

## Interreg IPA CBC Italy–Albania–Montenegro Programme

### PROGRAMME MANUAL

#### *4.3 Public procurement*

<i>Current version</i>	01
<i>Updated</i>	June 2018
<i>Contacts</i>	<a href="mailto:js@italy-albania-montenegro.eu">js@italy-albania-montenegro.eu</a>



## Index

<i>Introduction</i> .....	3
1. PUBLIC PROCUREMENTS .....	3
2. LEGAL BASIS .....	4
3. BASIC PRINCIPLES OF PUBLIC PROCUREMENTS .....	6
4. PROCUREMENT RULES .....	7
5. PROCUREMENT PROCEDURES .....	9
6. PROCUREMENT PLANS .....	10
7. CONTRACT TYPOLOGY .....	11
8. MOST COMMON PROCUREMENT ERRORS .....	11
9. PRIVATE PARTNERS .....	12
ANNEX 1 .....	13
Simplified tender dossiers for service, supply and works - SINGLE TENDER .....	13
ANNEX 2 .....	19
Format of the contract between the contractor and the contracting authority .....	19

## Introduction

This factsheet does not replace the legally binding rules applicable to public procurement for IPA CBC, in Italy, Albania and Montenegro, but aims at clarifying some of the rules applicable to IPA CBC funded operations. The factsheet shall be further developed and improved during the programme implementation. In case of doubts, beneficiaries shall seek legal support.

## 1. PUBLIC PROCUREMENTS

Public procurement rules aim at ensuring that the purchase of services, goods and works follows transparent procedures and that fair conditions of competition for suppliers are provided.

According to the European structural and investment (ESI) funds and IPA II regulations, the programme bodies have to ensure that the programme and the projects are implemented in compliance with the applicable public procurement rules. In this sense, any purchase of goods, services or public works for the implementation of the programme or a project has to be carried out in line with the relevant public procurement rules.

Public procurement law is a complex matter and many findings during financial controls in IPA CBC-financed programmes and projects are related to procurement errors. Furthermore, this is true having in mind that in the IPA CBC Programmes public procurement legal context is based not only on EU rules (*acquis communautaire*) and Member States rules, but also on the relevant rules and practice of the external aid of the European Union and non-UE States. Thus, this factsheet provides basic information about public procurement law, the relevant programme rules, most common procurement errors and further guidance on this issue.

Public procurements are one of the most important and delicate issues in the contest of a cooperation project implementation, due to the needs of efficiency and promptness of procedures, from one hand, and the arising and always current problems of transparency and equality, from the other hand. In this direction public procurement rules aim at ensuring that the purchase of services, goods and works in implementing projects follows transparent procedures and that fair conditions of competition for suppliers are provided.

The IPA II Implementing Regulation provides for the application of EU External Action procurement rules in awarding of service, supply and works contracts from the CBC grant scheme financed projects.

These rules aim at securing transparent and fair conditions for competing on the common market and have to be respected by beneficiaries.

Rules differ depending on the kind of goods and/or services to be purchased, as well as the value of the purchase and the legal status of the awarding institution.

They are set at the following levels:

- EU Regulations: Chapter 3 of Title IV of Part Two of Regulation No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012;
- National, regional and or/local legislation.

This effectively means that beneficiaries are subject on specific rules and procedures that must be followed for procurement and some of the procedures include specified time periods. Public procurement law is a complex matter and many findings during financial controls in IPA CBC-financed programmes and projects are related to procurement errors.

Thus, this factsheet provides basic information about public procurement law, the relevant programme rules, most common procurement errors and further guidance on this issue.

## 2. LEGAL BASIS

The normative reference of rules for public procurement in case of award for service, supply and work contracts for Interreg - IPA CBC are defined in Article 45 of Regulation No 447/2014 on the specific rules for implementing Regulation (EU) 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II).

According to this article 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 966/20121 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012.



**These procurement rules apply in the whole programme area, both on the Member State and on the IPA II beneficiary/beneficiaries territory.**

According to the IPA Implementing Regulation, 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 are those of its national Law.

The European Community has set up minimum requirements for public procurement. They vary depending on the type of institution making the purchase, on the nature of purchases and the relevant sector in which purchases are made (specific rules are set e.g. for supply, works or service contracts or for purchases in the water, energy and other similar sectors).

### <sup>1</sup> Article 190 External action procurement

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on external action procurement.

2. The provisions of Chapter 1 of Title V of Part One relating to the general provisions on procurement shall be applicable to contracts covered by this Title subject to the special provisions relating to thresholds and the arrangements for awarding external contracts to be laid down in the delegated acts adopted pursuant to this Regulation. The contracting authorities for the purposes of this Chapter shall be:

- (a) the Commission on behalf of, and for the account of, one or more third countries;
- (b) entities and persons referred to in Article 185 and entrusted with the corresponding budget implementation tasks.

3. The procurement procedures shall be laid down in the financing agreements provided for in Article 189.

4. The provisions of this Chapter shall not apply to actions under sector-specific basic acts relating to crisis management aid, to civil protection operations and to humanitarian aid operations.

### Article 191 Rules on participation in tendering procedures

1. Participation in tendering procedures shall be open on equal terms to all persons coming within the scope of the Treaties and to any other natural or legal person in accordance with the specific provisions in the basic instruments governing the cooperation sector concerned.

2. In the cases referred to in Article 54(2), it may be decided, under exceptional circumstances duly justified by the authorising officer responsible, to allow third-country nationals other than those referred to in paragraph 1 to tender for contracts.

3. Where an agreement on widening the market for procurement of goods or services to which the Union is party applies, the contracts for procurement financed by the budget shall also be open to third-country nationals other than those referred to in paragraphs 1 and 2, under the conditions laid down in that agreement.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the participation in tendering procedures.

According to European public procurement law the State, regional or local authorities, associations formed by such authorities, bodies governed by public law and their associations are obliged to follow public procurement rules when purchasing goods, services and public works.

Considering the nature of the activities generally performed in the Programme, a good reference legal acts on EU public procurement are the directive on public contracts for the acquisition of services, supplies and works, **Directive 2014/24/EU** as amended by the Commission delegated regulation (EU) 2015/2170, and **Directive 2014/25/EU** on procurement by entities operating in the water, energy, transport and postal services sector.

The directives are intended to co-ordinate national contract award procedures by introducing a minimum body of common procedural rules that reflect the basic treaty principles rather than to achieve the harmonization of all national rules on public procurement. The directives do not seek to impose a new common regulatory regime on EU member states in the field of procurement, and member states can continue to apply their national procedures adapted to the directives. The directives thus limit their scope to those measures required for the co-ordination exercise and permit the member states to maintain or adopt substantive and procedural rules to the extent that these are not in conflict with the directives or with treaty provisions.

As a result, the member states remain free to regulate a number of issues, mainly practical matters. Thus, member states may provide, for example, for the application of specific standard form tender and contract documents; they may require adherence to specific tender opening procedures or tender submission procedures; they may require the submission of appropriate tender or performance guarantees; and they may impose specific contractual obligations on public contracts resulting from public procurement.

For economic operators seeking to tender for contracts in other member states, it will be important to keep in mind not only the provisions of the directives themselves but also the applicable national rules and practices that remain unaffected (other than by reason of compatibility) by the directives. These national rules and practices will often contain practical requirements that are not mentioned in the directives.

In essence, the common rules of the directives consist of applying the basic principles referred to above, notably non-discrimination, equal treatment and transparency in the:

- publicity of proposed procurement contracts;
- design of technical specifications;
- choice of procurement procedure;
- qualification and selection of candidates and tenderers in award of contracts.

A useful practical tool (but not a source of EU law with the consequence that are not binding rules) in management of public procurement are the so called PRAG Procurement and Grants for European Union external actions – a Practical Guide, available at:



[https://ec.europa.eu/europeaid/work/procedures/index\\_en.htm\\_en](https://ec.europa.eu/europeaid/work/procedures/index_en.htm_en)

This document provides useful guidance and templates for procurement procedures, including IPA pre-accession funds. This guidance 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).

### 3. BASIC PRINCIPLES OF PUBLIC PROCUREMENTS

From its origins, one of the main objectives of the EU has been to create a common market that eliminates barriers to trade in goods and services between EU member states. Creating a common procurement market means removing any barriers to trade arising from the procurement context.

Barriers to trade can be erected by means of legislation or by the actions of contracting authorities or economic operators. legislation can create barriers by imposing “buy national” requirements.

Contracting authorities can impose barriers by making discriminatory award decisions. economic operators can also create barriers by colluding together to rig tender prices. All of these barriers have the effect of distorting competition in the common procurement market, and one of the primary purposes of public procurement legislation is to eliminate existing barriers and prevent the erection of new barriers. It does so by applying the basic principles owing through the legislation.

While they are all inter-linked, these principles can, for current purposes, be reduced to a series of core principles:

- Competition;
- Equal treatment and non-discrimination;
- Transparency;
- Economy and Efficiency;
- Value for money;
- Probity or Integrity.



**For any purchase, the beneficiary shall make sure that these principles are applied and that this is documented, in proportion to the value of the purchase.**

**The rule of 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 **Article 8 of Regulation (EU) No 236/2014**.

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, or in accordance with a grant contract, financed under the EU budget or the EDF shall originate from an eligible country as per the corresponding Instrument. However, according to the CIR, when the value of the supplies to be purchased is below € 100.000,00 per purchase, the supplies may originate from any country and not compulsorily from eligible countries (see art. 8 paragraph 4 of Regulation (EU) No 236/2014).

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.

Any exemption for values above € 100.000,00, must be prior to the purchase requested by the Beneficiary to the Managing Authority, on the basis of a market research, which proves that in the market there is no item originating from the countries referred to in the rule of origin. Without prior approval by the Managing Authority, the related expenditure shall not be eligible.

#### 4. PROCUREMENT RULES

The European Community has set up minimum requirements for public procurement in IPA CBC. They vary depending on the type of institution making the purchase, on the nature of purchases and the relevant sector in which purchases are made (specific rules are set e.g. for supply, works or service contracts or for purchases in the water, energy and other similar sectors).

The procurement rules apply to purchases whose estimated value net of value added tax (VAT) is equal to or above certain thresholds. The following table summarizes the main EU thresholds, according to the **Article 297 of Delegated Regulation (EU) No 1268/2012**.

FINANCIAL THRESHOLDS AND RELATED TENDERING PROCEDURES				
Nature of Procurement	Financial thresholds and related Procedures (amount in EUR and excluding VAT)			
SERVICES	≥ € 300.000 - International restricted tender procedure or - International open tender procedure	< € 300.000 but > € 20.000 Frameworks contracts or Competitive negotiated procedure		≤ € 20.000 Single tender  For service and supply contracts payments for amounts less than or equal to EUR 2.500 in respect of item of expenditure may consist simply in payment against invoices without prior acceptance of a tender
	SUPPLIES	≥ € 300.000 International open tender procedure	< € 300.000 but ≥ € 100.000 Local open tender procedure	
WORKS	≥ € 5.000.000 - International open tender procedure or - International restricted tender procedure	< € 5.000.000 but ≥ € 300.000 Local open tender procedure	< € 300.000 but > € 20.000 Competitive negotiated procedure	



**These thresholds differ from the Italian D.Lgs. No. 50 Codice degli Appalti and the EU Directives, as well as these may differ from thresholds set by the legislation in Albania and Montenegro. Beneficiaries shall use the thresholds ensuring the most transparent procedure, i.e. the most open to the market.**

According to the table, the following principles are in force:

- the given thresholds are based on the maximum budget for the contract (including any co-financing);
- where the contracts are divided in more lots, the value of each lot is taken into account when calculating the overall thresholds;

- contracts must not be split artificially and to evade intentionally the procurement thresholds.

The EU rules set the general framework for the awarding of public contracts. They have to be transposed into national law and, above all, into administrative procedures on procurements. Depending on the single national legal system procurement law is based on national, regional or local level rules. As a result, applicable public procurement rules and thresholds could vary between Countries or regions in which the Programme Area project partners are located. Moreover, institutions may set specific internal rules for procurements. They may for instance set stricter procurement procedures or lower thresholds which shall be obeyed whenever the institution purchases something. Anyway, the applicable thresholds in ETC-IPA Programmes are those indicated in the above table.



**It should be noted that the strictest of the applicable procurement rules applies.**

The above mentioned fundamental principles of public procurement established in the EC Treaty (effective competition, transparency, non-discrimination and equal treatment, economy and efficiency, value for money, probity or Integrity) still apply. In addition, procurement law is further developed through the jurisprudence of the European Court of Justice.

It is therefore important that project participants are well aware of the public procurement rules, which are applicable to them and act accordingly. In case of doubts, project participants should contact their first level control (FLC) or at least the Joint Secretariat of the Programme beforehand.

Since procurement law is a complex matter, project participants are strongly recommended to seek legal advice if needed. This could be provided by the legal department of the project partner. Moreover, external procurement experts (e.g. lawyers) can be contracted to provide legal support and such costs are eligible for co-financing as long as the eligibility rules on Programme and national level are obeyed.

Public procurement rules foresee different kinds of procurement procedures. In general, it can be stated that the higher the value of a contract to be awarded, the stricter the procurement rules that have to be complied with (e.g. regarding the prior publication of a call for tenders or the possibility to invite a limited number of suppliers based on a market analyses).

The adherence to public procurement procedures has to be well documented in the framework of Interreg IPA CBC Italy Albania Montenegro projects. Documents such as public procurement notes, terms of reference, offers, order forms and contracts have to be available for financial control and audit purposes. Thus, even where national public procurement rules allow for direct contracting for small contract values, the selection procedure has to be documented transparently (e.g. proof of market researches, documents tracing the selection of an operator and the awarding of a contract) and the observance of the principles of economic and efficient use of funds have to be proved.

It is recommended that, even where direct awarding is allowed, project participants still request offers from different providers or provide evidence of adequate market search before selecting one provider, in order to ensure an adequate level of transparency and of economical use of public funds. Also in these cases, prior contact with the FLC is highly recommended to enquire the FLC expectations.



## 5. PROCUREMENT PROCEDURES

According to the EU rules, there are four specific procurement procedures:

- Open procedure;
- Restricted procedure;
- Competitive negotiated procedure;
- Order on the basis of single tender.

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.

Depending on whether it is a local or international open procedure the contract notice is to be published in all appropriate media, in particular on the project beneficiary's website (in its role of Contracting authority) and in the national press of the country where the action is being carried out, in case of local and international open; in the international press, in case of international open. In addition to that all contract notices for 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.

The **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 a two steps 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) and in any other appropriate media (on the EuropeAid web site if applicable). 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.

The **competitive negotiated procedure** applies to service, supply and works contracts.

Under the competitive negotiated procedure, the Grant 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.

The **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.

A programme could opt for a rule where more than one (for example minimum number of 3) candidates should be invited in the case of single tender procedures. Such an approach would be reasonable if it is estimated that efficiency and transparency can be considerably improved this way.

Even though one offer is procedurally enough, it is strongly recommended that grant beneficiary, i.e. Contracting Authority collects more than one (at least 3) offer, in order to be able to make financially and technically sound and transparent decision to be able to get a clear information on real market prices and similar.

## 6. PROCUREMENT PLANS

The procurement procedures during the implementation of a cooperation project represent a significant challenge both for project partners and for the National Controllers (FLC) as well as for Managing Authority from the perspective of monitoring. Significant volume of procedures makes it difficult for the project partners to be on time, as well as for FLCs and MA to follow closely the developments, what often results in delays and discrepancies at the procurement as well as at the overall grant project level.

In order to facilitate the planning and the monitoring phases, the use of **procurement plans are strongly recommended for all project partners.**

The project partners, i.e. the beneficiaries, after the start of their project should develop a list of all procurement procedures within their project (or a preliminary plan), with indication of budget line, procedure and key milestones. This will be very useful for project partners during the project life to plan their own procedures and identify possible bottlenecks. Ideally, the procurement plan should be developed and kept up-to-date by the responsible of the financial management of the project. Even though it is not strictly compulsory, the FLCs and MA or Joint Secretariat may ask for this procurement plan in any of their management verification procedures, in order to identify specific risks, delays, as well as discrepancies in the procedure (for example absence of procurement procedures for relevant items, proper procedures selected, etc.).

A **template for procurement plan** is presented in the table below:

Budget Line	Amount (Euro)	Item	Type	Procedures	Planned publication date	Planned Contract signature
---	€---	<i>ex. printing services</i>	<i>ex. services</i>	<i>ex. single tender</i>	---	---
---						
---						

## 7. CONTRACT TYPOLOGY

The contracts object of the procurement procedures are divided into four main categories:

- Building contracts
- Supply contracts
- Works contracts
- Service contracts

**Building contracts** cover the purchase, long lease, usufruct, leasing, rental or hire purchase, with or without option to buy, of land, existing buildings or other real estate.

**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 siting and installation shall be considered a supply contract.

**Works contracts** cover either the execution, or both the execution and design, of works or a work related to one of the activities referred to in Annex I to Directive Directive 2014/24/EU or the realization, by whatever means, of a work corresponding to the requirements specified by the contracting authority. A 'work' shall mean the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic or technical function.

**Service contracts** cover all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and building contracts.

A contract covering two or more types of procurement (works, services or supplies) shall be awarded in accordance with the provisions applicable to the type of procurement that characterizes the **main subject** of the contract in question.

In the case of mixed contracts consisting of services and supplies, the main object shall be determined by a comparison of the values of the respective services or supplies.

## 8. MOST COMMON PROCUREMENT ERRORS

Experience made in ESI and IPA funded programmes has revealed the following as being the most common procurement errors (the list is illustrative but not complete):

- Insufficient publication of procurement procedure (e.g. direct award without any prior notification, notification only on national or regional instead of EU-level);
- Imprecise definition of the subject-matter of the contract to be awarded o Excessively short deadlines for the submission of tenders;
- Mix-up of selection and award criteria;
- Use of discriminatory or dissuasive selection or award criteria;
- Unlawful splitting of contracts;
- Use of wrong procurement procedure;
- Unlawful application of exemption rules;
- Unlawful negotiation during award procedure;
- Modification of a tender or criteria during evaluation;
- Unlawful substantial contract modification or purchase of additional works, services of supplies.

**Project partners are therefore asked to pay special attention to avoid similar errors.**

For each project participant, the FLC checks inter alia if the applicable procurement rules have been respected. Therefore, project participants have to ensure that any procurement procedure is orderly carried out and documented. Additional controls may also be carried out by auditing bodies of the Programme, the EU or of the EU-Member State where the project participant is located.

Project partners risk losing IPA financing if they cannot provide documentary proof of compliance with European, national, local and their own internal public procurement rules or with the Programme rules on procurement mentioned above.

If a procurement error is detected, the Commission Decision C (2013) 9527, of 19 December 2013 on the guidelines for determining financial corrections to be made for non-compliance with public procurement rules, will apply. For example, if non-observance of the Programme rules for purchases by private partners is detected, a financial correction will apply of 10% of the value of the contract that is reported to the programme.

## **9. PRIVATE PARTNERS**

In the Interreg IPA CBC Italy-Albania-Montenegro, public bodies, bodies governed by public law and non-profit private organisations are eligible. Public bodies and bodies governed by public law must apply the public procurement rules.

In receiving a public subsidy, private non-profit organisations are using public funding, i.e. tax payers' money, therefore it is necessary that they apply an extra care.



**For this reason, all public procurement rules and principles set by the IPA Public Procurement rules apply also to private partners.**

The application of the rules means that also private partners must comply with the thresholds and the general procedural rules, i.e. the steps and the basic documentation. For example, in case a tender must be published, the private partners have to find the most transparent way to publish it: If they are not entitled to publish a tender in an official journal, they have to publish in local or national newspapers, on the website, etc.

## ANNEX 1

### Simplified tender dossiers for service, supply and works - SINGLE TENDER<sup>2</sup>



Even though not compulsory to be used, beneficiaries may find it useful to use this template of simplified tender dossier for single tenders, instead of the PRAG dossier.

Name and address of the contracting authority: xxxxx

Title of the tender: xxxxxxxx

Reference number (if applicable): xxxxxxxx

#### 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

<sup>2</sup> Credit to Interact: <http://www.interact-eu.net/download/file/fid/579>

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.

## 2. TECHNICAL INFORMATION

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

\* - 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
<b>Supplies</b>				
1.1.				
1.2.				
1.3.				

<b>Installation</b> (* - use this section only when necessary)			
2.1.	-	-	-
2.2.	-	-	-
<b>Other</b> (* - 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
<b>Description of works</b>			
<i>Describing the details of works: description of current situation on-field, works required, technical details etc.</i>			
<b>Designs and drawings</b>			
<i>Description of applicable designs and drawings. The documents to be attached to this Tenderer's information as annexes.</i>			
<b>Inputs required from the tenderer</b>			
<i>Type of equipment, estimated labour inputs, type of experts, vehicles, toolsetc.</i>			
<b>Description of time frame for completion of works and implementation of phases</b>			
<i>Timeframe for implementation of situations, completion of works, any other requirements.</i>			
<b>Bill of quantities</b>			
1.1.	-	-	-
1.2.	-	-	-
1.3.	-	-	-

### 3. 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**.

### 4. 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:

	entity or entities submitting this tender
Tenderer	

Contact person:

Name	
Address	
Telephone	
e-mail	

### 2. 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

### 3. 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
				<i>(the tenderers are encouraged to provide detailed information, for example qualifications of the proposed staff)</i>
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
<b>Supplies</b>				
1.1.	-			
1.2.	-			
1.3.	-			
<b>Installation</b> <i>(* - use this section only when necessary)</i>				
2.1.	-			
<b>Other</b> <i>(* - use this section only when necessary)</i>				
3.1.	-			

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

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

#### 4. 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.

<b>Name</b>	
<b>Signature</b>	
<b>Date</b>	

## ANNEX 2

### Format of the contract between the contractor and the contracting authority<sup>3</sup>



Even though not compulsory to be used, beneficiaries may find it useful to use this as a basis for own contracts.

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.

<sup>3</sup> Credit to Interact: <http://www.interact-eu.net/download/file/fid/579>

Month		<EUR/**>
1	Maximum Pre-financing payment	f the contract value>
<Month>	Interim payment (*if applicable)	f the contract value>
<Month>	Balance payment	f the contract value>
	<b>Total</b>	<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 arbiter body) in accordance with the national legislation of the state of the Contracting Authority.

#### For the Contractor

Name:

Title:

Signature:

Date:

#### For the Contracting Authority

Name:

Title:

Signature:

Date: