

Annex G. IV

Procurement rules applicable in the framework of the grant contract

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1. PRINCIPLES

1.1 The procurement rules applicable in the framework of the grant contract are in line with the publication '*Procurement and Grants for European Union external actions - A Practical Guide Applicable as 2020*'

<https://ec.europa.eu/europeaid/prag/document.do?nodeNumber=4.2> version 2020.

1.2 As mentioned in article 9 of the grant contract, the beneficiary(ies) are allowed to subcontract part of the action/ activities provided that the following rules are respected:

- subcontracting does not cover core tasks of the action,
- estimated costs of the subcontracting are clearly identifiable in the action provisional budget
- any recourse to subcontracting, not foreseen in the action provisional budget shall have the prior approval of EUROCHAMBRES or /and the relevant Sectorial Consortium

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

- The beneficiary(ies) shall evaluate the offers received against *objective criteria* which enable measuring the quality of the offers and which take into account the price (the offer with the lowest price shall be awarded the highest score for the price criterion).
- The beneficiary(ies) shall keep sufficient and appropriate documentation with regard to the procedures applied and which justify the decision on the pre-selection of tenderers (where an open tender procedure is not used) and the award decision.
- With reference to Section [2.4 of the EU Practical Guide](#) for Procurement and Grants (PRAG), the beneficiary(ies) shall be responsible for the respect of EU restrictive measures in the award of contracts. (see infra extract of the PRAG)

1.4 The European Commission will carry out *ex post* checks on beneficiary(ies)'s compliance with the principles above and the rules of section 2 below "Eligibility for contracts". *Failure to comply with these principles or rules would render the related expenditure ineligible for EU funding.*

2. ELIGIBILITY FOR CONTRACTS

2.1 The nationality rule

If the beneficiary(ies) launch(es) a call for tender, the participation to the tender must be open to legal entities and natural persons in the EU members states and the following EaP countries *Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine*. Tenderers must state their nationality in their tenders and provide the usual proof of nationality under their national legislation.

2.2 Grounds of exclusion

Candidates will be excluded from participation in a procurement procedure i.e.

- a) The candidate is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in any analogous situation arising from a similar procedure provided for under national laws or regulations;
- b) it has been established by a final judgment or a final administrative decision that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;
- c) it has been established by a final judgment or a final administrative decision that the economic operator is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the economic operator belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes a wrongful intent or gross negligence.

3. PROCUREMENT RULES

The maximum budget of an action amounting € 60.000, call for tenders will be subject either to the **the simplified or negotiated procedure**

3.1 Simplified procedure

3.1.1 The beneficiary(ies) draw(s) up a list of at least three service providers and justify(ies) their choice. The candidates are sent a letter of invitation to tender accompanied by a tender dossier.

The specific annexes for simplified tenders must be used

- administrative compliance grid,
- contract, contract notice, invitation letter, instructions to tenderers, list of invited tenderers and tender form) for this procedure. For any other document of the tender dossier the regular service annexes must be used.

The contract notice is not published, but it is included in the tender dossier as it contains important information for those service providers that are invited to tender, notably the selection criteria.

Tenders must reach the contracting authority at the address and by no later than the date and time shown in the invitation to tender.

The chosen candidates must be allowed at least 30 days from the dispatch of the letter of invitation to tender to submit their tenders. Tenders must be opened and evaluated by an evaluation committee with the necessary technical and administrative expertise, appointed by the contracting authority.

Tenderers for the simplified procedure may also be chosen from a list of vendors.

If, having consulted the tenderers, the contracting authority receives only one tender that is administratively and technically valid, the contract may be awarded provided that the award criteria are met.

Each Partnership Coordinator shall provide the following documentation to EUROCHAMBRES:

- Proof that at least three participants have been invited at the same time, with the same email, to the same call for tender and with the same specifications,
- Offers received.
- Offer assessment grid filled up and signed by each member of the Evaluation Committee (minimum 3 persons).

3.2 Negotiated procedure (direct assignment)

In the event of a failure of the simplified procedure, the beneficiary(ies) may use the negotiated procedure on the basis of one or several tenders in the following cases:

a) Where no tenders, or no suitable tender, or no request to participate or no suitable request to participate have been submitted in response to an open procedure or restricted procedure after this procedure has been completed, provided that the original procurement documents are not substantially altered. A tender must be considered unsuitable where it does not relate to the subject matter of the contract and a request to participate must be considered unsuitable where the economic operator is in an exclusion situation or does not meet the selection criteria.

b) Where the services can only be provided by a single economic operator and for any of the following reasons: (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance; (ii) competition is absent for technical reasons; (iii) the protection of exclusive rights including intellectual property rights must be ensured. The exceptions set out in points (ii) and (iii) must only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters when defining the procurement.

c) For services consisting in the repetition of similar services entrusted to the economic operator (subcontractors) to which the same beneficiary of the grant agreement has already awarded a contract or work with (to be justified).

3.3. Procedures to follow according to the amount of the subcontract

Contract Limits	Tender procedure	Documentation	Approval
Contracts ≤ € 2.500 (VAT excluded)	The Beneficiary may pay on the basis of an invoice without prior acceptance of a tender ¹	- Offer - Contract/purchase order - Invoice	Partnership coordinator.

¹ For contract values under 2.500 euro, it is allowed to procure goods without prior acceptance of a tender. However, it is advised to ask for more than one offer or to perform a market research, since it is always good practice to obtain competitive quotations to ensure value for money.

Contract Number:	Name of the tenderer 1	Name of the tenderer 2	Name of the tenderer 3
Preparation of tender dossier			
Expected date for sending the tender dossier to Sectorial Consortium for approval			
Publication of procurement notice / Sending invitation letters			
Submission deadline			
Opening session			
Evaluation			
Expected date for sending the Evaluation Report to Sectorial Consortium for approval			
Contract signature			
Expected delivery date			
Contract completion date			

If the partnership, either on its own initiative or in response to a request from an applicant, provides additional information on the tender, the request for additional information received and the reply/additional information must be sent in writing to all the applicants at the same time.

5. EVALUATION COMMITTEE

The partnership should form an Evaluation committee to assess all the offers. The Evaluation Committee (min 3 persons) should be composed of at least three members with equal voting rights.

The Evaluation Committee members should attend all the evaluation meetings, any absence must be recorded and explained in the Evaluation Committee minutes that shall be prepared and sign after each meeting. The Evaluation committee minutes shall include the following information:

- Indication of the committee composition, opening and closing date and time of the meeting, and indication of the role of each member (when the minutes are not signed by everyone)
- Justification on whether the tender is within the approved budget
- Compliance with procurement principles and nationality rules
- List of the offers received
- Evaluation process and reasons for the award at a specific candidate
- Decision
- Signature and closing of the minutes

Every offer received should be assessed fairly and objectively using the criteria set beforehand. These criteria should include more than just price to ensure the best value for money and not just the lowest price.

6 NOTIFICATION OF THE RESULTS

The chosen offer must be kept in the folder of the procurement. Regardless of the type of procedure or amount (the partnership must notify in writing to all the applicants:

- 1) the successful applicant should be informed that its tender has been accepted
- 2) the unsuccessful applicants should be informed by standard letter within no more than 15 days from receipt of the countersigned contract that their offers have not been retained.

7. CONTRACT

The contract should be prepared in 2 originals, one for the Partnership Coordinator and one for the Contractor, and signed and dated by the authorized person(s) of both. Contract should be kept and produced upon request.

Contract modifications must be formalised through an addendum to the contract, which must be signed by the contracting parties.
