfy the Interreg-IPA CBC Programme nationality rule.

For larger and complex tenders, the tenderers could be requested to provide proof documents for the key experts proposed. This can include copies of the diplomas mentioned in the CV and employers' certificates or references proving the professional experience indicated in the CV. If missing proofs are requested it should only be for the relevant experience and diplomas which are among the requirements in the Terms of Reference.

The administrative compliance grid included in the Tender Dossier must be used to record the administrative compliance of each of the tenders.

***4. Technical evaluation***

The Evaluation Committee then examines the technical offers; the financial offers must remain sealed at this stage. When evaluating technical offers, each member awards each offer a score out of a maximum 100 points in accordance with the technical evaluation grid laid down in the tender dossier. Under no circumstances may the evaluation grid be changed.

In practice, it is recommended that tenders be scored for a given criterion one after another, rather than scoring each tender for all criteria before moving on to the next. Where the content of a tender is incomplete or deviates substantially from one or more of the technical award criteria laid down in the tender dossier (e.g. the required profile of a certain expert), the tender should be automatically rejected, without being given a score, but this should be justified in the evaluation report.

For experts the scores should be given in comparison to the requirements stated in the Terms of Reference.

Each voting member of the Evaluation Committee completes an evaluation grid (see Annex B12) to record his/her assessment of each technical offer in order to establish a general appreciation of strengths and weaknesses of the individual technical offers.

On completion of the technical evaluation, the points awarded by each member are compared at the Committee's session. Besides the numerical score, a member must explain the reasons for his/her choice and defend his/her scores before the Committee.

The Evaluation Committee discusses each technical offer and each member awards it a final score. The Committee members may modify their individual evaluation grids as a result of the general discussion on the merits of each offer.

Once discussed, each Evaluation Committee member finalises his/her evaluation grid on each of the technical offers and signs it before handing it over to the Secretary of the Evaluation Committee. The Secretary must then compile a summary of the comments of the Committee members as part of the Evaluation Report.

In the case of major discrepancies, a full justification has to be provided by dissenting members during a meeting of the Evaluation Committee.

The Secretary calculates the aggregate final score, which is the arithmetical average of the individual final scores.

The Evaluation Committee might decide to implement interviews with proposed key experts to assess their competences, either by telephone on personally. *Depending on the type of service and the size of the contract this can be strongly recommended*.

Once the Evaluation Committee has established each technical offer's average score (the mathematical average of the final scores awarded by each voting member), any tender falling short of the 80-point threshold is automatically rejected. If no tender achieves 80 points or more, the tender procedure will be cancelled.

Out of the tenders reaching the 80-point threshold, the best technical offer is awarded 100 points. The others receive points calculated using the following formula:

**Technical score** = (final score of the technical offer in question/final score of the best technical offer) x 100.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Maximum possible** | **Tenderer 1** | **Tenderer 2** | **Tenderer 3** |
| Evaluator A | 100 | 55 | 88 | 84 |
| Evaluator B | 100 | 60 | 84 | 82 |
| Evaluator C | 100 | 59 | 82 | 90 |
| Total | 300 | 174 | 254 | 256 |
| Average score  (mathematical average) |  | 174/3=**58,00** | 254/3=**84.67** | 256/3=**85.33** |
| Technical score (actual  final score/highest final  score) |  | Eliminated\* | 84.67/85.33 x 100 = **99.22** | **100.00** |

\* Only tenderers with average score of at least 80 points qualify for the financial evaluation.

***5. Financial evaluation***

Upon completion of the technical evaluation, the envelopes containing the financial offers for tenders who were not eliminated during the technical evaluation (i.e., those which have achieved an average score of 80 points or more) are opened and all originals of these financial offers are initialled by the Chairperson and the Secretary of the Evaluation Committee.

The Evaluation Committee has to ensure that the financial offer satisfies all formal requirements. A financial offer not meeting these requirements may be rejected. Any rejection on these grounds will have to be fully justified in the Evaluation Report.

The Evaluation Committee checks that the financial offers contain no arithmetical errors. Any arithmetical errors are corrected without penalty to the tenderer. The envelopes containing the financial offers of rejected tenderers following the technical evaluation must remain unopened and retained. They must be archived by the Contracting Authority together with the other tender procedure documents.

In the case of fee-based contracts, the total contract value comprises the fees (including employment-related overheads), the incidental expenditure and the provision for expenditure verification, which are specified in the tender dossier. In the case of lump-sum contracts only total contract value is provided. The total contract value is compared with the maximum budget available for the contract. Tenders exceeding the maximum budget allocated for the contract are eliminated.

***Tip:*** *In cases when financial offers are required in local currency and the maximum available budget is indicated in EUR, the currency exchange differences could cause the tenderer’s offer exceeding the indicated maximum budget (i.e. tenderer using. The beneficiaries are therefore recommended either to ask for financial offers in EUR or clearly indicate the calculation rate in the instructions to tenderers. A usual formulation would be ‘’the maximum available budget for the contract is XXX EUR (calculated in Inforeuro rate for the month of publication of the tender)’’.*

The Evaluation Committee then proceeds with the financial comparison of the fees between the different financial offers. The provision for incidental expenditure, as well as the provision for expenditure verification is excluded from the comparison of the financial offers as it was specified in the tender dossier. In case of lump-sum contract the total contract value is used as basis for financial evaluation.

The tender with the lowest total fees receives 100 points. The others are awarded points by means of the following formula:

Financial score = (lowest total fees / total fees of the tender being considered) x 100.

Specimen Tender Evaluation Summary:

Part 2: Financial Evaluation \*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Maximum possible** | **Tenderer 1** | **Tenderer 2** | **Tenderer 3** |
| Total fees |  | Eliminated following technical evaluation | € 951.322 | € 1.060.452 |
| Financial score  (lowest total fees/actual total fees x 100) |  | 100 | 951.322/1.060.452 x100 = **89.71** |

\* Only tenderers with average scores of at least 80 points in the technical evaluation qualify for the financial evaluation

***6. Conclusions of the Evaluation Committee***

The best value for money is established by weighing technical quality against price on an 80/20 basis. This is done by multiplying:

- the scores awarded to the technical offers by 0,80,

- the scores awarded to the financial offers by 0,20.

Specimen Tender Evaluation Summary:

Part 3: Composite Evaluation

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Maximum possible** | **Tenderer 1** | **Tenderer 2** | **Tenderer 3** |
| Technical score  x 0.80 |  | Eliminated following technical evaluation | 99,22 x 0.80 =  **79.38** | 100.00 x 0.80 =  **80.00** |
| Financial score  x 0.20 |  | 100.00 x 0.20=  **20.00** | 89.71 x 0.20=  **17.94** |
| Overall score |  | 79.38 + 20.00=  **99.38** | 80.00 + 17.94=  **97.94** |
| Final ranking |  | **1** | **2** |

As a result of its deliberations, the Evaluation Committee may make any of the following recommendations:

* Award the contract to the tenderer which has submitted a tender:
* which complies with the formal requirements and the eligibility rules;
* whose total budget is within the maximum budget available for the project;
* which meets the minimum technical requirements specified in the tender dossier; and
* which is the best value for money (satisfying all of the above conditions).
* Cancel the tender procedure in exceptional circumstances, such as:
* none of the tenders satisfies the selection/award criteria of the tender procedure;
* no tenders achieved the minimum threshold during the technical evaluation;
* total price (comprising both the fees, the incidental expenditure and the provision for expenditure verification ) of all tenders received exceed the maximum amount available for the contract.

The entire procedure (technical and financial evaluation) is recorded in an Evaluation Report (see template in Annex B11) to be signed by the Chairperson, the Secretary and all voting members of the Evaluation Committee.

***7. Notifications and signature of the contract***

The successful and unsuccessful tenderers are informed on the results of the evaluation (see Annex B13). The successful tenderer is invited to the signature of the contract. Format of the contract is provided in the tender documents (and available at the above web-page - see annex B8: Draft Contract).

### 5.2.3. Restricted tenders (above 300.000€)

**Tender documents:**

In the case of the restricted tenders **full tender dossier needs to be prepared** (in the second step where short-listed tenderers are invited to submit the full proposal).

The specific documentation related to services mentioned in the continuation of this point can be downloaded from the EuropeAid website.

Additional documentation which applies to the restricted procedure is:

* **Prior information notice**. The document setting out the specific characteristics of the planned tender procedure must be published, at least 30 days before the publication of the contract notice. The prior information notice must briefly state the subject, content and value of the contracts in question. The prior information notice is prepared using the PRAG template (EuropeAid web-site, Annex B1). The use of the prior information notice is optional unless the CA decides to shorten the standard deadlines for submission of offers.
* **Contract notice**. A minimum of 30 days after publication of the prior information notice, a contract notice must be published (EuropeAid web-site, Annex B2). The selection criteria identified in the Contract Notice must be:
  + clearly formulated,
  + easy to verify on the basis of information submitted (recommended use of the standard application form – see annex B3 on the EuropeAid web-site),
  + devised to allow a clear YES/NO assessment to be made as to whether or not the candidate satisfies a particular selection criterion,
  + possible to prove by the tenderer.

The criteria given in the templates are given by way of illustration and must be adapted to the nature, cost and complexity of the contract.

**Publication:**

In case of restricted procedures **the prior information notice and the contract notice are published on the website of the organisation** (Beneficiary in its role as Contracting Authority), **Official Journal of the EU and in national and international media**. The prior information notice is published at least 30 days before the contract notice. The contract notice is published 30 days before the deadline for submission of express of interest.

***Tip:*** *Publication on EuropeAid website is optional*

**Submission of tenders:**

**The tendering procedure is implemented in two steps**. In the first step the applicants submit the expression of interest, based on the standard format (see Annex B3 on EuropeAid web-page).

The applicants **are given minimum 30 days** from publication of the contract notice to submit their expression of interest.

After forming the short -list (see below, Selection Process), the applicants are invited to the submission of the full application. They are sent full tender dossier and **given minimum 50 days** deadline to submit their offers.

**Selection process:**

In case of restricted procedure the selection process is implemented in two stages.

Following the publishing of procurement notice and receipt of expressions of interest, the first stage in the process is implemented.

The short-listing of candidates must be carried out by an Evaluation Committee appointed by the Beneficiary in its role as Contracting Authority comprising a non-voting Chairperson, a non-voting Secretary and an odd number of voting members (minimum of three) possessing the technical and administrative capacities necessary to give an informed opinion on the applications. Each member must have a reasonable command of the language in which the applications are submitted. All members of the Evaluation Committee are obliged to sign a Declaration of Impartiality and Confidentiality (see Annex A4), available on the web page: <http://ec.europa.eu/europeaid/prag/annexes.do?group=A>

The selection procedure involves:

- establishing a long list (see template in Annex B4) summarising all the applications received;

- eliminating candidates who are ineligible

- applying the published selection criteria without modification

After examination of the responses to the procurement notice, the service providers offering the best guarantees for the satisfactory performance of the contract will be short-listed. The shortlist shall contain between four and eight candidates. If the number of eligible candidates meeting the selection criteria is greater than eight, the additional criteria published in the procurement notice will be applied in order to reduce the number of eligible candidates to eight.

If the number of eligible candidates meeting the selection criteria is less than the minimum of four, the Beneficiary in its role as Contracting Authority may invite to submit a tender only those candidates who satisfy the criteria to submit a tender.

Tender documents will be sent to the short-listed candidates and they are invited to submit full proposals.

**The second stage in the evaluation - evaluation of the received full proposals - is implemented under the same principles as within simplified procedures.** Please refer to point 5.2.2., Selection process, for further details.

### 5.3. Common challenges

The Table 3 is presenting some practical challenges in managing and controlling the service contract procedures. The list is prepared following the procedural logic as presented above.

*Table 3: Practical challenges in procurement of services*

|  |  |
| --- | --- |
| **CHALLENGES** | **RECOMMENDATIONS** |
| **DOCUMENTS** |  |
| **Poor quality of Terms of Reference – risk of failure of delivery**. The ToR document needs to specify all the details of services required. If this is not the case, disagreement between the Contracting Authority and the Contractor might arise | - The Contracting Authority should specify all details of the services expected. Particular attention should be put on the inputs required and results expected.  - The ToR documents could be checked with independent expert to get second opinion |
| **Restrictive conditions**. The ToR could contain restrictive conditions, formulations that could limit fair competition. Restrictive conditions are largely manifested through description of requirements for key experts. References to very narrow qualifications or specific skills are such examples. | - ToR document needs to be closely checked, particularly in the part of expert’s requirements. The formulations should be specific enough to maximise the contract impact but should not be restrictive. Reference to very specific and narrow experiences or qualifications should be avoided. |
| **Splitting of contracts.** In order to avoid application of simplified or open procedure, the beneficiaries might decide to split contracts into several parts. Splitting of contracts containing the services of similar nature is not allowed. | - The beneficiary’s procurement plan should be carefully checked by project/programme managers in MA, JTSs/Antenna. Services of similar nature should be tendered under one procedure. A formulation of ‘’similar nature’’ is normally services which can be provided by one contractor. |
| **Inconsistency between documents**. Specific documents in the tendering documentation are closely connected. The definitions should be consistent. For example the duration of the contract should correspond to the ToR. Specific attention should be dedicated to relation between General and Special conditions. | - The tender documentation should be cross-checked, in particular terms of reference with other documents – contract and special conditions.  - The provisions of the GC should be cross-checked before the publication and amended/regulated in the Special conditions if necessary. |
| ***SELECTION PROCESS*** |  |
| **Lack of sufficient number of quality /compliant offers.** The Contracting Authority might face challenges of not receiving sufficient number of quality or compliant offer. Such situation could be caused by one of the following reasons: lack of capacity of invited tenderers, too restrictive provisions of the requested services, limited publication of tender. | - The Contracting Authority should organise support and advice to tenderers in the process. Clarification meetings are recommended in complex tenders. The Contracting Authority should establish list of frequently asked questions (FAQ) and submit it to all tenderers.  - The Contracting Authority should make sure that the tenders are not too restrictive (see above).  - The Contracting Authority should ensure wide publication of the tender (in case of open procedures). In case of simplified procedure a larger number of potential tenderers than minimum requested (3) could be invited. |
| **Tender price.** The beneficiaries might deliberately or non-deliberately overestimate the value of services. | - Inputs and outputs should be compared to market standard prices (for instance expert prices on the side of inputs and prices of studies or similar on the side of outputs).  - An independent expert could be invited by the JS/MA to participate in review of tender documents. |
| ***IMPLEMENTING PROVISIONS*** |  |
| **Replacement of experts.** The Contractor might decide to propose replacement of experts (shortly) after the signature of the contract. | - Replacement of experts should only be allowed in exceptional cases. Addendum to the contract needs to be prepared (see point 4.6.).  - The replaced experts should be in line with the requirements from the ToR and should at least match if not exceed qualifications and skills of original experts. |
| **Financial guarantees**. In case of larger and more complex service contracts certain financial risks exists for the Contracting Authority. In case of failure of delivery the Contracting Authority might face the challenge of retrieving pre-paid funds. | - The Contracting Authority should adopt the payment schedule to the complexity and size of contract.  - In case of significant pre-payments a financial guarantee could be requested from the Contractor. |

# SUPPLY CONTRACTS

## 6.1. What is a Supply contract?

Supply contracts cover the purchase, leasing, rental or hire purchase (with or without option to buy) of products. A contract for the supply of products and, incidentally, for sitting and installation shall be considered a supply contract.

Specific provisions and challenges in purchasing supplies are **depending on type and scope of equipment**. Equipment could be divided into two general categories. First category includes less complex equipment which is frequently purchased within the EC co-financed contracts, for instance: computer equipment, vehicles, audio-visual equipment. The second category is a wide range of complex professional equipment, for instance: laboratory equipment, meteorological sensors, nuclear safety equipment or similar.

Unlike in the case of services the equipment purchases are practically always requiring engagement of external resources/purchase.

***Mixed contracts***

*A procurement contract could contain elements of several different types of contract. A common example is a supply contract containing elements of service contract. A concrete example is purchase of computer or specialist equipment, where a supply contract would include services of installation and possibly training of operators.*

Possible practical examples of supply procedures in the context of a project can include the following:

* + **Support to cross-border emergency services**

The objective of the project is strengthening of cross border emergency services, by coordinating work and building capacities of emergency services at both sides of the border. The project activities among other include the following:

- Strengthening the emergency services by purchase of specialist vehicles and equipment

- Establishment of joint information system

- Building physical base of equipment in response to emergency situations

|  |  |  |  |
| --- | --- | --- | --- |
| **Specific activity /WP** | **Sub activities** | **Internal or external resources** | **External Services Plan** |
| Strengthening by purchase of vehicles and equipment | Purchase of personal protection equipment  Purchase of specialist tools and equipment  Purchase of vehicles | Tender for purchase of personal equipment  Tender for purchase of specialist tools  Tender for purchase of vehicles | To be checked whether one or more tenders are to be published – in case when one supplier can provide all equipment, 1 lot.  On tender with several lots could also be published. |
| Establishment of joint information system | Purchase of computers and servers  Purchase of software  Connecting computers into network  Training of information operators | Tender for purchase of computers and equipment  Tender for purchase of software  Installation to be included in the supply tender  Training to be included in the supply tender | It is assumed that one tenderer can deliver computers servers and software – 1 tender, 1 lot  The installation and supply can be included in the supply tender – mixed contract |
| Building physical base of equipment for emergency situation | Purchase of first aid kits and medical equipment  Purchase of mobile tents, generator and beds  Purchase of mobile kitchen | Tender for purchase of medical equipment  Tender for purchase of mobile tents, generator and beds  Tender for purchase of mobile kitchen | Assumed that the first aid and medical would be a separate tender or separate lot in one tender  It is assumed that one supplier can provide tents, generator, beds and mobile kitchen to be checked |

* + **Establishing mobile environmental supervisory unit**

The objective of the project is improvement of sustainable environment planning in the cross-border region. The project will above all focus on checking the quality of water flows in the cross-border region and impact of agriculture and waste disposal on water resources. The project activities among other include the following:

- Establishment of mobile laboratory

- Regular collection and analysis of samples

- Establishment and maintenance of database of water markers

|  |  |  |  |
| --- | --- | --- | --- |
| **Specific activity /WP** | **Sub activities** | **Internal or external resources** | **External Services Plan** |
| Establishment of mobile laboratory | * Purchase of personal protection equipment * Purchase of specialist tools and equipment * Purchase of vehicles | * Tender for purchase of personal equipment * Tender for purchase of specialist tools   Tender for purchase of vehicles | * To be checked whether one or more tenders are to be published – in case when one supplier can provide all equipment, one tender, 1 lot. One tender with several lots could also be published. |
| Regular collection and analysis of samples | * Establishing methodology and time-frame * Collection of samples * Storing of samples | * Tender for purchase of supplies – chemicals to be used in collection and storage process | * Assumed one tender for supply of chemicals |
| Establishment and maintenance of database | * Establishment of database * Regular entries of data | * Purchase of physical equipment – computers to maintain the database * Purchase of database software * Training of staff on the use of database software | * Assumed one tender for supply of computers and software. Service component of training on the use of database software included |

## 6.2. Procedures

### 6.2.1. On the basis of single tender (up-to 20.000€)

**The tenders of 2.500 € and less can be awarded on the basis on an invoice, without prior acceptance.**

For the tenders higher than 2.500 and up-to 20.000 € a single tender procedure must apply. The PRAG Manual does not precisely define the details for this type of the procedure, with the exception of providing a format of negotiation report.

For further guidance on this procedure the Manual provides proposal of the procedure to be used with suggestion on the formats. The description of the single procedures for all types of contracts is available in the Point 8.1. The templates of the documentation are available in the Annex TD1.

### 6.2.2. Simplified procedure (from 20.000 to 100.000€)

**Tender documents:**

* **Tender dossier**

In the simplified procedure for supplies the beneficiaries are allowed to use simplified tender documentation. According to the Financial Regulation, Article 190, the tender documentation should include at least the following:

(a) instructions to tenderers, which must include:

(i) the selection and award criteria;

(ii) whether variants are authorised;

(iii) the currency of tenders;

(b) general conditions for supply contracts;

(c) specific conditions which amplify, supplement or derogate from the general conditions;

(d) technical annex containing any plans, technical specifications and the planned timetable for performance of the contract;

(e) price schedule (for completion by the tenderer) and the breakdown of prices;

(f) tender form;

(g) contract form;

(h) if applicable, bank (or similar) guarantee forms for:

(i) the tender;

(ii) payment of pre-financing;

(iii) proper performance.

On the basis of the above definitions this Manual provides example templates of simplified tender documentation for consideration and eventual use by the Programmes.

The standard PRAG templates for supply (reports, grids etc.) can be downloaded from the EuropeAid web-site:

<http://ec.europa.eu/europeaid/prag/annexes.do;JSESSIONID_PUBLIC=5drbIZ0ri_Yu6HEOpqPINwdEYbrnHK1WrVt68_41jT5u2yqP6Ida!150121828?chapterTitleCode=C>

* **Technical specifications**

The **technical specification** is the **key document** in the supply tender dossier. It describes all details of the equipment to be supplied. The expected outputs should precisely describe the number and specifics of the equipment to avoid potential non-delivery. The technical specifications should be drafted on the basis of the standard document provided on the above web-page (see Annex C4).

***Tip:*** *Technical specifications do not only provide detailed specifications on the equipment to be supplied but also elaborate other important elements of the supply. Such additional information could include presentation of existing space outlay, electrical wiring, other installations, especially in the cases where installation is required. The Technical specifications would also elaborate on necessary maintenance conditions, training to be provided with the supply, delivery and installation.*

* **Special conditions**

The special conditions amplify and supplement, if necessary, the General conditions governing the Contract. Unless the Special Conditions provide otherwise, those General Conditions remain fully applicable. Specific attention should be given to coherence between General and Special conditions. Any specific provisions (different as the GC) related, for example to payment schedules, deliveries etc. should be properly reflected in the Special conditions.

* **Contract notice**

The CA might decide to provide with the tender dossier a contract notice which would define the selection criteria and rules for submission. Further details on the contract notice are provided in the chapter for local open procedure, point 6.2.3 below. When using a contract notice the CA should ensure that sufficient number of candidates, fulfilling selection criteria are invited.

**Publication:**

**In case of simplified procedure, no publication is done.** The Beneficiary in its role as Contracting Authority **invites at least 3 tenderers** to submission of offers.

**Submission of tenders:**

The invited tenderers are given minimum 30 days for submission of their offers.

**Selection process:**

The award criterion for selection in the simplified procedure is the lowest price of technically compliant offers.

The **Evaluation Committee** consists of **odd number of voting members** (minimum 3), non-voting secretary and non-voting president. *Observers from the programme structures (JTS/Antenna, MA) or other organisations could be invited to the process.* The Evaluation Committee members should be appointed by **official nomination** of the Beneficiary in its role as Contracting Authority, **based on their qualifications and skills** (CVs should accompany the nomination). Each member must have a **reasonable command of the language in which the applications are submitted**. All members of the Evaluation Committee are obliged to sign a Declaration of Impartiality and Confidentiality (see Annex A4 available at web-page: <http://ec.europa.eu/europeaid/prag/annexes.do?group=A>)

The selection process is based on the documents provided in the web-page: <http://ec.europa.eu/europeaid/prag/annexes.do;JSESSIONID_PUBLIC=5drbIZ0ri_Yu6HEOpqPINwdEYbrnHK1WrVt68_41jT5u2yqP6Ida!150121828?chapterTitleCode=C>

The steps in the selection process are as follows:

1. ***Receipt and registration of tenders***

On receiving tenders, the Beneficiary in its role as Contracting Authority must register them mentioning the date and time of reception and provide a receipt for those delivered by hand. The envelopes containing the tenders must remain sealed and be kept in a safe place until they are opened. The outer envelopes of tenders must be numbered in order of receipt (whether or not they are received before the deadline for submission of tenders).

1. ***Preparatory meeting***

First meeting of the Evaluation Committee is to be held before the tender opening session. The tender dossier should have been distributed in advance to the members of the Evaluation Committee. The Chairperson presents the purpose of the tender, the procedures to be followed by the Evaluation Committee including the evaluation grid and selection and award criteria specified in the tender dossier.

1. ***Tender opening session***

The purpose of the tender-opening session is to check that the tenders are complete, that the requisite tender guarantee has been provided and that the tenders are generally in order. The tender opening session is a formal, public process. The Evaluation Committee opens the tenders in public at the place and time fixed in the tender dossier. Although it is public, participation in the tender opening session is restricted to representatives of the companies which are tendering for the contract. See tender opening checklist in Annex C5 for the detailed formalities to be carried out by the Chairperson with the assistance of the Secretary.

The Chairperson must check that no member of the Evaluation Committee has a potential conflict of interest with any of the tenderers (on the basis of the tenders received, consortium members and any identified subcontractor).

**Note**: Only tenders received before the deadline for submission can be opened.

The Evaluation Committee must decide whether or not tenders comply with the formal requirements. The Summary of tenders received, which is attached to the Tender Opening Report (see Annex C6) must be used to record the compliance of each of the tenders with the formal submission requirements. The minutes of this meeting are included in the Tender Opening Report and this must be made available to the tenderers on request.

1. ***Evaluation of technical offers***

It is obligatory that the Evaluation Committee uses the administrative compliance grid and the evaluation grid published in the tender dossier. As part of the technical evaluation, the Evaluation Committee analyses the commercial aspects and, where applicable, the service component of the tenders to determine whether they satisfy the requirements set in the tender dossier. The results are recorded in a YES/NO grid for all elements specified in the tender dossier. No scoring method should be used. If the tender is divided into lots, the evaluation should be carried out lot-by-lot.

With the agreement of the other Evaluation Committee members, the Chairperson may communicate in writing with tenderers whose submissions require clarification, offering them the possibility to respond within a reasonable time limit to be fixed by the Committee.

**Part 1: Administrative compliance**

Before conducting a detailed evaluation of the tenders, the Evaluation Committee checks that they comply with the essential requirements of the tender dossier (i.e. the administrative compliance grid).

A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them. Substantial departures or restrictions are those which affect the scope, quality or performance of the contract, differ widely from the terms of the tender dossier, limit the rights of the Contracting Authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply.

Each offer is examined for compliance with the tender dossier, in particular that:

- the documentation is complete

- the language required by the tender dossier has been used

The administrative compliance of each of the tenders must be recorded in the Evaluation Report (see Annex C7).

**Part 2: Technical compliance of tenders**

The detailed technical evaluation of the tenders takes place after the administrative compliance check. The criteria to be applied are those published in the tender dossier and, accordingly, the evaluation grid included in the tender dossier must be used. Under no circumstances may the Evaluation Committee or its members change the evaluation grid communicated to the tenderers in the tender dossier.

The purpose of this evaluation is to assess whether or not the competing tenders meet the selection criteria and the minimum technical requirements.

**Rule of origin:**

All tenders must satisfy the rule that the goods to be supplied fulfil the requirements of the Interreg - IPA CBC programme. In case of any doubt as to the origin of goods, additional information must be requested. The tenderer will be required to provide, if possible prior to the signature of the contract, proof of origin in the form of a Certificate of Origin or other official documentation. To establish origin, one must determine where the product in question has been obtained or produced according to the rules of the Programme and relevant Regulation.

However it should be noted that CIR provides global derogation from the rule of origin (See Point 3.1 for details).

**Tenders which clearly fail to satisfy the rule of origin must be rejected.**

***Tip:*** *Having in mind that this kind of proof bears additional costs, and, having in mind differences between national laws and IPA procurement rules for external actions regarding origin of goods, the MA may use own discretion to ask for certificates whenever deemed necessary.*

**Nationality of sub-contractors:**

The Evaluation Committee must check at this stage that the nationalities of any sub-contractors identified in the technical offers satisfies the nationality rule of the Interreg - IPA CBC programme.

Having evaluated the tenders, the Evaluation Committee rules on the technical compliance of each tender, classifying it as technically compliant or not technically compliant. Where contracts include after-sales service and/or training, the technical quality of such services is also assessed during the technical evaluation in accordance with the published criteria.

1. ***Evaluation of financial offers***

Once the technical evaluation has been completed, the Evaluation Committee checks that the financial offers contain no arithmetical errors. Any arithmetical errors are corrected without penalty to the tenderer.

If the tender is in one lot, the cheapest technically compliant offer is awarded contract.

If the tender procedure contains several lots, financial offers are compared for each lot. The financial evaluation will have to identify the best financial offer for each lot, taking into consideration any eventual discounts granted by the tenderers.

Specimen of application of discounts:

Company A offers a discount of 20% if awarded Lots 1 and 3, Company B offers a discount of 10% if awarded all three Lots, Company C offers NO discount

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Company A | Company B | Company C | Ranking without discount |
| LOT 1 | 90 | 80 | 70 | Company C |
| LOT 2 | Not bidding | 40 | 50 | Company B |
| LOT 3 | 60 | 70 | 55 | Company C |

After applying the discount:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Company A  (20% discount) | Company B  (10% discount) | Company C  (no discount) |
| LOT 1 | 72 | 72 | 70 |
| LOT 2 | Not bidding | 36 | 50 |
| LOT 3 | 48 | 63 | 55 |

The 3 combinations possible:

*Combination 1:* 72 + 40 + 48 = 160

*Combination 2:* 72 + 36 + 63 = 171

*Combination 3*: 70 + 50 + 55, but since for Lot 2 there is a cheaper price offered, the sum becomes: 70 + 40 + 55 = 165

The Contracting Authority must choose combination 1, awarding contracts for Lots 1 and 3 to company A and Lot 2 to company B for the initial price offered.

1. ***Choice of contractor***

The successful tenderer is the one submitting the least expensive tender classified as "technically compliant" during the technical evaluation. It must be declared the successful tender if it is equal to or lower than the maximum budget available for the contract. If the chosen tender exceeds the maximum budget available for the contract, the Contracting Authority might enter into negotiations with one or more tenderers. If agreement cannot be achieved the tender procedure will be cancelled.

In the case of abnormally low tenders, the Evaluation Committee must request any relevant information concerning the composition of the tender. If, for a given contract, tenders appear to be abnormally low, the Contracting Authority must, before rejecting such tenders on that ground alone, request in writing details of the constituent elements of the tender which it considers relevant and verify those constituent elements, after due hearing of the parties, taking account of the explanations received.

The justification for accepting or rejecting an abnormally low offer must be recorded in the Evaluation Report.

1. ***Conclusions of the Evaluation Committee***

As a result of its deliberations, the Evaluation Committee may make any of the following recommendations:

* + Award the contract to the tenderer which has submitted a tender:
    - which complies with the formal requirements and the eligibility rules;
    - whose total budget is within the maximum budget available for the project;
    - which meets the minimum technical requirements specified in the tender dossier; and
    - which is the least expensive tender (satisfying all of the above conditions).
  + Cancel the tender procedure, for example when:
  + none of the tenders satisfies the selection/award criteria of the tender procedure;
  + all tenders received exceed the maximum budget available for the contract.

The entire procedure (technical and financial evaluation) is recorded in an Evaluation Report (see template in Annex C7) to be signed by the Chairperson, the Secretary and all voting members of the Evaluation Committee.

1. ***Notifications and signature of the contract***

The successful and unsuccessful tenderers are informed on the results of the evaluation (format available at the above web-page). The successful tenderer is invited to the signature of the contract. Format of the contract is provided in the tender documents and available at the above web-page (see Annex C4: Draft Contract).

### 6.2.3. Local open procedure (above 100.000 to 300.000€)

**Tender documents:**

In case of local open procedure the full tender documentation needs to be prepared. The formats for tender documentation are available in the EuropeAid web-site: <http://ec.europa.eu/europeaid/prag/annexes.do;JSESSIONID_PUBLIC=5drbIZ0ri_Yu6HEOpqPINwdEYbrnHK1WrVt68_41jT5u2yqP6Ida!150121828?chapterTitleCode=C>

Additional practical recommendations related to the tender documents are presented in the point 6.2.1., Tender documents, of this document.

In addition to the full tender dossier the Contracting Authority is required to prepare:

* **Contract notice (Annex C2)**. The Contract notice elaborates the conditions of the contract and invites the tenderers to submit their offers. The contract notice must provide would-be suppliers with the information they need to determine their capacity to fulfil the contract in question. The Contract notice is published locally.

***Tip:*** *Publication on EuropeAid website is optional*

The tender dossier for the contract in question is published on the website of the Beneficiary in its role as Contracting Authority; it must also be sent to would-be suppliers upon request.

**Publication:**

In case of **local open procedures the Contract notice is published on website of the organisation** (Beneficiary in its role as Contracting Authority) and **in national media**[[3]](#footnote-3).

**Submission of tenders:**

The tenderers are given minimum 30 days from publication of procurement notice for submission of their offers.

**Selection process:**

The selection process in the local open procedure is implemented under the same principles as in the simplified procedure. Please refer to the point 6.2.2., Selection process.

### 

### 6.2.4. International open procedure (above 300.000€)

**Tender documents:**

The tender documents are corresponding to the ones recommended for the open local procedure (full tender dossier and the Contract notice).

Please refer to the point 6.2.3., Tender documents for further details.

In addition to the above the Contracting Authority is required to prepare and publish:

* **Prior information notice (Annex C1)**. The document is setting out the specific characteristics of the planned procedure. It is not binding the Contracting Authority to finance the contract. The Prior information notice is published at least 30 days before publication of the Contract Notice. ). The use of the prior information notice is optional unless the CA decides to shorten the standard deadlines for submission of offers.

*In case of international open procedure the tender dossier may be made available at EuropeAid website and it must be sent to would-be suppliers upon request.* ***English notices of Local Open and International tenders should be forwarded to the European Commission (EuropeAid) to e-mail address*** [***EuropeAid-IPAPUB@ec.europa.eu***](mailto:EuropeAid-IPAPUB@ec.europa.eu)*. The European Commission (EuropeAid) is responsible for the publication of the notices of international tenders in the Official Journal of the European Union.*

**Publication:**

In case of international open procedures**, the Prior information notice** (optional) and the **Contract notice are published on web page of the organisation** (Project Beneficiary in its role as Contracting Authority), **Official Journal of the EC and in national and international media[[4]](#footnote-4).**

**Submission of tenders:**

The tenderers are given minimum 60 days from publication of procurement notice for submission of their offers.

**Selection process:**

The selection process in the international open procedure is implemented under the same principles as in the local open procedure. Please refer to the point 6.2.3., Selection process.

## 

## 6.3. Common challenges

The Table 4 is presenting some practical challenges in managing and monitoring the supply contract procedures. The list is prepared following the procedural logic as presented above.

*Table 4:* Practical challenges in procurement of supplies

|  |  |
| --- | --- |
| **CHALLANGES** | **RECOMMENDATIONS** |
| ***DOCUMENTS*** | |
| **Poor quality of technical specifications – risk of failure of delivery.** If poorly prepared, the technical specifications could result in failure of delivery of planned supplies. In case of misunderstanding between the Contracting Authority and the Contractor the latter might refuse delivery of expected quantities of qualities. | - The Contracting Authority should dedicate particular attention to preparation of technical specifications. They need to be detailed enough in describing quantities and exact specifications of goods required.  - In order to avoid delivery of out-of-date goods the Contracting Authority needs to be particularly careful in formulation of specifications for computer and electronic goods.  - An independent technical expert could be consulted in the process. |
| **Restrictive conditions**. By introducing too restrictive conditions the Contracting Authority might limit the competition. | - Specific attention needs to be dedicated to technical specifications to avoid restrictive conditions and limitation of competition. Any mentioning of specific brand or producer is strictly forbidden.  - The managing bodies could consult an independent technical expert in the process. |
| **Splitting of contracts.** In order to avoid application of simplified or open procedure, the beneficiaries might decide to split contracts into several parts. Splitting of contracts containing the supplies of similar nature is not allowed. | - The beneficiary’s procurement plan should be carefully checked by project/programme managers in MA, JS.  Supplies of similar nature should be tendered under one procedure. A formulation of ‘’similar nature’’ is normally supplies which can be provided by one contractor (for instance computer equipment, furniture, laboratory equipment etc.). |
| **Consistency between documents**. The tender documents are closely connected, in some cases same types of information provided in several of them. Inconsistency in information, for example different delivery provisions mentioned in the special conditions and technical specifications, could confuse the tenderers or even jeopardise the procedure.  Particular attention should be dedicated to definition in the Special conditions. Any specific case of changing provisions of the General conditions should be properly reflected | - Before publication the specific documents in the tender dossier need to be cross-checked with other documents. This is particularly important for Specific conditions and Technical specifications.  - Cross-checking of General and Specific conditions to ensure that any amendment of the standard provisions in the GC is properly reflected. |
| ***SELECTION PROCESS*** | |
| **Lack of sufficient number of quality /compliant offers.** The Contracting Authority might face challenges of not receiving sufficient number of quality or compliant offer. Such situation could be caused by one of the following reasons: lack of capacity of invited tenderers, to restrictive provisions of the requested supplies, limited publication of tender. | - The Contracting Authority should organise support and advice to tenderers in the process. Clarification meetings are recommended in complex tenders. The Contracting Authority should establish list of frequently asked questions (FAQ) and submit it to all tenderers.  - The Contracting Authority should make sure that the tenders are not too restrictive (see above).  - The Contracting Authority should ensure wide publication of the tender (in case of open procedures). In case of simplified procedure a larger number of potential tenderers than minimum requested (3) could be invited. |
| **Tender price.** The challenge is firstly important from the perspective of the managing bodies. The beneficiaries might deliberately or non-deliberately overestimate the value of supplies. Secondly the challenge is important from the perspective of beneficiaries, Contracting Authority in the process. The invited or participating tenderers might deliberately or non-deliberately offer the prices exceeding the market standards. | - The programme management bodies should carefully check the expected outputs of the contract against the price, where applicable.  - Comparison of unit-prices with market standards should be implemented.  - An independent expert could be consulted in the process.  - The Contracting Authority should prior to publication of the tender estimate the contract price. In case of significant deviations from the expected price, negotiations with one or more tenderers could be implemented or the procedure should be cancelled. |
| ***IMPLEMENTING PROVISIONS*** | |
| **Quality of goods delivered**. The Contractor might fail to deliver goods in quality stipulated in by the technical specifications. | - The Contracting Authority should carefully check the supplies upon delivery. The specifications of the supplies need to exactly match those from the technical specifications of the TD.  - The Managing Authority /FLC might require certificate of acceptance with the financial documentation.  - In addition to that the MA /FLCE might decide to implement sample on-the-spot visits/ checks of the equipment procured within the grant financed projects. |
| **Delivery deadlines**. The Contractor might fail to deliver goods in time proposed by their offer. Such delays can have negative impact at the overall grant financed project. | - The Contracting Authority should plan penalties for late delivery in the tender documentations. |
| **Guarantees and post-sales services.** The Contractor might fail to deliver post sales service, any other services related to supply contract (for instance installation or training) or fail to realise guarantee in case of failures of goods. | - The Contracting Authority should carefully plan not only the specifications of goods but also any services related to the goods. These include accompanying services such as installation or training and usual post-sales services.  - Required guarantees, spare parts or similar should be precisely described in the tender documentation.  - The Contracting Authority should plan penalties in case of failure of delivery of services or guarantees. |
| **Origin of supplies.** The Contractor might fail to deliver certificate of origin for supplied goods. | - Failure to deliver certificate of origin will result in ineligible costs. The Contracting Authority should make sure that the certificate is supplied before the final acceptance of goods is made.  - The CA could check in advance before publishing the tender, whether it is realistic to expect the proper origin for the supplies procured. |
| **Financial guarantees**. In case of larger and more complex supply contracts certain financial risk exists for the Contracting Authority. In case of failure of delivery the Contracting Authority might face the challenge of retrieving pre-paid funds. | - The Contracting Authority should adopt the payment schedule to the complexity and size of contract.  - In case of significant pre-payments a financial guarantee should be requested from the Contractor. |

# WORKS CONTRACTS

# 7.1. What is a Works contract?

Works contracts cover either the **execution**, or **both the execution and design**, of works or a work related to one of the following activities:[[5]](#footnote-5)

* Building site preparation,
* Building of complete constructions or parts thereof; civil engineering,
* Building installation,
* Building completion,
* Renting of construction and demolition equipment (normally forming a part of the overall works contract).

A 'work' means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic or technical function.

Practical examples of works procedures in the context of grant contract can be as following:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Cross-border flood protection project**  The objective of the project is to improve flood protection in the cross-border region between two countries. The project is above all aimed at strengthening the protection embankments and draining channels. The activities implemented in the project will among other include:  - Building the protection embankments and draining channel.   |  |  |  |  | | --- | --- | --- | --- | | **Specific activity/WP** | **Sub-activities** | **Type of works needed** | **Comments and connections** | | **Building embankments and draining channel** | * Implementation of works (it is assumed that the project documentation is fully available) * Works supervision | * Works tender for implementation of works * Separate service tender | * One works tender. It is assumed that one provider can implement the works on the embankment and draining channel. | |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Construction of cross-border bicycle track  The objective of the project is to increase tourist attractiveness of the cross-border region by building recreational facilities – bicycle track. The activities will among other include:  - Building the cycle track.   |  |  |  |  | | --- | --- | --- | --- | | **Specific activity/WP** | **Sub-activities** | **Type of works needed** | **Comments and connections** | | **Building the cycling track** | * Implementation of works (it is assumed that the project documentation is fully available) * Works supervision | * Works tender for implementation of works * Separate service tender | * One works tender for building the cycle track. | |

## 7.2. Procedures

### 7.2.1. On the basis of single tender (up-to 20.000€)

The tenders of 2.500 € and less can be awarded on the basis on an invoice, without prior acceptance.

For the tenders higher than 2.500 and up-to 20.000 € a single tender procedure must apply. The PRAG Manual does not precisely define the details for this type of the procedure, with the exception of providing a format of negotiation report.

For further guidance on this procedure the Manual provides proposal of the procedure to be used with suggestion on the formats. The description of the single procedures for all types of contracts is available in the Point 8.1. The templates of the documentation are available in the Annex TD1.

### 7.2.2. Simplified procedure (from 20.000 – 300.000€)

**Documents:**

The Contracting Authority is required to use complete tender documentation in the simplified procedure. The templates of the documents to be included in the tender dossiers are available at the EuropeAid web-page:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=D>

The Contracting Authority is required to prepare **Contract Notice**, though the document is published but only included in the tender documentation as it contains important information for those firms which are invited to tender.

**Technical specifications**:

As with the ToR for service contracts, particular care must be taken when drafting the technical specifications. They are the key to successful procurement, a sound works contract and a successful project.

Technical specifications state - where applicable, lot by lot - the exact nature and performance characteristics of the works. Where applicable, they also specify conditions for delivery and installation, training and after-sales service.

It is essential that the performance characteristics suit the intended purpose. If there needs to be an information meeting or a site visit to clarify technical requirements at the site where the works are to be carried out, this should be specified in the instructions to tenderers, together with details of the arrangements.

The purpose of the technical specifications is to define the required works precisely. The minimum quality standards, defined by the technical specifications, will enable the evaluation committee to determine which tenders are technically compliant.

**Publication:**

In case of simplified procedure no publication is done. The Contracting Authority **invites at least 3 tenderers** to submission of tenders.

**Submission of tenders:**

The invited tenderers are given minimum 30 days for submission of their tenders.

**Selection process:**

The award criterion for selection in the simplified procedure is **the lowest price of technically compliant offers.**

The Evaluation Committee consists of **odd number of voting members** (**minimum 5**), non-voting secretary and non-voting president. Observers from the programme authorities (JTS/Antenna, MA) or other organisations could be invited to the process. The **Committee members** should be appointed by official nomination of the Contracting Authority, **based on their qualifications and skills** (CVs should accompany the nomination). Each member must have a **reasonable command of the language in which the applications are submitted**. All members of the Evaluation Committee are obliged to sign a Declaration of Impartiality and Confidentiality (see Annex A4), available at web page:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

The selection process is based on the documents provided in the web-page: <http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=D>

The steps in the selection process are as follows:

1. *Receipt and registration of tender*

On receiving tenders, the Beneficiary (in its role as Contracting Authority) must register them mentioning the date and time of reception and provide a receipt for those delivered by hand. The envelopes containing the tenders must remain sealed and be kept in a safe place until they are opened. The outer envelopes of tenders must be numbered in order of receipt (whether or not they are received before the deadline for submission of tenders).

1. *Preparatory meeting*

The first meeting of Evaluation Committee should be held before the tender opening session. The tender dossier should have been distributed in advance to the members of the Evaluation Committee. The Chairperson presents the purpose of the tender and explains the procedures to be followed by the Evaluation Committee including evaluation grids, selection and award criteria specified in the tender dossier.

1. *Tender opening session*

The purpose of the tender-opening session is to check that the tenders are complete, that the requisite tender guarantee has been provided and that the tenders are generally in order. The tender opening session is a formal, public process. The Evaluation Committee opens the tenders in public at the place and time fixed in the tender dossier. Although it is public, participation in the tender opening session is restricted to representatives of the companies which are tendering for the contract.

Note: Only the tenders received by the deadline for submission of tenders can be opened!

See tender opening checklist in Annex D5 for the detailed formalities to be carried out by the Chairperson with the assistance of the Secretary.

The Chairperson must check that no member of the Evaluation Committee has a potential conflict of interest with any of the tenderers (on the basis of the eventual shortlist, the tenders received, consortium members and any identified subcontractor).

The Evaluation Committee must decide whether or not tenders comply with the formal requirements. The Summary of tenders received, which is attached to the Tender Opening Report (see Annex D6) must be used to record the compliance of each of the tenders with the formal submission requirements. It must be made available to the tenderers upon request. Eventual tender guarantees must be returned to the tenderers. This implies that any tenders which arrive after the submission deadline must also be opened (after the opening session) so that the guarantees can be returned.

1. *Evaluation of offers*

It is obligatory that the Evaluation Committee uses the administrative compliance grid and the evaluation grid published in the tender dossier.

As part of the technical evaluation, the Evaluation Committee analyses the commercial aspects, and, where applicable, the service component of the tenders to determine whether they satisfy the requirements set in the tender dossier. The results are recorded in a YES/NO grid for all elements specified in the tender dossier. No scoring method should be used. If the tender is divided into lots, the evaluation should be carried out lot-by-lot. With the agreement of the other Evaluation Committee members, the Chairperson may communicate in writing with tenderers whose submissions require clarification, offering them the possibility to respond within a reasonable time limit to be fixed by the Committee.

**Part 1: Administrative compliance**

Before conducting a detailed evaluation of the tenders, the Evaluation Committee checks that they comply with the essential requirements of the tender dossier (i.e. the administrative compliance grid). A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them. Substantial departures or restrictions are those which affect the scope, quality or performance of the contract, differ widely from the terms of the tender dossier, limit the rights of the Contracting Authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply.

Each offer is examined for administrative compliance with the tender dossier in accordance with the published administrative compliance grid. The administrative compliance of each of the tenders must be recorded in the Evaluation Report (see Annex D7).

**Part 2: Technical compliance of tenders**

The detailed technical evaluation of the tenders takes place after the administrative compliance check. The criteria to be applied are those published in the tender dossier and, accordingly, the evaluation grid included in the tender dossier must be used. Under no circumstances may the Evaluation Committee or its members change the evaluation grid communicated to the tenderers in the tender dossier. The purpose of this evaluation is to assess whether or not the competing tenders meet the minimum technical requirements and selection criteria.

**Rule of origin:** All tenders must satisfy the rule that the goods to be supplied and the materials to be used for the construction fulfil the requirement of the Interreg - IPA CBC programme. Tenders which clearly fail to satisfy the rule of origin must be rejected. The rule of origin does not apply to the contractor’s equipment which will be used during the construction. For details about derogation to the rule of origin please look at Chapter 3.1.1

**Nationality of sub-contractors:** The Evaluation Committee must check at this stage that the nationalities of sub-contractors identified in the technical offers satisfy the nationality rule of the Interreg - IPA CBC programme.

Having evaluated the tenders the Evaluation Committee rules on the technical compliance of each tender, classifying it as technically compliant or not technically compliant.

1. *Financial evaluation*

Once the technical evaluation has been completed, the Evaluation Committee checks that the financial offers contain no arithmetical errors. Any arithmetical errors are corrected without penalty to the tenderer.

If the tender procedure contains several lots, financial offers are compared for each lot. The financial evaluation will have to identify the best financial offer for each lot, taking due account of any discounts offered.

For a specimen of application of discounts, see the point 6.2.2., Selection process (simplified procedure under supplies).

1. *Choice of Contractor*

The successful tenderer is the one submitting the least expensive tender classified as "technically compliant" during the technical evaluation. It must be declared the successful tender if it is equal to or lower than the maximum budget available for the contract.

If the chosen tender exceeds the maximum budget available for the contract, the Contracting Authority can step into negotiations with one or several tenderers. It the negotiation procedure fails the procedure will be cancelled.

In the case of abnormally low tenders, the Evaluation Committee must request any relevant information concerning the composition of the tender. If, for a given contract, tenders appear to be abnormally low, the Contracting Authority must, before rejecting such tenders on that ground alone, request in writing details of the constituent elements of the tender which it considers relevant and verify those constituent elements, after due hearing of the parties, taking account of the explanations received.

The justification for accepting or rejecting an abnormally low offer must be recorded in the Evaluation Report.

1. *Conclusions of the Evaluation Committee*

As a result of its deliberations, the Evaluation Committee may make any of the following recommendations:

* Award the contract to the tenderer which has submitted a tender:

- which complies with the formal requirements and the eligibility rules;

- whose total budget is within the maximum budget available for the project;

- which meets the minimum technical requirements specified in the tender dossier; and

- which is the least expensive tender (satisfying all of the above conditions).

* Cancel the tender procedure for example when:

- None of the tenders satisfies the selection/award criteria of the tender procedure

- All tenders received exceed the maximum budget available for the contract.

The entire procedure (technical and financial evaluation) is recorded in an Evaluation Report (see template in Annex D7) to be signed by the Chairperson, the Secretary and all voting members of the Evaluation Committee.

1. *Notifications and signature of the contract*

The successful and unsuccessful tenderers are informed on the results of the evaluation (format available at the above web-page). The successful tenderer is invited to the signature of the contract. Format of the contract is provided in the tender documents and available at the above web-page (see Annex D4: Draft Contract)

### 7.2.3. Local open procedure (above 300.000 up to 5.000.000 €)

**Documents:**

The Contracting Authority is required to prepare full tender documentation. The templates of the documents are available in the EuropeAid web-site: <http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=D>

As in the simplified procedure the Contracting Authority is required to prepare **Contract Notice**. In case of local open procedure the Notice is published.

The Contracting Authority must send tender dossiers to would-be tenderers upon request. Because of their size and printing costs, tender dossiers for works contracts are usually sent out for a fixed fee. The tender dossier will also be available for inspection at the premises of the Contracting Authority.

**Publication:**

In case of local open procedures, the Contract notice is published on web page of the Contracting Authority and in national media[[6]](#footnote-6).

**Submission of tenders:**

The tenderers are given minimum 60 days from publication of the Contract notice for submission of their offers.

**Selection process:**

The selection process in the local open procedure is implemented under the same principles as in the simplified procedure. Please refer to the point 7.2.2., Selection process.

### 7.2.4. International open procedure (above 5.000.000 €)

**Documents:**

The tender documents are corresponding to the ones recommended for the open local procedure (full tender dossier and Contract notice).

Please refer to the point 7.2.3., Tender documents for further details.

In addition to the Contract notice the Contracting Authority is required to prepare **Prior information notice**. The document is setting out the specific characteristics of the planned tender procedure. It must give a brief indication of the subject and content of the tenders (see template in Annex D1). The Prior information notice is published at least 30 days prior to publication of the Contract notice. The use of the prior information notice is optional unless the CA decides to shorten the standard deadlines for submission of offers.

**Publication[[7]](#footnote-7):**

In case of international open procedures, the Prior information (optional) and the Contract notice are published on web page of the Contracting Authority, Europe-Aid web-site, Official Journal of the EC and in national and international media .

**Submission of tenders:**

The tenderers are given minimum 90 days from publication of the Contract notice for submission of their offers.

**Selection process:**

The selection process in the international open procedure is implemented under the same principles as in the Local open procedure. Please refer to the point 7.2.3., Selection process.

### 7.3. Common challenges

The Table 5 is presenting some practical challenges in managing and monitoring the works contract procedures. The list is prepared following the procedural logic as presented above.

*Table 5:* Practical challenges in procurement of works

|  |  |
| --- | --- |
| **CHALLΕNGES** | **RECOMMENDATIONS** |
| ***DOCUMENTS*** | |
| **Poor quality of tender dossier – risk of delivery.** Poor descriptions in the bill of quantities and the remaining tender documents could result in failure of delivery. In case of misunderstanding between the Contracting Authority and the contractor the later might fail to deliver what was expected | - The Contracting Authority should make sure that the tender documents are sufficiently precise to guarantee full and unconditional delivery of expected results. |
| **Availability of support documents – building permits.** The challenge is important from the perspective of the managing bodies. In case that the building permits and other accompanying documents are not available at the time of signature of grant contract, risk of failure of the contract exists. | - It is recommended that the managing bodies support only ready-to-go projects.  - In case of works planned under grant contracts, building permit should be requested at the time of signature of the contract. |
| **Complexity of procedure**. The procurement procedure for works contracts is relatively complex. The simplified procedure is for example requiring full tendering documentation. | - The Contracting Authority should estimate, in the case of works tender of smaller value, whether it makes sense to invest significant efforts for small value works tender procedures. |
| ***SELECTION PROCESS*** | |
| **Lack of sufficient number of quality /compliant offers.** The Contracting Authority might face challenges of not receiving sufficient number of quality or compliant offer. Such situation could be caused by one of the following reasons: lack of capacity of invited tenderers, to restrictive provisions of the requested works, limited publication of tender. | - The Contracting Authority should organise support and advice to tenderers in the process. Clarification meetings are recommended in complex tenders. The Contracting Authority should establish list of frequently asked questions (FAQ) and submit it to all tenderers.  - The Contracting Authority should make sure that the tenders are not too restrictive.  - The Contracting Authority should ensure wide publication of the tender (in case of open procedures). In case of simplified procedure a larger number of potential tenderers than minimum requested (3) could be invited. |
| **Tender price.** The challenge is firstly important from the perspective of the managing bodies. The beneficiaries might deliberately or non-deliberately overestimate the value of works. Secondly the challenge is important from the perspective of beneficiaries, Contracting Authority in the process. The invited or participating tenderers might deliberately or non-deliberately offer the prices exceeding the market standards. | - The management bodies should carefully check the expected outputs of the contract against the price, where applicable (FLC or before).  - Comparison of unit-prices with market standards should be implemented.  - An independent expert could be consulted in the process.  - The Contracting Authority should prior to publication of the tender estimate the contract price. In case of significant deviations from the expected price negotiations with one or more tenderers could be implemented or the procedure should be cancelled. |
| ***IMPLEMENTING PROVISIONS*** | |
| **Quality and supervision**. The contractor might fail to deliver works in quality planned. | - The Contracting Authority should appoint competent supervisory engineer to supervise implementation of the works contract.  - From the perspective of the managing bodies an independent technical expert could be engaged to monitor the implementation of works contract. |
| **Deadlines for implementation.** The contractor could fail to implement works in the planned time. | - Timing of works contract should be carefully planned. Potential delays, for instance due to seasonal nature of works, should be taken into account.  - Penalties for delays caused by the contractor should be planned in tender documentation. |
| **Additional works.** The contractor could, due to unexpected situation, implement additional works from those planned in the tender documentation. | - The Contracting Authority should stipulate planning of 10% contingency reserve in the preparation of financial offers. |
| **Financial guarantees**. In case of larger and more complex supply contracts certain financial risk exists for the Contracting Authority. In case of failure of delivery the Contracting Authority might face the challenge of retrieving pre-paid funds. | - The Contracting Authority should adopt the payment schedule to the complexity and size of contract.  - In case of significant pre-payments a financial guarantee should be requested from the contractor.  - Retention guarantee should be applied to avoid risks of poor quality construction. |

# SINGLE TENDER PROCEDURES

## 8.1. Approach

Having in mind that the beneficiary is fully responsible for implementation of the project, including the awards of contracts to the third parties, failures in secondary procurement procedures or discrepancies in deliveries could mean factual and financial losses for the beneficiary. Namely such cases could be defined as cost ineligible events.

|  |
| --- |
| **Potential cases of discrepancies in awarding contracts to third parties (secondary procurement):**   * 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 |

In order to avoid any of the situations above it is of the best interest of the beneficiary to establish transparent and secure relations with the third parties – secondary providers/suppliers. In order to achieve that it is recommended to define conditions and relations in written form, with clearly set obligations for both parties involved in the matter.

The Regulation recognises the **‘’single tender procedures’’ for the contracts below 20.000 EUR.**

**For the contracts of below 2.500 EUR it clearly states that invoices represent sufficient basis for purchases.** However it does not define what form of documentation and procedures are recommended for the purchases between 2.500 and 20.000 EUR. The only exception is indication of the negotiation report which needs to be drafted (Annex A10b).

Having in mind that the beneficiary is fully responsible for implementation of grant contracts, including the awards of contracts to the third parties, it would be recommended that a formal procedure is applied also in the case of single tenders to ensure transparency of procedure, full implementation of services / delivery of equipment and thus guarantee the beneficiary that the costs will be accepted as eligible.

The basic principles of EU External Action procedures fully apply to single tenders and for direct purchase also. The main principles which are described in details in the point 3 of this Manual are:

* Transparency,
* Equal treatment of all tenderers,
* Rules of origin and nationality.

Since the technical procedure for the single tenders is not elaborated it is recommended to apply minimum necessary steps to insure respecting of the above principles, to ensure coherence in the procedure and maximum efficiency. On the other hand, having in mind significant potential number of single tender procedures and reluctance of the tender to provide complex offers for small-value projects, the applied procedures should bring the least of the administrative burden for the Contracting Authority and secondary contractors.

A possible balanced approach is presented in the below box.

|  |
| --- |
| **Recommended approach in single tender procedures between 2.500 and 20.000 EUR:**   * 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 is recommended |

This manual provides template documents which allow implementation of the above described procedure.

## 8.2. Procedure

**Tender documentation:**

The tender documentation could contain minimum information necessary to communicate the requirements of the beneficiary as the contracting authority. At the same time the documentation should be kept simple to ensure that secondary providers/suppliers remain interested and motivated to provide their offer.

This manual provides in the **Annex TD1** an example of tender documentation that could be used in the cases of single tender procedure. The documentation is divided into two parts: one part providing information from the Contracting Authority and the other part providing format for submission of tenders/offers by the secondary providers/suppliers. The two parts contain the following information:

Part A: Information about the tender

* 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 (in case when the beneficiary decides to enforce the contract a simplified version of the PRAG format contract can be provided).

Part B: Format of the offer to be provided by the secondary supplier/provider

* 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.

**Publication:**

Though the single tender procedure allows inviting only one compliant tenderer the beneficiary might decide to invite more than one tenderer also in the case of single tender procedure. Inviting of more than one tenderer could have the following positive effects:

* Increasing transparency and openness of the procedures, giving chances to more tenderers,
* Increasing possibilities to obtain better value for money – in case of more tenderers it can be realistically expected that the competition could increase quality of services/supplies/works or decrease prices.

The tenderers should be given sufficient time for submission of their offers. **A reasonable deadline could be 10 working days for supply and service contracts and 15 working days for works contracts.**

If the use of standard tender documentation is enforced by the CA, the tenderer (or several tenderers) should submit their offers in the standard format. The submission in standard format will increase transparency and allow clear comparison between several offers in cases where more tenderers are invited.

**Evaluation procedure and reports:**

The evaluation procedure differs for the cases where only one or several tenderers are invited.

In the case of inviting only one tenderer the Contracting Authority has to establish whether the services, supplies or works offered by the invited tenderer correspond to the original requirements. In this case the evaluation procedure serves only for confirming the compliance of the offer. The final decision by the Contracting Authority is YES or NO.

In the case where more than one tenderer is invited (and more than one offer is received) the evaluation procedure follows similar logic as in the simplified and open procedures. The Contracting Authority needs to establish which of the received tenders is provides the best option for the CA (either the lowest price in the case of supply and works contracts or best value for money in the case of service tenders).

It would be recommended that for any of the above cases the evaluation committee consists of at least 3 voting members.

The Contracting Authority should in any case complete evaluation/negotiation reports for the tenders between 2.500 and 20.000 EUR. The template of the report is available in EuropeAid web-page (annex A10b). In case where more than one tenderer is invited the negotiation report should explain the method for selection of the successful tenderer. It is recommended for all types of procedures to estimate technical compliance of the received tenders (based on the specific sections of the tenderers offers, by indicating YES/NO score). The cheapest technically compliant offer would be proposed for contract.

**Contracting:**

Though not obligatory, the Contracting Authority is recommended, due to the reasons mentioned in this manual (possibility of discrepancies, delays, failures of delivery by the secondary providers/suppliers), to conclude a contract with the secondary providers/suppliers. Such contract will formalise some of the issues related to secondary procurement procedure and it might as well strengthen the sense of obligations by the secondary providers/suppliers. A sample of contract which can be used is provided in the Annex TD1 of this document.

The following example provides another possibility (in addition to guidance and formats provided by this Manual) to approach the single tender issue that could be used for inspiration.

**Single tender procedure example Hungary-Serbia programme in 2007-2013 period**

Rules of validation of expenditures procured within single tender procedures -

(Hungary-Serbia IPA CBC Programme – First Level Control of Hungary)

Justifying the market price is the obligation of the Project Partner.

**Procurements below 1 000 EUR gross amount** (programme specific decision)

* No need to justify the market price but rules for conflict of interest shall be respected.

**Procurement between 1 000 EUR gross and 20 000 EUR net amount** (in this respect the national rule is stricter than the PRAG thresholds)

* Project Partner has to submit 3 received, valid and comparable price offers.
* Price offer shall not be older than 3 month at the time of the contracting/ordering.
* Rules for conflict of interest shall be respected during the whole procedure (from request to price offer to signing the contract).
* Best price or best value for money (with thorough justification) shall be awarded with the contract.

**Documents to be submitted by the Project Partner**:

* 3 request for price offers (with detailed and clear specifications avoiding brand names)
* 3 comparable price offers (the best way to have them is a price offer template already annexed to the request for offers which contains all the specifications and only the prices shall be indicated by the tenderer)
* Negotiation report (official template of PraG) – minimum data requested: name of tenderers, subject of tender, price of supply/service, evaluation aspects, decision, justification of the decision.
* Declaration for justifying of market price – template prepared by the FLC: Project Partner has to sign the declaration, which refers to applying rules of PraG, to conflict of interest.
* Contract/Order letter
* Further documents to be submitted together with the Partner Level Report: acceptance form, invoice, bank statement

***Tender dossier for the single tender procedures shall not be prepared by the Project Beneficiary!***

If the Controller finds the contracted price way to high comparing to the usual market prices it is her/his right to deny the validation of the given expenditure.

**Derogation**

* Project Beneficiary has to prove that the supply in subject is not available with EU/IPA origin. This requires a market research prepared by the Project Partner. In practice this market research is consisting of at least 3 declaration signed by different service providers/suppliers in which they declares that the company does not distribute the supply in subject with EU/IPA origin.
* Project Beneficiary collects these declarations and based upon the received documents prepares the Declaration on Derogation. Being aware that the supply is not available from EU/IPA producers Project Beneficiary launches the single tender procedure and asks for at least three different price offers.
* The Declaration on Derogation shall be submitted to the FLC together with the declarations of the distributors and with the already mentioned documents.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Services** | **Works** | **Supply** |
|  |  |  |  |
| **Procedure** |  |  |  |
|  |  |  |  |
| Single offer | Under or equal 20.000€ | Under or equal 20.000€ | Under or equal 20.000€ |
| Simplified procedure | Above 20.000 – 300.000€ | Above 20.000 – below 300.000€ | Above 20.000 – below 100.000 € |
| Restricted procedure | Equal or above 300.000€ | - | - |
| Local open procedure | - | Equal or above 300.000 – below 5.000.000€ | Equal or above 100.000 – below 300.000€ |
| International open procedure | - | Equal or above 5.000.000€ | Equal or above 300.000€ |
|  |  |  |  |
| **Documents** |  |  |  |
| Tender dossier | Yes | Yes | Yes |
| Terms of reference | Yes – describing details of service contracts – outputs and inputs required. | No | No |
| Technical specifications | No | Technical description | Yes – describing technical details and quantities of equipment |
| Bill of quantities | No | Yes – describing technical details and quantities of works and materials |  |
| Financial offer | Per-unit price or global price | Price breakdown or global price | Per-unit price or global price |
| Guarantees | Pre-financing guarantee | Pre-financing, performance and retention guarantee | Pre-financing and performance guarantee |
|  |  |  |  |
| **Selection and award** |  |  |  |
| Evaluation Committee | 3 voting members, president, secretary, observer | 5 voting members, president, secretary, observer | 3 members, president, secretary, observer |
| Selection criteria | Technical quality: 80%  Price: 20% | Price: 100% (of technically compliant offers) | Price 100% (of technically compliant offers) |

## Annex TD 1

# Simplified tender dossiers for service, supply and works – SINGLE TENDER

|  |
| --- |
| **Name and address of the Contracting Authority:** xxxxx  **Title of the tender:** xxxxxxxx  **Reference number (*if applicable*):** xxxxxxxxx |

|  |
| --- |
| PART A: INFORMATION FOR THE TENDERER |

1. **INFORMATION ON SUBMISSION OF THE TENDERS**

Subject of the contract:

The subject of this tender is (*select as appropriate, depending whether service, supply or works contract is under question*):

* Implementation of **services** as indicated in the technical information in the point 2 of these information;
* Provision of **supplies** as indicated in the technical information in the point 2 of these information;
* Implementation of **works** as indicated in the technical information in the point 2 of these information.

Deadline for submission of the tenders:

The deadline for submission of tenders is **XX (day), XX (moth), at XX:XX hours**. Any tender received after this deadline will be automatically rejected.

Address and methods for submission of the tenders:

The tenderers will submit their tenders using the **standard submission form available in the Part B of the tender dossier**. The tender will be submitted in 1 original. In case of e-mail submission the tenderer may provide a scanned original of the tender (if required). Any tenders not using the prescribed form might be rejected by the Contracting Authority.

In addition to the offer the tenderer is required to provide the following supporting documentation (in copies or scanned versions in case of e-mail submission):

* Copy of legal registration

\* - Select if appropriate...in case e-mail submission is allowed the tenderer should provide a scanned copy of supporting documents

If delivery by post:

The tenders will be submitted via post/currier, containing the following information:

* Name and address of the tenderer
* Title of the tender: xxxxxx
* Reference number (*if applicable*): xxxxxx

The tenders will be submitted in person, by post or courier service to the following address:

Name and

Address of the Contracting Authority

(optional contact person)

The tenderers are reminded that in order to be eligible the tenders need to be received by the Contracting Authority by the deadline indicated above.

The tenders **can also be submitted by e-mail**. In this case the base e-mail message will clearly indicate:

* Title of the tender (in the subject of e-mail): XXXX
* Reference number (if applicable, in the subject of e-mail): XXXX
* Name and address of the tenderer (in the e-mail text)

The tender submission form and any supporting documentation will be provided as attachment to the e-mail.

The tenderers will be submitted by e-mail to the following address:

E-mail address of the Contracting Authority

The tenderers are reminded that in order to be eligible the tenders need to be received by the Contracting Authority by the deadline indicated above.

Select submission method above as appropriate – e-mail or post.

1. **TECHNICAL INFORMATION**

The tenderers are required to provide services / supplies / works as indicated below. In the tenderer’s technical offer, the tenderers will indicated more details on the deliveries, referring back to the below table.

\* - to be used in case of service tenders

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Title of item** | **Description** | **Required time frame** | **Required inputs, if applicable** |
| **1.1.** |  |  |  |  |
| **1.2.** |  |  |  |  |
| **1.3.** |  |  |  |  |
| **1.4.** |  |  |  |  |
|  |  |  |  |  |

\* - to be used in case of supply tenders

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Number of items** | **Title of item** | **Technical specifications** | **Required time frame** |
| **Supplies** | | | |  |
| **1.1.** |  |  |  |  |
| **1.2.** |  |  |  |  |
| **1.3.** |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **Installation (\*- *use this section only when necessary*)** | | | |  |
| **2.1.** |  |  |  |  |
| **2.2.** |  |  |  |  |
| **Other (\*- *use this section only when necessary*)** | | | |  |
| **3.1.** |  |  |  |  |
|  |  |  |  |  |

\* - To be used in case of works tenders

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Number of items** | **Title of item** | **Technical specifications** |
| **Description of works** | | | |
| *Describing the details of works: description of current situation on-field, works required, technical details etc.* | | | |
| **Designs and drawings** | | | |
| *Description of applicable designs and drawings. The documents to be attached to this Tenderer’s information as annexes.* | | | |
| **Inputs required from the tenderer** | | | |
| *Type of equipment, estimated labour inputs, type of experts, vehicles, tools etc.* | | | |
| **Description of time frame for completion of works and implementation of phases** | | | |
| *Timeframe for implementation of situations, completion of works, any other requirements.* | | | |
| **Bill of quantities** | | | |
| **1.1.** |  |  |  |
| **1.2.** |  |  |  |
| **1.3.** |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

1. **FINANCIAL INFORMATION**

\* - To be inserted only in the case of service tenders

The tenderers are reminded that the maximum available value of the contract is XX EUR.

1. **ADDITIONAL INFORMATION**

The selection criteria is:

* Lowest price of technically compliant offers (\* - select in the case of supply and works tenders)
* Best value for money, weighting 80% technical quality, 20% price (\* - select in case of service tenders)

The CA is advised to amend the selection criteria to a specific tender. In case of specific services the sole criteria could be price also. Weighting could be changed if necessary.

The unsuccessful/successful tenderers will be informed of the results of the evaluation procedure in written.

The estimated time of response to the tenderers is XX days from the deadline for submission of tenders.

|  |
| --- |
| PART B: FORMAT OF OFFER TO BE PROVIDED BY THE TENDERER |

1. **TENDERER’S INFORMATION**

Submitted by:

|  |  |
| --- | --- |
|  | **Name(s) and address(es) of legal entity or entities submitting this tender** |
| **Tenderer** |  |

Contact person:

|  |  |
| --- | --- |
| **Name** |  |
| **Address** |  |
| **Telephone** |  |
| **e-mail** |  |

1. **TENDERER’S STATEMENT**

I undersigned hereby confirm that the services / supplies / works offered in this tender are in full conformity with the specifications submitted to us by the Contracting Authority. The detailed description of the offered services / supplies / works by us is provided in the next point.

In addition to that we confirm that our organisation/company is fully eligible for providing services under a contract financed by the EU funds. We confirm that we are not in any of the situations that would exclude us from competing in the EU financed tenders as indicated in the point 2.3.3. in the PRAG Manual *(apply as appropriate)*.

Furthermore we agree to abide by the ethics clauses in Section 2.4.14 of the PRAG Manual *(apply as appropriate)* and have no conflict of interests or any equivalent relation with other short-listed candidates or other parties in the tender procedure at the time of submitting this tender

1. **TECHNICAL OFFER**

The tenderers are required to provide technical offer, based on the requirements indicated by the Contracting Authority in the Part A: Information for the tenderer, Point 2: Technical information.

The tenderers are encouraged to provide details on the planned services / supplies / works, including detailed specifications and/or brand names.

(\*- the table to be used for service tenders)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Title of item** | **Technical offer**  **– the services provided by the tenderer on the basis of Contracting Authority’s enquiry in the Part A, Point 2** | **Tenderer’s proposed time frame** | **Proposed inputs by the tenderer** *(the tenderers are encourage to provide detailed information, for example qualifications of the proposed staff)* |
| **1.1.** |  |  |  |  |
| **1.2.** |  |  |  |  |
| **1.3.** |  |  |  |  |
| **1.4.** |  |  |  |  |
|  |  |  |  |  |

(\*- the table to be used for supply tenders)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Number of items** | **Title of item** | **Technical offer**  **– items offered by the tenderer, based on the Contracting Authority’s requirements in the Part A, Point 2** | **Tenderer’s proposed time frame** |
| **Supplies** | | | |  |
| **1.1.** |  |  |  |  |
| **1.2.** |  |  |  |  |
| **1.3.** |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **Installation *(\*- use this section only when necessary)*** | | | |  |
| **2.1.** |  |  |  |  |
|  |  |  |  |  |
| **Other *(\*- use this section only when necessary*)** | | | |  |
| **3.1.** |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

(\*- the table to be used for works tenders)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Number of items** | **Title of item** | **Tenderer’s offer with specifications** | |
| **Description of works** | | | | |
| *CA Definitions: Describing the details of works: description of current situation on-field, works required, technical details etc.* | | | | *Tenderers offer/response to the CA requirements* |
| **Designs and drawings** | | | | |
| *Description of applicable designs and drawings. The documents to be attached to this Tenderer’s information as annexes.* | | | | *Tenderer’s comments to drawings, approach and application in execution of works* |
| **Inputs required from the tenderer** | | | | |
| *Type of equipment, estimated labour inputs, type of experts, vehicles, tools etc.* | | | | *Tenderer’s offer of equipment, labour, tools, vehicles etc. as response to the C’A’s requirements* |
| **Description of time frame for completion of works and implementation of phases** | | | | |
| *Timeframe for implementation of situations, completion of works, any other requirements.* | | | | *Tenderer’s offer and comments as regards the time-frame of activities.* |
| **Bill of quantities** | | | | |
| **1.1.** | *5* | *Examples:*   * *Cubic meters of concrete* | * *Provisions as offered by the tenderer* | |
| **1.2.** | *5* | *Examples:*   * *5 meters of wiring* | * *Provisions as offered by the tenderer* | |
| **1.3.** | *1* | *Examples:*   * *Metal pipes (m)* | * *Provisions as offered by the tenderer* | |
|  |  |  |  | |
|  |  |  |  | |
|  |  |  |  | |

1. **FINANCIAL OFFER**

The offered total price for the services / supplies / works indicated in the previous point is:

**XXX EUR**

The offered price includes implementation/delivery of described items as well as all accompanying costs, for example transport, logistics, material costs, when required.

|  |  |
| --- | --- |
| **Name** |  |
| **Signature** |  |
| **Date** |  |

## FORMAT OF THE CONTRACT BETWEEN THE CONTRACTOR AND THE CONTRACTING AUTHORITY

**CONTRACT TITLE:** title of the contract

**REF (if applicable):** reference number

**Concluded between:**

Title

Address of the Contracting Authority

Represented by:

(Contracting Authority)

AND

Title

Address of the contractor

Represented by:

(Contractor)

**Article 1: Subject of the contract**

The subject of the contract are the services / supplies / works as indicated in the contractor’s offer – ‘’Part B: Format of offer to be provided by the tenderer’’

**Article 2: Contract value**

The total contract value for implementation of services / delivery of supplies / execution of works indicated in the Article 1 is: XXX EUR.

**Article 3: Contracting documents**

This documents which form the part of this contract are (by the order of precedence):

* Contract agreement
* Contractor’s offer as provided in the tendering phase – ‘’Part B: Format of offer to be provided by the tenderer’’
* Any other supporting documentation if applicable (\* - in case of asking for registration of company or other information)

**Article 4: Deliveries and payments**

The contractor will deliver without reservation the services / supplies / works indicated in the contractor’s offer ‘’Part B: Format of offer to be provided by the tenderer’’. The deliveries will be implemented within the indicated dates.

The Contracting Authority will pay to the contractor the services / supplies / works in the amount indicated in the Article 2 of this contract document. The payments will be issued by the following time schedule.

|  |  |  |
| --- | --- | --- |
| **Month** |  | **<EUR/\*\*\*>** |
| 1 | Maximum Pre-financing payment | <XX % of the contract value> |
| <Month> | Interim payment (\*if applicable) | <XX % of the contract value> |
| <Month> | Balance payment | <XX % of the contract value> |
|  | **Total** | <Total contract value> |

\* - The contractor will provide Contracting Authority with the brief report on execution of the services (\* could be introduced in the case of service tenders)

**Article 5: Duration of the contract**

The duration of the contract is XX months.

**Article 6: Cancellation of the contract**

The contract can be suspended by the Contractor due to one of the following reasons:

* Contracting Authority not fulfilling payment and other obligations

The contract can be terminated by the Contracting Authority due to one of the following reasons:

* The Contractor is in serious breach of the contract, failing to meet contractual obligations
* The Contractor is bankrupted or being wound up, is having its affairs administrated by courts, has entered into arrangements with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situations arising from a similar situation provided for in national legislation or regulations.

**Article 7: Resolving of disputes**

Any disputes arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of (\* - specify responsible court or arbitration body) in accordance with the national legislation of the state of the Contracting Authority.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Contractor** | | **For the Contracting Authority** | |
| Name: |  | Name: |  |
| Title: |  | Title: |  |
| Signature: |  | Signature: |  |
| Date: |  | Date: |  |

1. Art.8(4) of REG No 236/2014 [↑](#footnote-ref-1)
2. CIR, Article 10 [↑](#footnote-ref-2)
3. Reference can be published on the EuropeAid website if wished. [↑](#footnote-ref-3)
4. Provisionally also on EuropeAid website [↑](#footnote-ref-4)
5. Taken from Directive 2004/18/EC Annex 1 [↑](#footnote-ref-5)
6. See above [↑](#footnote-ref-6)
7. [↑](#footnote-ref-7)