



Ministry
of Foreign Affairs
Department
of Economic Cooperation



PRAG Overview



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*European Year
for Development
2015*

**our world
our dignity
our future**

1

Introduction



What is the PRAG?

Practical Guide to contract procedures for European Union external actions

It explains the contracting procedures applying to all EU external actions financed by the EU budget and the European Development Fund (EDF).

Which DGs in the Commission use the PRAG?

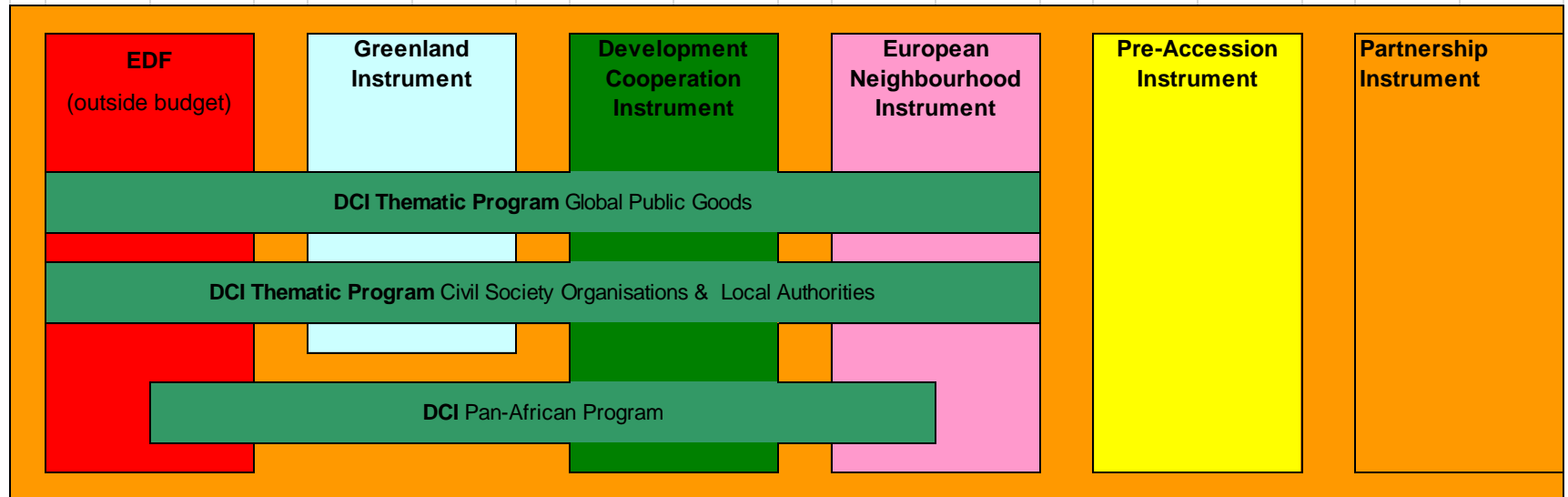
DG DEVCO, DG NEAR, FPI, DG REGIO

Heading IV Instruments

Instrument for Democracy & Human Rights

Instrument contributing to Stability and Peace

Instrument for Nuclear Safety



Other instruments

HUMA, CFSP, MACRO, EVHAC, CPFI, GUARANTEE FUND, AGENCIES, MARGIN

Where do I find the PRAG?

Public document, available at:

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

Financial Regulation (consolidated version)

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1426581393503&uri=CELEX:02012R0966-20140618>



DEVELOPMENT AND COOPERATION – EUROPEAID

Building partnerships for change in developing countries

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PRAG 2014

PRAG Document

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Application runs in JavaScript disabled mode

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| 2. Basic rules |
| 3. Service contracts |
| 4. Supply contracts |
| 5. Works contracts |
| 6. Grants |
| 7. Legal Texts |
| 8. List of Annexes |



Practical Guide to Contract Procedures for EU External Actions

How is the PRAG structured?

As per type of contract

1. Services

2. Supplies

3. Works

4. Grants

+ Introduction and basic rules

Where do I find:

- the pre-information notices
- the procurement notices
- tender dossiers
- award notices?

European Commission > EuropeAid > Work with us > Funding > Calls for proposals & Procurement notices

Calls for proposals & Procurement notices

Latest Publications

Search by reference

Advanced Search

Programme

Geographical Zone ?

Select region or country

Type

☐ Grants ☐ Supplies ☐ Services ☐ Works

Published After ?



Published before

Status

☐ Closed ☐ Open ☐ Forecast

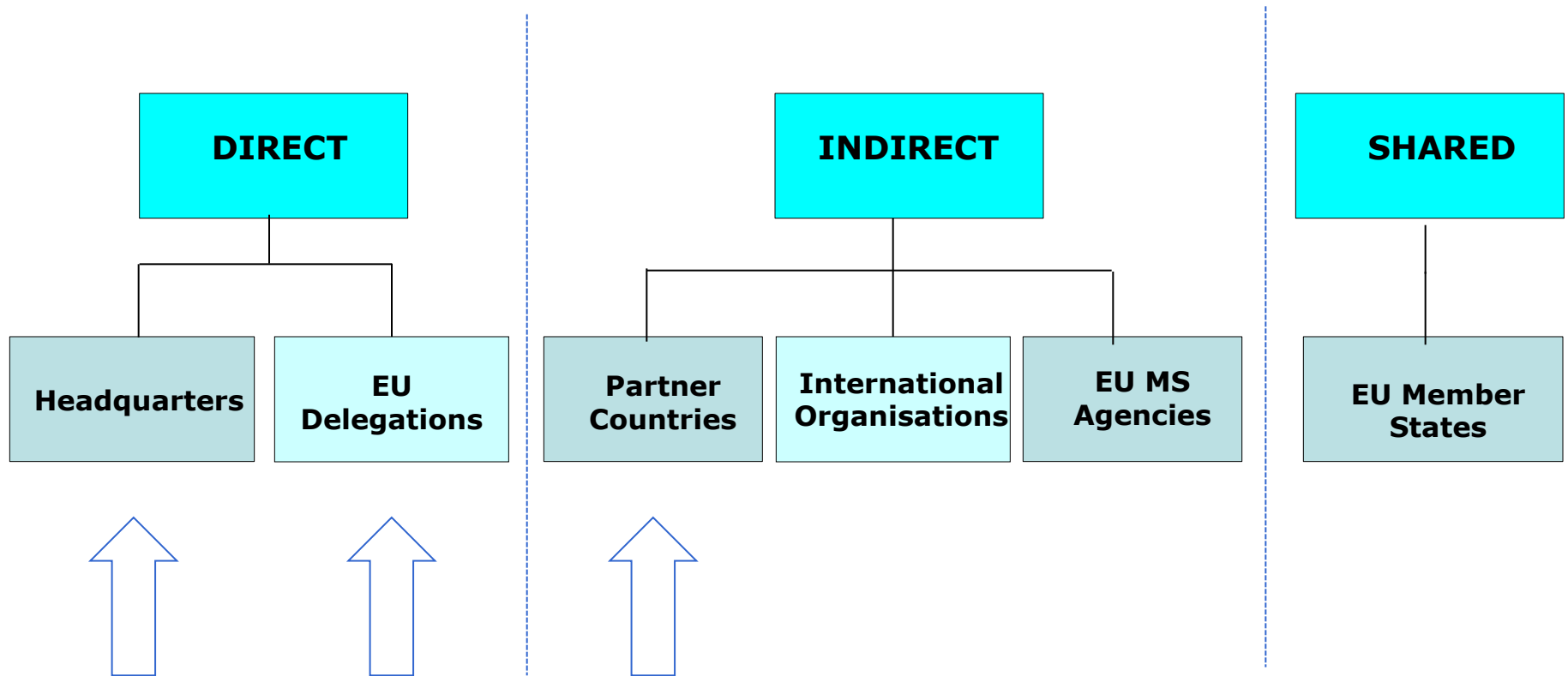
The Latest Publications tab can be used to search the Forecast and Open calls published during the last ten days.

The Reference Search tab can be used to search a call based on the reference of the call (i.e. 128150 for the call EuropeAid/128150/D/ACT/TR).

The Advanced Search tab can be used to search calls based on the region, the country, the program,...

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Management Modes



Core principles

- **Transparency**
- **Proportionality**
- **Sound financial management**
- **Equal treatment and non-discrimination**
- **Avoidance of any conflict of interests**
- **Non-retroactivity**

Why?

2 interests:

- *Contracting Authority: gets a good deal*
- *Contractors: get a fair chance to compete for the contract*

Other important rules

- **Nationality**
- **Origin**
- **Exclusion criteria**
- **Administrative and financial sanctions**
- **Visibility**
- **Preferences (EDF only)**

Criteria

1. Exclusion criteria

*Purpose: to determine if the operator is allowed to participate.
Operators will be excluded if:*

- Bankruptcy, affairs administered by court, arrangement with creditors, suspension of business activities
- Convicted of an offence concerning their professional conduct
- Guilty of grave professional misconduct
- Not in compliance with social security contributions or payment of taxes
- Fraud, corruption, money laundering, involvement in a criminal organisation
- Subject to an administrative penalty by the EU Financial regulation

Criteria

2. Selection criteria

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

- Economic and financial capacity

Example: the tenderer's average annual turnover in the last three years must exceed the annualized maximum budget of the contract / financial proposal of the tender

- Professional capacity

Examples: - number of permanent staff or in a concrete field in last 3 years
- the tenderer has an ISO 9000 certificate

- Technical capacity

Example: "x" implemented projects in the last 3 years (5 for works) of at least a certain amount

Criteria

3. Award criteria

Purpose: to determine what is the best offer, the most convenient for the Contracting Authority

- Price:

The award of the contract is made to the cheapest bid amongst those technically compliant. For services and works.

- Most economically advantageous tender (best value for money):

Used in services. The award is a combination of price and quality

- Quality of the proposal:

For Call for Proposals, the award of a grant is based on the quality of the proposal.

Procurement procedures (1)

Open tender / call for proposals

Any operator can send a bid/proposal. It is a one phase procedure.

Restricted tender / call for proposals

Bidders or applicants may apply to participate, but only some will be invited to submit a bid/proposal following the results of the selection phase (selection criteria). There are therefore two phases in the restricted procedure.

Procurement procedures (2)

Competitive negotiated procedure

The contracting authority invites at least to three candidates of its choice to submit tenders

Negotiated procedure

The contract is awarded directly to a company/consortium following a negotiation. It is used in concrete cases, such as:

- Following a failed tender
- Extreme urgency or operations carried out in crisis situations
- Additional supplies/services/works
- Secret contracts, cases of monopoly, etc.

Which procedure for which amount?

| | | | | |
|------------------------------|--|--|--|---|
| SERVICE CONTRACTS | <p>$\geq \text{€ } 300\,000$</p> <p>International restricted tender procedure</p> | <p>$< \text{€ } 300\,000$ but $> \text{€ } 20\,000$</p> <p>-Framework contracts</p> <p>or</p> <p>-Competitive negotiated procedure</p> | | <p>$\leq \text{€ } 20\,000$</p> <p>Single tender</p> <p>For service, and supply contracts, a payment may be made against invoice without prior acceptance of a tender if the expenditure is $\leq 2\,500\text{€}$</p> |
| SUPPLY CONTRACTS | <p>$\geq \text{€ } 300\,000$</p> <p>International open tender procedure</p> | <p>$< \text{€ } 300\,000$ but $\geq \text{€ } 100\,000$</p> <p>-Local open tender procedure</p> | <p>$< \text{€ } 100\,000$ but $> \text{€ } 20\,000$</p> <p>-Competitive negotiated procedure</p> | |
| WORKS CONTRACTS | <p>$\geq \text{€ } 5\,000\,000$</p> <p>-International open tender procedure</p> <p>or</p> <p>-International restricted tender procedure</p> | <p>$< \text{€ } 5\,000\,000$ but $\geq \text{€ } 300\,000$</p> <p>Local open tender procedure</p> | <p>$< \text{€ } 300\,000$ but $> \text{€ } 20\,000$</p> <p>Competitive negotiated procedure</p> | |

Exceptional procedures: - competitive dialogue
- negotiated procedure

Evaluation (1)

Evaluation Committee



- **President + Secretary (non-voting members)**
- **Odd number of voting members**
- **Possibility to use assessors or experts**
- **Possibility of having observers**
- **Confidentiality of the identity of members**
- **No conflict of interest**
- **Confidentiality of the evaluation**
- **Public opening of tenders for supplies and works**

Evaluation (2)

Normally in 5 phases:

- **Tender Opening Session**
- **Administrative compliance**
- **Technical Evaluation**
- **Financial Evaluation**
- **Conclusion**



Main steps of procurement procedures

- 1. Publication**
- 2. Shortlist***
- 3. Tender launch***
- 4. Tenders received**
- 5. Evaluation**
- 6. Contract Award**
- 7. Contract Signature**



** International Restricted Tender for services or works*

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Specificities per contract type

SERVICES

Service contract:

Contract between a service provider and the Contracting Authority for the provision of services such as technical assistance or studies

Technical assistance:

The 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

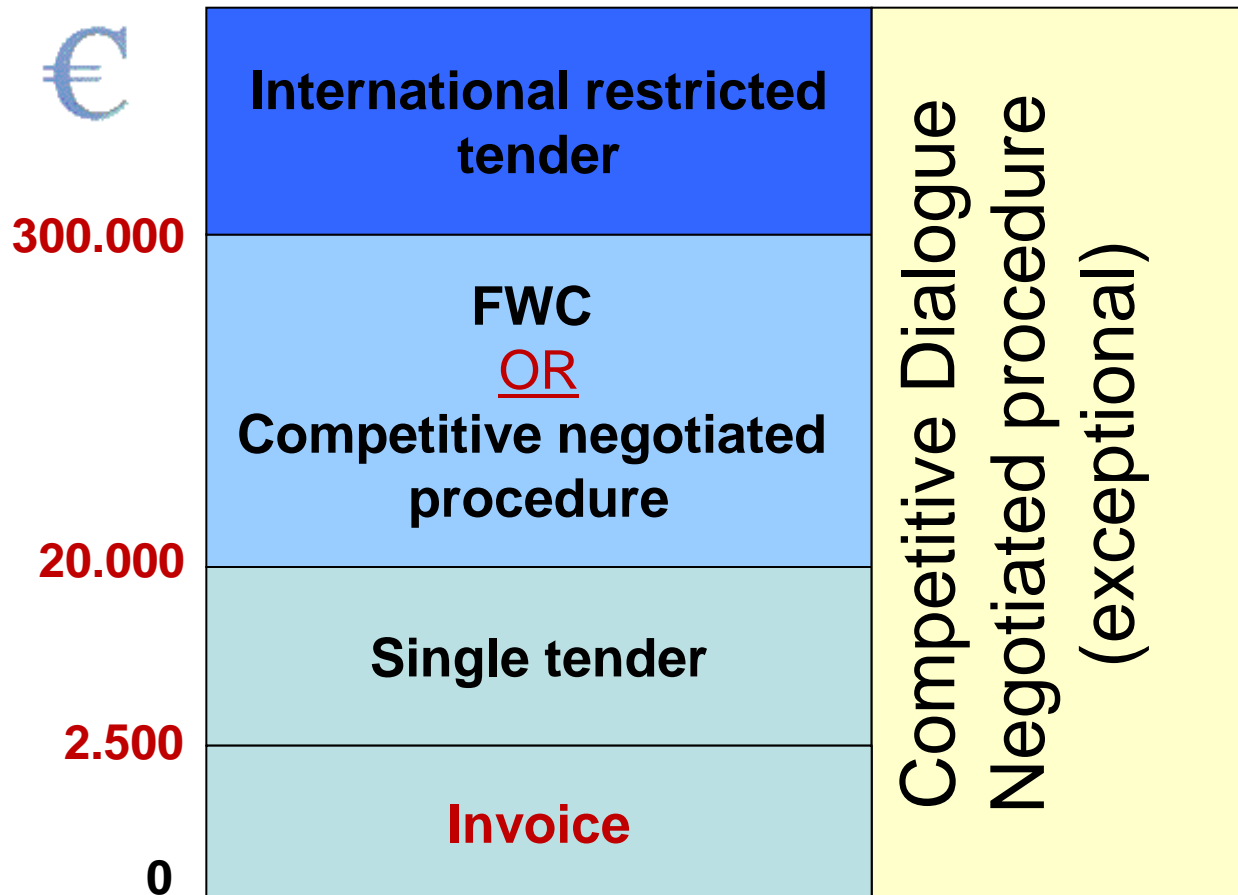
Studies:

It includes studies for the identification and preparation of projects, feasibility studies, economic and market studies, technical studies and audits.

Types of service contracts

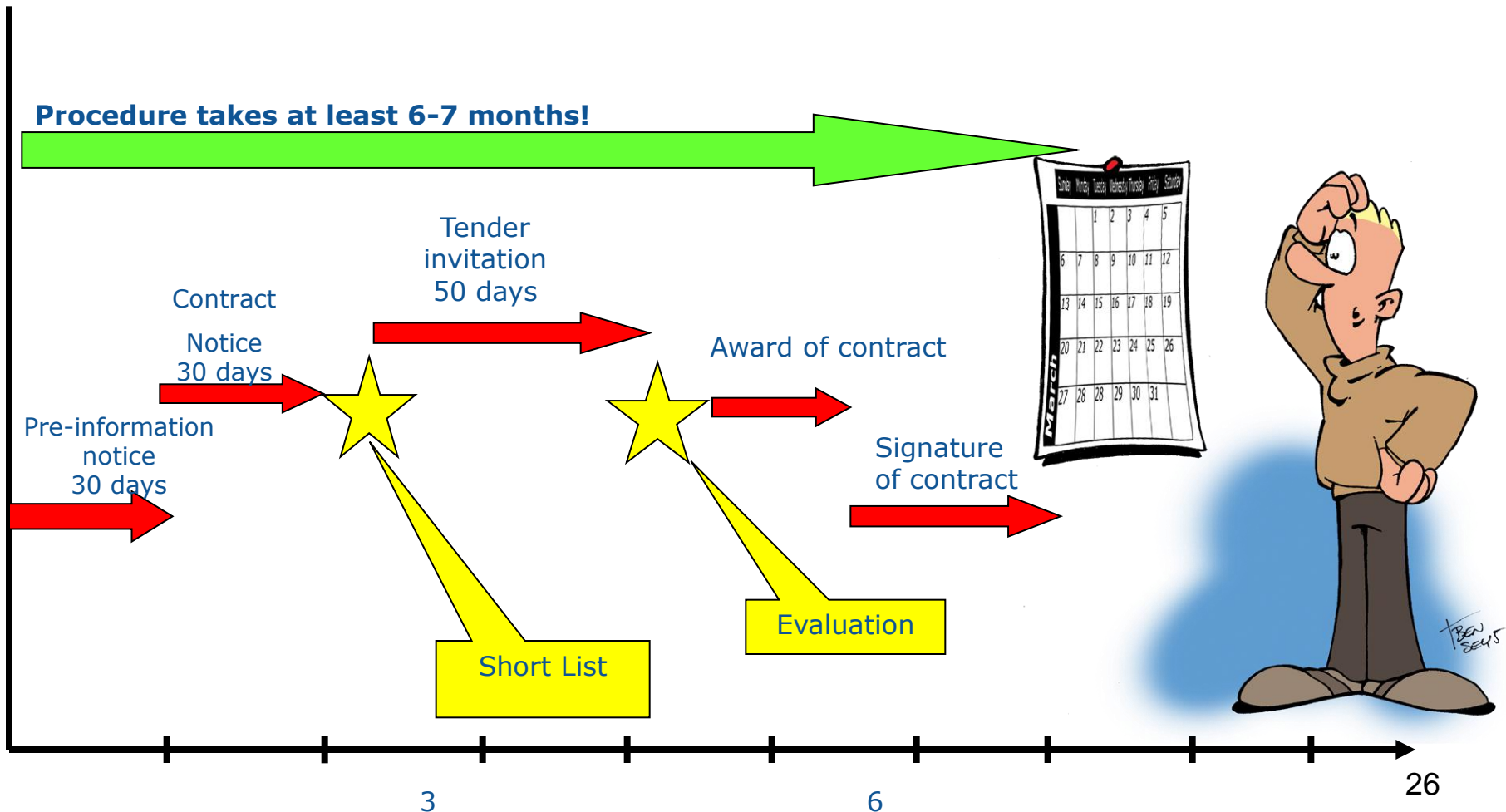
| Global Price | Fee-based |
|--|--|
| Specifies an outcome | Specifies the means |
| Final Product | Tasks performed Payment linked to services actually provided |
| E.g. Study, audits, training, conferences | E.g. Technical Assistance, Supervision. |

Procedures



Artificially splitting related activities into smaller lot sizes or contracts to circumvent the procurement thresholds is **prohibited**

Time Line for Service Contract - international restricted



Key documents:

Instructions to Tenderers (ITT) Terms of Reference (ToRs)

Different templates for global price and fee based

Requirements: min. quality standard

Contract objectives

Tasks

Logistics & timing

Expertise required

Key / non-key experts

*Budget for fee based : Fees - Incidental Expenditure – Lump sums -
Expenditure Verification*

Remember for services...

Technical Score x 0.80

*(organisation and methodology, CVs of
Experts)*

+

Financial Score x 0.20

(price)

Best value for money wins!



SUPPLIES

Supplies contract:

They cover the purchase, leasing, rental or hire purchase (with or without option to buy) of goods.

The contract may include commissioning, spares, maintenance, after-sales service, training and/or other ancillary services.

SUPPLIES

Rules of origin

- Follow nationality rules (PRAG annex a2a)
- Tenderer must provide a statement on origin with the bid and a certificate of origin during the implementation
- Eligible: EU, EEA, candidates, beneficiaries, developing countries which are not members of the G-20
- Frequently ineligible:
China, India, South Korea, etc.

Key documents:

Instructions to Tenderers (ITT) Technical Specifications

Technical data for supplies required

Must be neutral, not targeting concrete brands

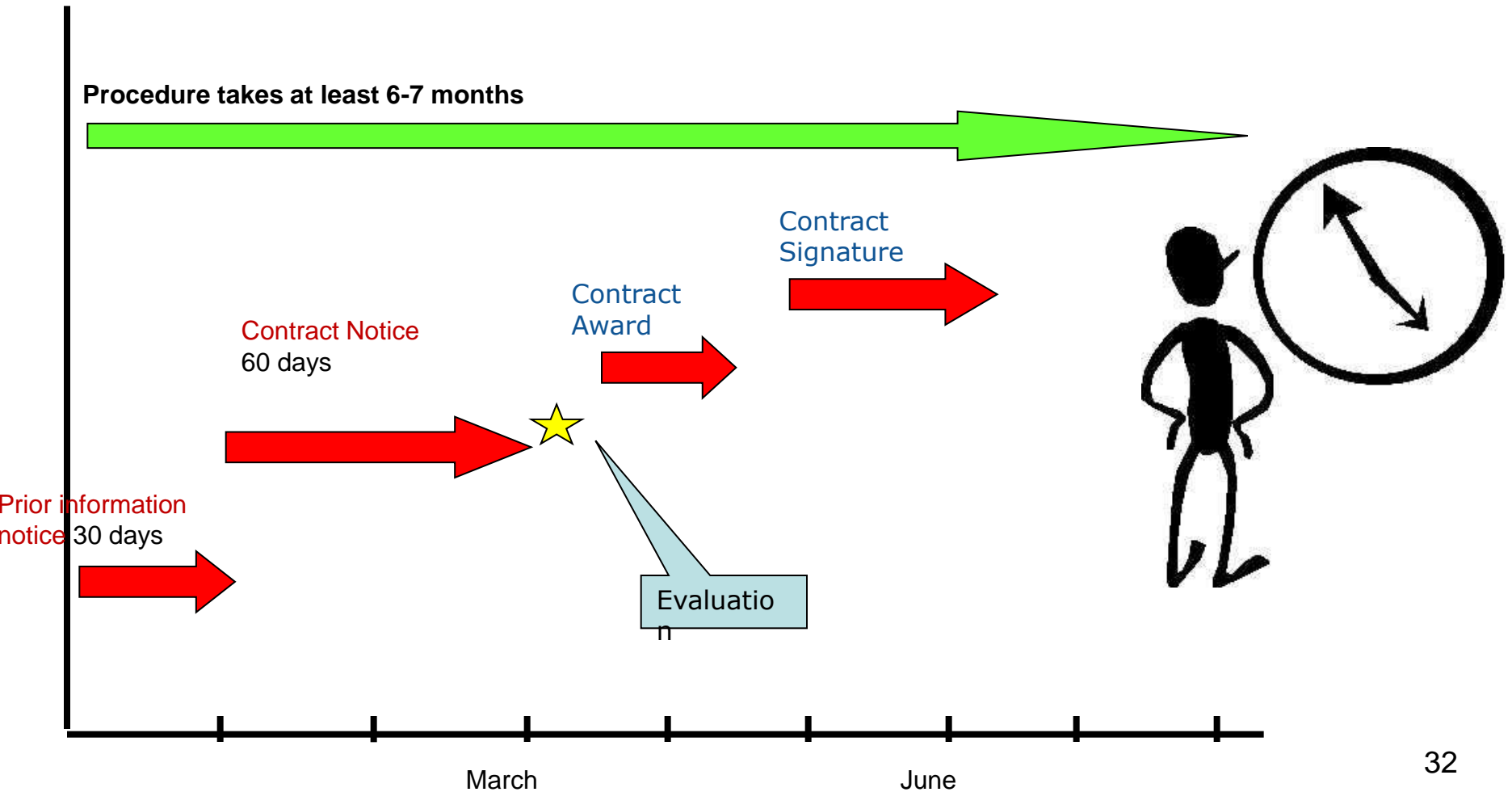
Must specify all what is needed along with supplies:

- Spare parts*
- Commissioning*
- Additional guarantees*
- Ancillary services (training, after-sales services)*

Incoterm to be used (DDP, DAP)

Delivery schedule, place of delivery

Time Line

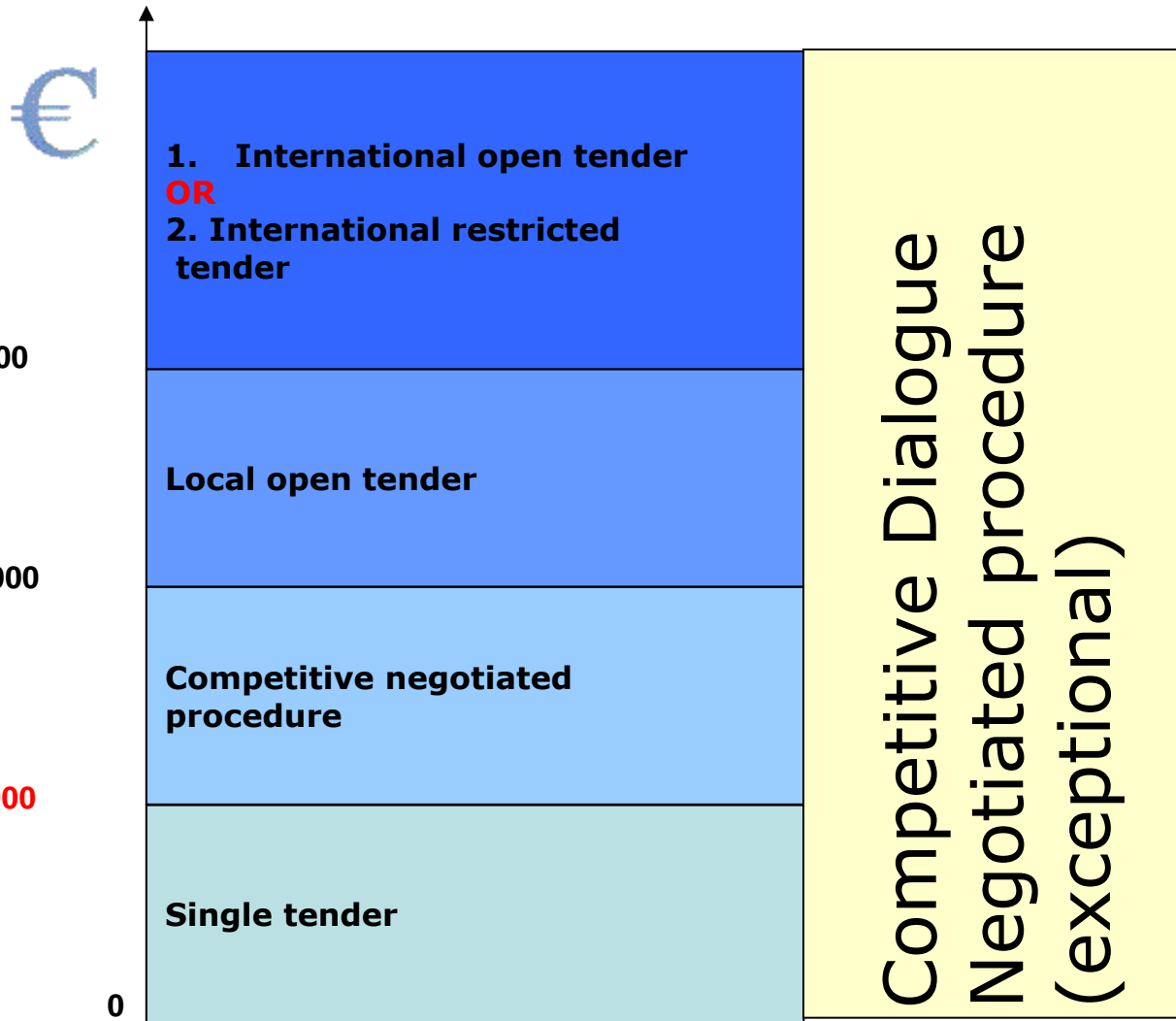


WORKS

Works contract:

Cover either the execution, or both the execution and design, of works or the realisation by whatever means of a work corresponding to the requirements specified by the contracting authority.

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



Artificially splitting related activities into smaller lot sizes or contracts to circumvent the procurement thresholds is **prohibited**

WORKS

The key document is the instructions to tenderers

General Part

- Scope of works (Construction, design-build...)

- Sub-contractors and suppliers (to be named + eligibility

- Check if one provides more than 10% of works) art. 3.3

- Sub-contractors (maximum 30% of value tender) art. 3.6

- Clarification meeting art. 6.2

- Site visit art. 6.2

WORKS – Financial offer

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

1. Lump-Sums in the overall price contracts
 - > Breakdown – firm quantity
2. Unit prices – based on Bill of Quantities
 - > Price Schedule – actual quantity
3. Hybrid contracts (mixes 1. and 2.)



GRANTS

Grants are direct financial contributions, by the way of donation, from the budget in order to finance any of the following:

- *An action intended to help to achieve a Union policy objective ("action grants")*
- *The functioning of a body which pursues an aim of general Union interest or has an objective forming part of, and supporting, a Union policy ("operating grants")*

| PROCUREMENT <i>"buying things"</i> | | GRANTS <i>"giving money"</i> |
|--|-------------------------------|---|
| <i>Purchase of services/supplies/works</i> | Object | <ul style="list-style-type: none"> -Action proposed by a potential beneficiary, intended to achieve an EU-policy objective; or -Functioning of a body |
| | | |
| <i>100%</i> | Financial contribution | <p><u>Co-financing:</u> % of total eligible/accepted costs. EU Contribution: Reimbursement of the actual eligible costs incurred</p> |
| <i>Profit allowed</i> | Profit | <i>No profit allowed</i> |
| <i>Call for tenders</i> | Procedure | <i>Call for proposals</i> |

GRANTS

- *Given their completely different nature, the evaluation of Call for Proposals follows a different approach*
- *The key document are the Guidelines. You will find:*
 - *Minimum / Maximum grant*
 - *Eligibility criteria (for applicant, co-applicant, affiliated entities)*
 - *Eligibility actions*
 - *Minimum / Maximum duration*
 - *Sectors*
 - *Location*
 - *Types of ineligible actions / Types of activities required*

GRANTS

- *They are evaluated using as criteria:*
 - *Relevance of the proposed action*
 - *Design of the action*
 - *Financial and operational capacity of the applicant*
 - *Sustainability of the action*
 - *Budget and cost-effectiveness of the action*
- *New on-line system for submission "PROSPECT"*
- *Based on actual costs*

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Practical advise

Common mistakes made by tenderers and applicants

Administrative reasons

- Late arrival
- Tender guarantee missing or not in right format
- Incomplete documentation
- Not in accordance with templates
- Tenderer/applicant/member of consortium/sub-contractor not eligible
- Bid not signed
- Bid not in the currency/language required
- Selection criteria not fulfilled
- Financial offer not in a separate envelope or visible in the technical offer (service contracts)



Common mistakes made by tenderers and applicants

Technical reasons

In Supplies:

- Incomplete bids, some items in a lot missing
- Origin of goods ineligible
- Offered items not meeting technical specifications
- Ancillary services missing

In Services:

- Experts do not have the required experience
- Copy and paste of terms of reference
- Experts not available during required dates
- Unclear methodology to be used



Common mistakes made by tenderers and applicants

Technical reasons

In Works:

- Inflated coefficient for revision of prices
- Sub-contracting not mentioned in the offer

In Grants:

- Poorly drafted proposal
- Concept note not really capturing the essential elements
- Deviations from the guidelines published

Financial reasons

- Arithmetical errors in the financial offer (supplies and works) or in the budget (grants)



Some recommendations and suggestions



1. Define your strategy!

Calls for tenders:

Will you be a tenderer / member of a consortium / sub-contractor ?

Call for proposals:

Main applicant / co-beneficiary / affiliated entity ?

2. Use the clarification period (21 days) to ask whatever is not clear in the tender dossier / guidelines for applicants

If my company does not fulfill the selection criteria...

- Form a consortium (the consortium as a whole must meet the criteria, not each individual company)
- Try and gain relevant experience as consortium partner or subcontractor
- Rely on a third party in some cases ("undertaking", a tenderer may rely on the capacity of other entity(ies) to meet some criteria)



Some recommendations and Suggestions (2)



3. Pay attention to all the instructions in the Call for tenders / Call for proposals

Pay extra attention to what is asked in:

- Terms of reference (services)
- Technical specifications (supplies)
- Bill of quantities (works)
- Guidelines (grants)

Some recommendations and Suggestions (3)



4. Check carefully:

- Eligibility: nationality (members in a consortium, sub-contractors)
Origin of goods (for supplies and works)
- Selection criteria on Contract notice
- Evaluation Grids (services), check lists (grants)
- Respect of formal submission requirements

5. Ask for an extension if it is a complex tender or if there are many clarifications

Useful tips (1)

- *Stay informed! Check the tenders published frequently!*
- *Make yourself known in the business community*
- *Require people who know how to write well (services and grants)*
- *Choose carefully your partners*
- *Check carefully all the elements of your bid/proposal prior to submission*
- *Capitalise on lessons learnt and strenghts/weaknesses of earlier applications/tenders*

Useful tips (2)

- *Check your prices. Try to be competitive.*

DON'T:

- *Contact the Contracting Authority / EU DEL concerning a Call for Tenders / Proposals outside the communication channel opened for this purpose*
- *Try to influence the outcome of the procedure*
- *Ask for a prior opinion to the CA / EU of your bid/proposal*
- *Forget to ask for a reference letter to the CA for contracts successfully implemented*
- *Desperate if you don't get contracts in your first attempts!*

Questions?