



Bu proje Avrupa Birliđi ve Türkiye Cumhuriyeti tarafından finanse edilmektedir.



*Avrupa Birliđi Bakanlıđı*  
*IPA II Teknik Destek Projesi*

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*Ministry for EU Affairs*  
*Technical Assistance for IPA II*

**“IPA II: Taking EU funding to the next level”**

Ankara, 12 – 16, December, 2016

*Trainer: Antal Tóth*





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# Framework exercise





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## Exercises/Services/FWC/Malawi/ToR 135 Malawi

[print\\_p1-5.pdf](#)

Check!

- Objectives
- Inputs (services)
- Outputs





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**Overall objective:** To provide communication and visibility services

**Specific objectives:**

- To strengthen and improve the visibility of all actions under the programme,  
To ensure that the beneficiary population is aware of the roles of the programme and of the EU in the action,
- To raise awareness among the host country population and in Europe of the roles of the programme and of the EU in the action,
- To raise awareness of how the EU, the Government of Malawi and other stakeholders, through the programme, work together to support the agriculture sector.





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## Requested services

- Strengthen the programme implementers' collaboration with mass media and ensure dynamic information sharing
- Prepare and communicate to relevant media through press releases on relevant issues
- Identify, sponsor and manage ceremonies and events
- Design, produce and disseminate communication and visibility materials
- Create and manage an information data base of all communication and visibility actions
- Identify and define target audiences
- Ensure consistency in European Union (EU) branding
- Ensure that implementing partners and stakeholders are acquainted with, take ownership of and comply with visibility recommendations and obligations by developing their capacity
- Engage with implementers and all relevant stakeholders of the programme on communication and visibility matters
- Establish a strong partnership with major media houses





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# Please define required expertise!

- Educational background
- General professional experiences
- Specific professional experiences
- Language skills, etc.

## Requested input (mandays)?

## Budget?



# Request for services

[Exercises/Services/FWC/Malawi/RfS 135 Malawi.pdf](#)



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# Specific contract



[Exercises/Services/FWC/Malawi/Specific contract malawi.pdf](#)







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# Global-price contract exercise





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Exercises/Services/Global prices/1 3 1 TOR sample 1 expertise of feasibility study.docx

Exercises/Services/Global prices/1 3 2 TOR sample 2 prepare feasibility study.docx

Exercises/Services/Global prices/1 3 3 mod2 TOR sample 3 software development.docx





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[Exercises/Services/Global  
prices/1 3 4 mod2 exercise 1 RRP-Supp-  
AppendixH4-DSMC-TOR-Kohima.pdf](#)  
[Exercises/Services/Global  
prices/1 3 5 mod2 exercise TOR desing and  
supervison.pdf](#)





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[Exercises/Services/Global prices/3 2 mod3 Exercise 1 - Inception report.docx](#)

[Exercises/Services/Global prices/3 3 mod3 Exercise 2 - Progress report.docx](#)





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# Modifying contracts

- PRAG 2.10.:
  - “...**may need to be modified** if the circumstances of project implementation have changed...”
  - „...the **subject matter** of the contract **cannot be altered**...”
  - “...can only be modified **during their execution period**...”
  - “Any changes to the contract must be made officially by means of an **administrative order or an addendum** in accordance with the General Conditions...”
  - “**Substantial changes** to the contract must be made by means of an addendum. “

# Modifying contracts

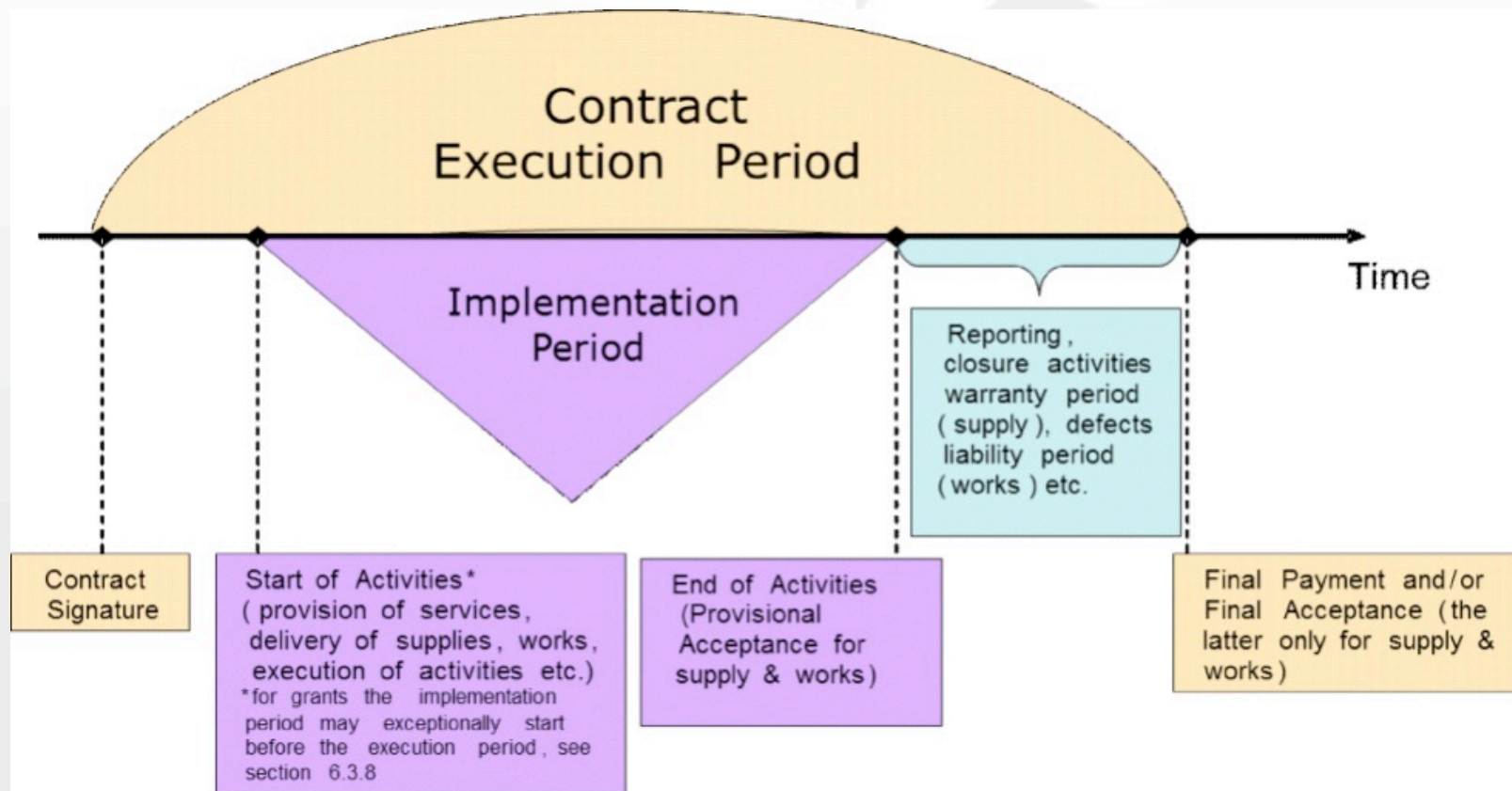
- General principles:
  - Execution period: from contract signature until final payment for services, or until release of the performance guarantee
  - Any modification extending the period of implementation must be such that implementation and final payments can be completed before the expiry of the Financing agreement





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# Modifying contracts



# Modifying contracts

- In exceptional circumstances, the amendment may have a retroactive effect

## Examples

A contractor reports an urgent need to replace a key expert in March, which is accepted in an addendum in April. The amendment enters into force in April, acknowledging the change as from March. The contractor is only entitled to ask for payment for the work carried out in March after the entry into force of the amendment.

In a grant, the implementation period expired in May and the grant beneficiary requests a 1 month extension in June. If the Contracting Authority accepts the justification, including for the late request, and issues an addendum in July, the implementation period will be extended by 1 month from May to June. Costs incurred from May to June would only become eligible after the entry into force of the addendum in July.

# Modifying contracts

- No changes to the contract may alter the award conditions prevailing at the time the contract was awarded
- Must not automatically be accepted
- May entail changes for the financial guarantees
- Must be closely connected with the nature of the project covered by the initial contract
- Where the change to the contract extends activities already under way, it requires a negotiated procedure

# Modifying contracts

- Possible cases:
  - a) **Additional works, supplies or services by the original contractor:**
    - changing contractor is not feasible for technical reasons or
    - changing contractor would cause substantial duplication of costs,
    - Increase in price, including the net cumulative value of successive modifications, cannot exceed 50 % of the initial contract value.

# Modifying contracts

- Possible cases:
  - b) modifications needed because of **circumstances** which a diligent contracting authority **could not foresee**
  - c) modifications meeting the following cumulative conditions
    - the value of the **modification** is below **EUR 300 000 for service and supply contracts, and EUR 5 000 000 for works contracts**; and
    - the value of the modification is **limited to 10 % of the initial contract value for service, and supply contracts, and 15 % of the initial contract value for works contracts**; and
    - the net **cumulative value of several successive modifications** does not exceed the thresholds under above points.

# Modifying contracts

- Possible cases:
  - d) all other modifications which **do not alter the minimum requirements** of the initial procurement **irrespective of their value** when the resulting modification in the value is the **outcome of the strict application of the procurement documents or contractual provisions** (administrative changes, universal succession and application of revision clauses or options).
- GC Art. 22: at the time of contracting and during the validity of the Contract CA can vary by an administrative order the quantities per lot or per item by +/- 100 %. The total value can not be altered more than 25%.

# Modifying contracts

- Issuing **Administrative Order** notifying by CA signed by the Contract Manager
- Preparing an **Addendum**:
  - Use the templates
  - Any addendum modifying the budget must include a replacement budget, the payment schedule must also be modified accordingly
  - The payment schedule must not be modified unless either the budget is being modified or the contract is being extended
  - Prepare a dossier (explanatory note, copy of the request, three originals of the proposed addendum)
  - Send the signed originals of the addendum to the contractor, who must countersign them within 30 days
  - Publish a notice for modification of contract in the Official Journal of the European Union and on EuropeAid website in certain cases (addition of activities, above 300K for S&S, 5M for w)



# Modifying contracts – verification aspects

- In regular or any ad-hoc meetings special attention should be paid to any change and possibly requesting additional information from Contractor. Although usually no need to prepare contract modification, the changes obviously can have effects on the outputs to be delivered



# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - Compliance with OP's objectives and eligibility of the expenditures
  - Operations for financing in line with the priorities and objectives of the OP
  - Checking procurement procedures
  - Checking implementation of contracts, administrative verification

# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - On-the-spot verification:
    - the **reality** of the operation
    - delivery of product/service in **full compliance** with the terms and conditions of the contracts
    - **physical progress**
    - **respect of community rules** on publicity and with the procurement procedures

# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - Risk assessment and
  - Annual plan for checks



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# International open procedure



1. Publication of prior information notices
2. Publication of contract notices
3. Drafting and content of the tender dossier
4. Additional information during the procedure
5. Evaluation process
6. Cancelling the tender procedure
7. Award of the contract
8. Contract preparation and signature
9. Publicizing the award of the contract



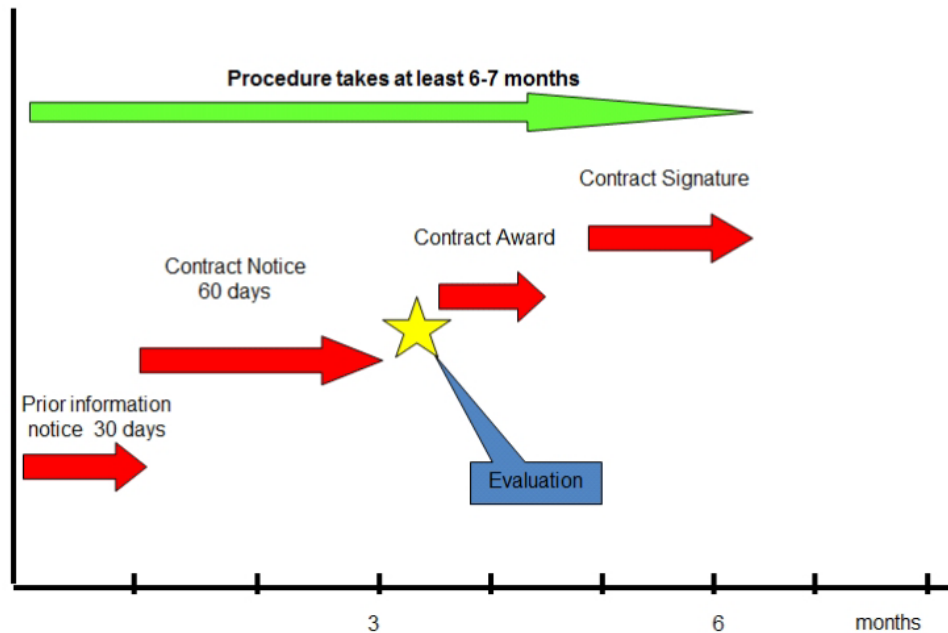


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# International open procedure

Timeline of an international open tender procedure for a supply contract



# 1. Publication of prior information notices

- at least 30 days before the publication of the contract notice,
- does not oblige the contracting authority to award the contracts proposed, and
- service providers are not expected to submit applications at this stage.



## 2. Publication of contract notices

- must be published in the Official Journal of the European Union, on the EuropeAid website,

Indirect management with Ex-ante controls: the finalized tender dossier must be submitted to EC either at the same time.
- must provide would-be suppliers with the information they need to determine their capacity to fulfil the contract in question,
- contracting authority, either on its own initiative or in response to the request of a tenderer, can amend information in the contract notice.



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### 3. Drafting and content of the tender dossier



- A. Instructions to tenderers
- B. Draft Contract Agreement and Special Conditions with annexes:
  - ANNEX I: GENERAL CONDITIONS FOR SUPPLY CONTRACTS
  - ANNEX II: TECHNICAL SPECIFICATION
  - ANNEX III: TECHNICAL OFFER
  - ANNEX IV: FINANCIAL OFFER
- C. Further Information
- D. Tender Form for a Supply Contract



### 3. Drafting and content of the tender dossier

- **Tender documents must be carefully drafted to ensure that both the contract and the procurement procedure are carried out correctly!!!**
- Tender documents must contain all the provisions and information that tenderers need to submit their tenders
- Will become part of the contract
- The final version of the TS approved by EC

# Purpose of TS

The **specifications may include** as appropriate:

- a) a clear definition of the tasks to be performed,
- b) minimal quality levels,
- c) environmental and climate performance,
- d) for purchases intended for use by natural persons, wherever possible, the accessibility criteria for people with disabilities or the design for all users,
- e) the levels and procedures of conformity assessment,
- f) performance or use of the supply,
- g) safety or dimensions, including the sales name and user instructions, terminology, symbols, testing and test methods, packaging, marking and labelling, production processes and methods.

# Purpose of TS

- Given the technical complexity of many supply contracts, the preparation of the tender dossier - particularly the technical specifications - may require the **assistance of one or more external technical specialist(s)**.
- **Particular attention** must be paid to drafting the technical specifications. They are the key to successful procurement, a sound supply contract and a successful project.
- The technical specifications state - where applicable, lot by lot - the **exact nature and performance characteristics** of the supplies.
- They also specify **conditions for delivery and installation, training and after-sales service**.
- Unless warranted by the nature of the contract, technical specifications referring to or **describing products of a given brand or origin and thereby favouring or excluding certain products** are prohibited. However, where products cannot be described in a sufficiently clear or intelligible manner, they may be named as long as they are followed by the words '**or equivalent**'.

# Legal Meaning of TS

- Legally binding part of Invitation to Tender
- Legally binding part of Contract
- Should be prepared and read in connection with other parts of contract

# Financial offer

- **Firm, non-revisable price** must be quoted, prices should normally be fixed and not subject to revision.
- In specific cases a **price revision clause** might be justified. If that is the case, the tender dossier must lay down the conditions and/or formulas for revision of prices during the lifetime of the contract.
- A **tender guarantee** assures the Contracting Authority that submitted tenders will not be withdrawn, representing 1% to 2% of the overall value of the contract.



# Selection criteria

The selection procedure involves:

- 1) eliminating tenderers who are **ineligible in view of their nationality** (see point 2.3.1.) or fall into one of the situations described in sections 2.3.3.1 (**exclusion from participation in procurement procedures**) and 2.3.3.2 (**rejection from a given procedure**);
  - 2) checking that the tenderers' financial situation (**financial and economic capacity**) is sound (as backed up e.g. by balance sheets and turnover for the previous three years);
  - 3) verifying the tenderers' **technical and professional capacity** (e.g. by looking at their average annual staffing levels, the size and professional experience of their management and the main supplies delivered in the field in question in recent years).
- The selection criteria are **examples** and need to be adapted to the nature, cost and complexity of the contract.
  - They must be in a **YES/NO format** to allow a clear assessment of whether or not the offer meets them.
  - **Only successful tenderers must supply** supporting documents for the selection criteria before the award of the contract (optional for contracts below EUR 300.000).



# Award criteria

- **The award criterion** applied to technically compliant tenders is **price** or, in exceptional cases mentioned in point 4.3.3.3., the **best price-quality ratio** (contracts including particularly significant ancillary services).
- The technical evaluation will be **based on the evaluation grid** published in the tender dossier, which must not be changed in any way during the evaluation process.
- The technical requirements must be tailored to each tender in a **YES/NO format** to allow a clear assessment of whether or not the offer meets the technical specifications set out in the tender dossier.

# Supply contracts not including ancillary services

- **Price is the sole award criterion** for awarding supply contracts not including ancillary services (such as after-sales services and training).
- Where specified in the technical specifications, the financial evaluation may take into account not only the acquisition costs but, to the extent **relevant, costs borne over the life cycle** of the supplies.



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# Supply contracts including ancillary services



- Where a supply contract includes ancillary services, the technical evaluation should take into account the **quality of such services on a YES/NO basis.**
- All non-compliant tenders having been eliminated, the **contract is awarded to the tenderer offering the lowest price for both equipment and ancillary services together.**





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# Supply contracts including significant ancillary services



- Where a supply contract includes particularly significant ancillary services, the evaluation may be carried out either as standard procedure or - subject to prior approval - according to the **best price-quality ratio** criterion.





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# Tendering period



- Min. 60 days for international open tenders
- Additional information: may request up to 21 days, shall reply at least 11 days before the deadline
- Site visit or information meeting is possible
- Period of validity: 90+40 days, successful tender +60 days
- Submission of tenders: single envelope system, e.g. technical & financial tenders in the same package



# Evaluation Committee (1)

- Comprising a non-voting **Chairman**, a non-voting **Secretary** and an odd number of **voting members** (minimum of three), optionally **observer(s)**
- Appointed on a personal basis by the CA
- Members must have a **reasonable command of English** and **technical and administrative capacities**
- Members should **attend all meetings**, contracting authority will appoint a replacement evaluator for each procedure to prevent delays in case of unavailability.
- All members and any observers must sign a **Declaration of Impartiality and Confidentiality** (see Annex A4)
- Member has potential conflict of interest shall immediately withdraw, evaluation process must be restarted

## Evaluation Committee (2)

- The proceedings of the Evaluation Committee are **conducted in camera and are confidential** (except tender opening session)
- Any attempt by a tenderer to influence the process in any way (whether by initiating contact with members of the Evaluation Committee or otherwise) will result in the immediate exclusion of its tender from further consideration!!!
- Only members and authorized observers can attend
- The tenders should not leave the room/building, they should be kept in a safe place when not in use
- No information may be given to tenderers before the signature of the contract

## Evaluation Committee (3)

### Responsibilities:

- Chairman responsible for coordinating the evaluation process and for ensuring its impartiality and transparency
- Voting members collectively responsible for decisions taken by the Committee
- Secretary responsible for carrying out all administrative tasks connected with the evaluation procedure



# Stages in Evaluation Process (1)

- Receipt and registration of tenders
- Tender Opening session
  - **Preparatory meeting**
    - TD circulated
    - purpose of the tender procedure
    - selection and award criteria
    - procedures to be followed
    - evaluation grid
  - **Tender Opening:** formal, public process, participation in the tender opening session is restricted to representatives of the companies (see tender opening checklist in Annex C5)

## Stages in Evaluation Process (2)

- **Compliance with formal submission requirements** (see Annex C6)
  - Examine and state the condition, announcing the name of the tenderer
  - Sign Declarations of Impartiality and Confidentiality (see Annex A4)
  - Open envelopes and mark the tender envelope number, front page initialed
  - Prepare summary of tenders received
  - Any tender guarantee must be returned to the tenderers which do not comply with the formal submission requirements. 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.



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# Stages in Evaluation Process (3)



- **Administrative compliance checking**
  - Copies of the technical offers are distributed to the members
  - Each technical offer is examined for compliance with TD
    - Is tenderer (consortium) nationality eligible?
    - Is documentation complete?
    - Is the language required?
    - Is tender submission form complete?
    - Is tenderer's declaration signed (by all consortium members if a consortium)?
    - Other administrative requirements of the tender dossier?
  - Clarification can be requested
  - Preparing Tender Opening Report





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## Stages in Evaluation Process (4)



- Evaluation of technical offers
  - 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.
  - **Rule of origin:** All tenders must fulfil this requirement (point 2.3.1.). In case of any doubt as to the origin of goods, additional information must be requested. The tenderer will be required to provide proof of origin in the form of a certificate of origin or other official documentation, before the contract is signed, if possible.
  - **Nationality of subcontractors:** The evaluation committee must check at this stage that the nationalities of any subcontractors (point 2.3.1.) .
  - The evaluation committee must then rule 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 in accordance with the published criteria.





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## Stages in Evaluation Process (5)



- Evaluation of financial offers
  - Checking that the financial offers satisfy all formal requirements and contain **no arithmetical errors**.
  - If the tender procedure contains several lots, financial offers are **compared for each lot**.
  - The financial evaluation must pick out the best financial offer for each lot, **taking into consideration any discounts** granted by the tenderers.





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# Evaluation of financial offers

	Company A Initial/discounted price (20%)	Company B Initial/discounted price (10%)	Company C Initial/discounted price (no discount)	Ranking without discount
LOT 1	90/ <b>72</b>	80/72	70/70	Company C
LOT 2	Not bidding	<b>40</b> /36	50/50	Company B
LOT 3	60/ <b>48</b>	70/63	55/55	Company C
	<b>72+40+48=160</b> <b>(A)+(B)+(A)</b> <b>Selected</b>	72+36+63=171 (B)+(B)+(B)	70+40+55=165 (C)+(B)+(C)	



## Stages in Evaluation Process (6)

- The evaluation committee's conclusions
  - The successful tenderer is the one submitting **the least expensive tender** (or, in exceptional cases mentioned in point 4.3.3.3., the tender with the best price-quality ratio) classified as 'technically compliant' during the technical evaluation.
  - If the chosen tender exceeds the maximum budget available for the contract, negotiated procedure applies.
  - Preparing evaluation report consisting tender opening report

# Abnormally low tenders

- CA can reject tenders that appear to be **abnormally low** in relation to the goods, concerned. Rejection is not automatic!
- The concerned tenderer **must be asked**, in writing, to provide details of the constituent elements of its tender.



# Variant solutions

- If the tender dossier expressly permits variants, such variants are **scored separately**.
- May take them into account if:
  - they are submitted by the **successful tenderer**;
  - they **meet the requirements** specified by the tender dossier, attaining at least the minimum quality and performance required by the technical specifications;
  - the price of the variant proposed is **not higher** than the price of the winning tender.
- It is up to the evaluation committee to compare the variant and the original offer, and to **recommend the best solution** to the contracting authority.

# Evaluation Committee 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,
  - which meets the minimum technical requirements,
  - which is the least expensive tender (or, in exceptional cases mentioned in point 4.3.3.3.), the tender with the best price-quality ratio.
- Cancel the tender procedure: see point 2.4.13.



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# Notifying the award decision

- The notification letter (Annex C8a) to the **successful tenderer** implies that the validity of the successful tender is automatically extended for a period of 60 days.
- CA asking the successful tenderer to **submit the evidence** substantiating the statements made in the tender within 15 days of the date of the notification letter. CA must examine this evidence before sending the contract to the tenderer for signing. For contracts with a value of less than the international thresholds there is no obligation to submit such documentary evidence.



# Contract preparation and signature

- Contracting authority must prepare a **contract dossier**:
  - a) Explanatory note using the format in Annex A6
  - b) Copy of the financing agreement authorizing the project
  - c) Copy of the call (prior information notice, contract notice, Tender Opening Report, Evaluation Report with award decision, and any other relevant information)
  - d) Three originals in indirect management; two originals in direct management, of the proposed contract, which is based on the standard contract template

# Publicizing the award of the contract

- The contracting authority will furthermore inform the **remaining tenderers** (Annex C8b) within not more than 15 days from receipt of the countersigned contract.
- Once the contract has been signed the Contracting Authority is responsible for drafting the **award notice** without delay using the template in Annex A11e and for submitting it for publication on the EuropeAid website and in the Official Journal to the European Commission.
- If the award notice is also **published locally**, the contracting authority must arrange local publication directly.

# Local open tender

- For contracts between EUR 100 000 and EUR 300 000.
- **Prior information notice is not obligatory** and the **contract notice is not published in the Official Journal** of the EU but only in the partner country and on the EuropeAid website.
- Note that a local open tender procedure must provide other eligible contractors with the same opportunities as local firms!
- **Minimum of 30 days** between the date of publication of the contract notice in the local press and the deadline for receipt of tenders.
- The **measures applicable to an international open procedure** apply by analogy to the local open procedure.

# Competitive negotiated procedure

- For contracts under EUR 100 000.
- CA draws up a **list of at least three firms** with a justification for its choice.
- The **contract notice is not published**, but it is included in the tender dossier as it contains important information for those firms which are invited to tender.
- **At least 30 days** from the dispatch of the letter of invitation to tender in which to submit their tenders.
- If, following consultation of 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.
- In the event of one failure of the competitive negotiated procedure, the contract may be awarded by negotiated procedure.





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# What are supplies?

- Supply contracts are used in case there is a need for goods or equipment
- Supply contracts cover the purchase, leasing, rental or hire purchase, with or without option to buy, of products
- The delivery of products may in addition include siting, installation, maintenance, training and after sales services

# Procedure to be applied

	International procedures	Local, competitive negotiated procedures		Single tender
<b>SUPPLY CONTRACTS</b>	<b>≥ EUR 300 000</b> International open tender procedure	<b>&lt; EUR 300 000 but ≥ EUR 100 000</b> Local open tender procedure	<b>&lt; EUR 100 000 but &gt; EUR 20 000</b> Competitive negotiated procedure	<b>≤ EUR 20 000</b> Single tender  <b>≤ EUR 2 500</b> A payment may be made against invoice without prior acceptance of a tender
	<b>Procedures applicable without ceilings</b> Negotiated procedure or Competitive dialogue			

# Procurement procedures

- **International open procedure**: all supply contracts above EUR 300 000 must be the subject of an international open tender procedure following publication of a prior information notice and a contract notice.
- **Local open procedure**: contracts more than EUR 100 000 and less than 300 000 are awarded by an open procedure in which the contract notice is published in the partner country and on the EuropeAid website with the address from which firms can obtain further information.

# Procurement procedures

- **Competitive negotiated procedure** (PRAG 2.4.4.)
  - CA invites candidates of its choice to submit tenders,
  - **simplified tender dossier** (PRAG Annex B8o),
  - from the technically compliant tenders, CA selects the one that offers
    - the **best value for money** in the case of tenders for services,
    - the **cheapest**, in the case of tenders for supplies or works,
  - the tenders are **evaluated** (including the use of an evaluation committee) and the contract **awarded** in the **same way as they are in the restricted procedure.**

# Procurement procedures

- **Competitive negotiated procedure** (supplies, PRAG 4.5.)
  - **< € 100 000 but > € 20 000,**
  - CA draws up a list of **at least three firms** and **justifies** its choice,
  - **letter of invitation to tender accompanied by a tender dossier** (incl. contract notice) to be sent,
  - regular supply annexes shall be used,
  - 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,**

# Procurement procedures

- **Competitive negotiated procedure** (supplies, PRAG 4.5.)
  - if **receive only one tender** that is administratively and technically valid, the contract may be awarded provided that the award criteria are met,
  - in the event of a failure of the competitive negotiated procedure the contract may be concluded by **negotiated procedure** (PRAG 4.2.5.1.d),
  - rules are the same as under the international open procedure.

# Procurement procedures

- **Single tender procedure (PRAG 2.4.8.)**
  - when the contract to be concluded **does not exceed EUR 20 000**,
  - CA must draft a **report** explaining how participant(s) were picked and the price set, and the grounds for the award decision (Annex A10b),
  - CA must **follow the negotiation steps** shown in the negotiation report template and ensure that **basic principles** relating to procurement procedures (such as checking compliance with eligibility rules, e.g. nationality rules), **selection and exclusion criteria** are duly applied,
  - payments for amounts **less than or equal to EUR 2 500** may consist **simply in payment against invoices** without prior acceptance of a tender.



# Procurement procedures

- **Negotiated procedure** (supplies, PRAG 4.2.5.1.)
  - a) reasons of **extreme urgency** brought about by events which the CA could not have foreseen and which can in no way be attributed to them, e.g. operations carried out in crisis situations,
  - b) Where the supplies **can only be provided by a single supplier** because:
    - 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,
  - c) for **additional deliveries by the original supplier** intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations,
  - d) the **tender procedure has been unsuccessful**, i.e. where no qualitatively and/or financially worthwhile tender has been received,

# Procurement procedures

- **Negotiated procedure** (supplies, PRAG 4.2.5.1.)
  - e) For contracts **declared to be secret**, or for contracts whose performance must be accompanied by **special security measures**,
  - f) For contracts in respect of supplies quoted and purchased on a **commodity market**,
  - g) For contracts in respect of purchases of supplies on particularly advantageous terms (e.g. winding up its business activities, or the liquidators),
  - h) a new contract has to be concluded **after early termination of an existing contract**,
  - i) the products are manufactured purely **for the purpose of research, experimentation, study or development**,
  - j) the purchase of public communication networks.



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# Procurement procedures



- **Dynamic purchasing system** (supplies, PRAG 4.2.5.2.)
  - a **completely electronic process** for making **commonly used purchases** for a period of up to four years,
  - system is **open to any economic operator** who meets the selection criteria and submits an indicative tender that is found compliant,
  - The legal framework of this procedure is defined **for future use**, but the IT tools (confidentiality, security) to make it possible are not yet available in the European Commission.





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# Procurement procedures



- **Competitive dialogue** (PRAG 2.4.7.):
  - In the case of **particularly complex contracts**, neither direct use of the open procedure nor the arrangements governing the restricted procedure will result in the best value for money: objectively unable either to specify the technical means of satisfying needs or objectives or to specify the legal or financial makeup of the project,
  - publish a **contract notice** setting out or attaching their needs and requirements,
  - must open a **dialogue with the candidates satisfying the selection criteria**, conducted separately with each candidate on the basis of their proposed solutions and ideas,
  - must **ensure equal treatment** of tenderers and keep the **tenders confidential**,
  - not allowed to pick the best solutions from different tenderers (“**cherry-picking**”),



# Procurement procedures

- **Competitive dialogue (PRAG 2.4.7.):**
  - **minimum number of candidates is three**, CA may continue the procedure with the one or two who do meet the criteria,
  - **CA may reduce the number of solutions** for dialogue by applying the award criteria at a pre-dialogue stage, if the contract notice informs candidates of this possibility,
  - **CA may specify prices or payments** to the participants in the dialogue,
  - **CA must prepare a report justifying** the manner in which dialogue was conducted,
  - upon dialogue conclusion, CA must ask candidates to **submit their final tenders** on the basis of the solutions presented and specified during the dialogue,
  - **tenders may be clarified, specified and fine-tuned**, provided this does not have the effect of changing basic aspects of the tender or of the invitation to tender, variations in which could distort competition or have a discriminatory effect,
  - **contract is awarded to** the technically compliant tender which is the **most economically advantageous**,
  - **standard templates must be adapted** as required.

# Duration of procurement process

- International open procedure: More than 6 months
- Local open procedure: around 3-4 months
- Competitive negotiated procedure: around 3 months
- Single tender: at least 1 month



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Ankara, 12 – 16, December, 2016

*Trainer: Antal Tóth*





# Modifying contracts

- PRAG 2.10.:
  - “...**may need to be modified** if the circumstances of project implementation have changed...”
  - „...the **subject matter** of the contract **cannot be altered**...”
  - “...can only be modified **during their execution period**...”
  - “Any changes to the contract must be made officially by means of an **administrative order or an addendum** in accordance with the General Conditions...”
  - “**Substantial changes** to the contract must be made by means of an addendum. “

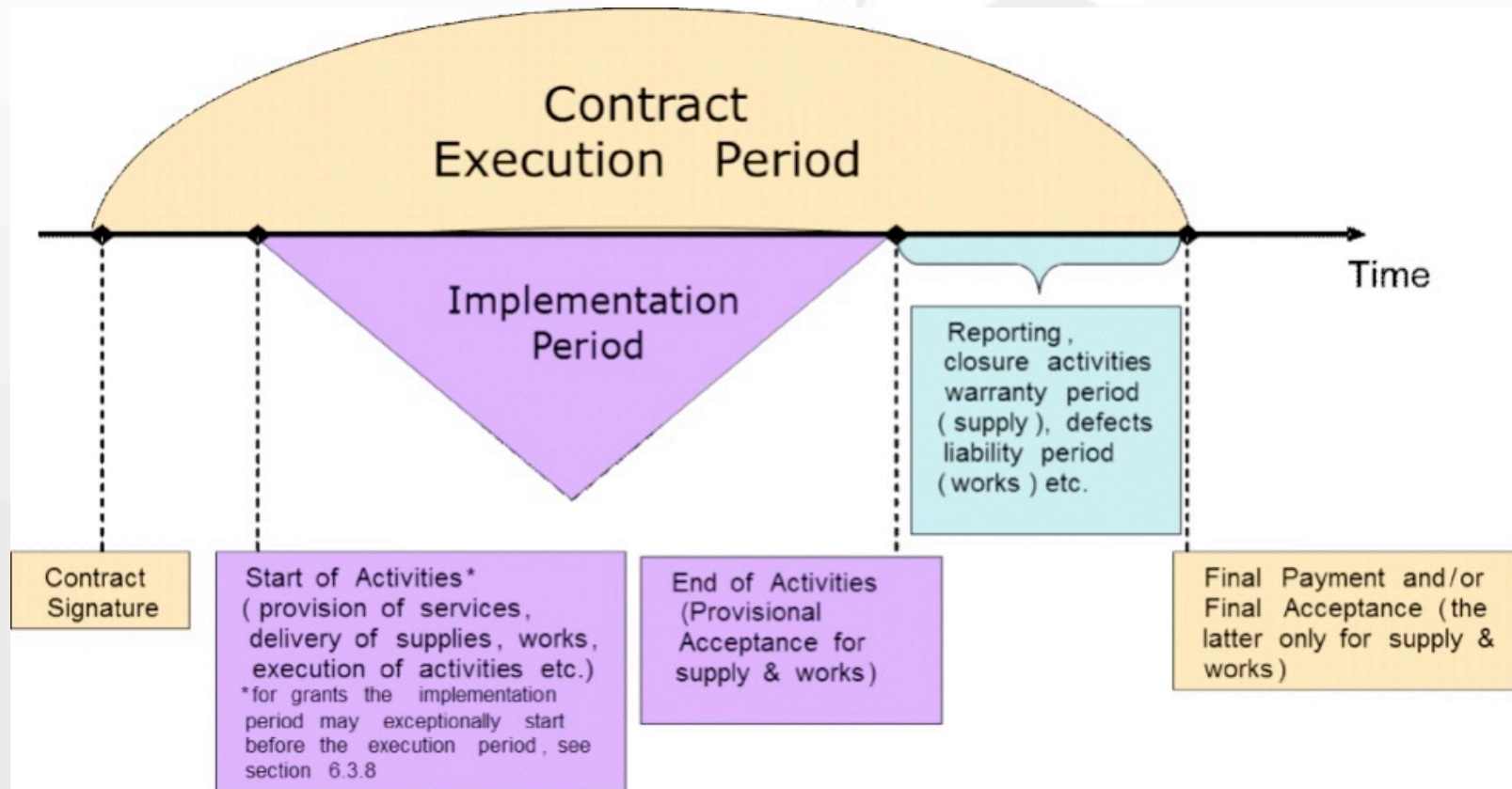
# Modifying contracts

- General principles:
  - Execution period: from contract signature until final payment for services, or until release of the performance guarantee
  - Any modification extending the period of implementation must be such that implementation and final payments can be completed before the expiry of the Financing agreement



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# Modifying contracts



# Modifying contracts

- In exceptional circumstances, the amendment may have a retroactive effect

## Examples

A contractor reports an urgent need to replace a key expert in March, which is accepted in an addendum in April. The amendment enters into force in April, acknowledging the change as from March. The contractor is only entitled to ask for payment for the work carried out in March after the entry into force of the amendment.

In a grant, the implementation period expired in May and the grant beneficiary requests a 1 month extension in June. If the Contracting Authority accepts the justification, including for the late request, and issues an addendum in July, the implementation period will be extended by 1 month from May to June. Costs incurred from May to June would only become eligible after the entry into force of the addendum in July.

# Modifying contracts

- No changes to the contract may alter the award conditions prevailing at the time the contract was awarded
- Must not automatically be accepted
- May entail changes for the financial guarantees
- Must be closely connected with the nature of the project covered by the initial contract
- Where the change to the contract extends activities already under way, it requires a negotiated procedure

# Modifying contracts

- Possible cases:
  - a) **Additional works, supplies or services by the original contractor:**
    - changing contractor is not feasible for technical reasons or
    - changing contractor would cause substantial duplication of costs,
    - Increase in price, including the net cumulative value of successive modifications, cannot exceed 50 % of the initial contract value.

# Modifying contracts

- Possible cases:
  - b) modifications needed because of **circumstances** which a diligent contracting authority **could not foresee**
  - c) modifications meeting the following cumulative conditions
    - the value of the **modification** is below **EUR 300 000 for service and supply contracts, and EUR 5 000 000 for works contracts**; and
    - the value of the modification is **limited to 10 % of the initial contract value for service, and supply contracts, and 15 % of the initial contract value for works contracts**; and
    - the net **cumulative value of several successive modifications** does not exceed the thresholds under above points.



# Modifying contracts

- Possible cases:
  - d) all other modifications which **do not alter the minimum requirements** of the initial procurement **irrespective of their value** when the resulting modification in the value is the **outcome of the strict application of the procurement documents or contractual provisions** (administrative changes, universal succession and application of revision clauses or options).
- All kind of modifications listed above apply also to specific contracts under **framework contracts**. Moreover, cases under points a), c) and d) also apply to the framework contract itself.



# Modifying contracts

- Issuing **Administrative Order** notifying by CA signed by the Contract Manager
- Preparing an **Addendum**:
  - Use the templates
  - Any addendum modifying the budget must include a replacement budget, the payment schedule must also be modified accordingly
  - The payment schedule must not be modified unless either the budget is being modified or the contract is being extended
  - Prepare a dossier (explanatory note, copy of the request, three originals of the proposed addendum)
  - Send the signed originals of the addendum to the contractor, who must countersign them within 30 days
  - Publish a notice for modification of contract in the Official Journal of the European Union and on EuropeAid website in certain cases (addition of activities, above 300K for S&S, 5M for w)

# Modifying contracts

- For GP contracts:
  - As more result (rather than means) oriented than fee-based contracts, the modifications less frequently occurs
  - Usually no need to modify contracts
    - the Contractor should only notify CA/OS, e.g. in case of replacement of experts, changing time inputs, travels, etc.
    - CA/OS has the right to ask for additional information, clarify specific issues, start negotiations, even to reject to accept the changes

# Modifying contracts

- For GP contracts:
  - Delays in performance and depending payments: as result oriented contracts, GP contracts mostly needs to be modified because of the delays submitting/delivering outputs/reports (and the relevant payments, if applicable)
  - Partial performance: if the OB or CA doesn't find the output(s) totally satisfactory and the relevant indicators has not been reached 100%,

# Modifying contracts – verification aspects

- In regular or any ad-hoc meetings special attention should be paid to any change and possibly requesting additional information from Contractor. Although usually no need to prepare contract modification, the changes obviously can have effects on the outputs to be delivered

# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - Compliance with OP's objectives and eligibility of the expenditures
  - Operations for financing in line with the priorities and objectives of the OP
  - Checking procurement procedures
  - Checking implementation of contracts, administrative verification

# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - On-the-spot verification:
    - the **reality** of the operation
    - delivery of product/service in **full compliance** with the terms and conditions of the contracts
    - **physical progress**
    - **respect of community rules** on publicity and with the procurement procedures

# Modifying contracts – verification aspects

- The relevant verification steps should be updated according to the modifications (esp. considering the modification of outputs), e.g.
  - Risk assessment and
  - Annual plan for checks



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# Case studies, practical examples







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## Practical case 1: Technical cooperation implemented by the beneficiary itself

A project in country X aimed to **develop the training capacities of a university through several extension centres** located in different islands. The head of the adult learning department was responsible for the overall project implementation and the university recently created a planning department, responsible for approving new training programmes according to the demands. The partners were concerned about **avoiding double structures and about ensuring the integration of the project management team (the PIU) inside the existing institutions**. Their choice was **to take advantage of the existing adult learning department to centralise the overall direction of the project**, together with the government and the EC. On the other side, the university's planning department was responsible, as the project management team, for coordinating grant procedures, service contracts with external consultants, integrating the business community within the project and reporting to the head of the project. This structure allowed to **ensure the ownership to the university and to avoid the creation of new offices** outside the existing university departments.





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## Practical case 2: Case in which a grant should not have been used

Example of a case where the **action should have been contracted as a service contract** - or, possibly, as an action to be implemented under a different management mode if the conditions were met (i.e. indirect centralised management):

In response to a call for proposals, a proposal was submitted to the EC services in order to carry out an action in the field of food safety. The **grant applicant was an inter-professional association working at international level** in the agriculture field. A grant was awarded. Afterwards, a close analysis of this contract revealed that the action financed should have been contracted differently (e.g. via a service contract).

The elements for such a conclusion were based on the following:

- the grant contract foresaw that the **grant beneficiary would act as an intermediary only**;
- the action was financed 100% by EC funds and **no co-financing was foreseen by the grant beneficiary**;
- although a call for proposal had been published, the grant beneficiary proposed was the only organisation which had replied to the call (it is thus likely that the **guidelines were very precise, closer to a terms of reference, limiting the possibility for applicants to propose “their” solution** to achieve the objectives sought by the EC);
- the guidelines of the **call for proposal asked the candidates to submit the CVs** of the experts working in the proposed action and the **appreciation of these CVs was part of the evaluation** of the grant proposal.





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## Practical case 3: Changing management modes

In the context of a project to support the public health and nutrition sector in country X, the **initially chosen management mode was decentralised management to the beneficiary country requiring an ex ante assessment** under article 56 FR (Delegation of budget implementation powers). For exceptional reasons, no ex-ante assessment with the conditions of art. 56.2 FR was concluded prior to the adoption of the financing decision and a “fall-back” management mode had to be foreseen in the financing decision/AAP. The relevant Action Fiche of the AAP clearly stated that\*. When the assessment was finally concluded it turned out to be negative. The **management mode was then changed accordingly to centralised management, without any amendment of the financing decision.**

In the current case, the financing decision still gave **sufficient flexibility for this change to be undertaken without an amendment procedure**. Thus, in order to provide clear flexibility to the responsible authorising officer, if at the moment of the drafting of the financial decision, the ex-ante assessment is not yet achieved, that should be pointed out in the financial decision as a condition for the adoption of the foreseen degree of decentralisation.





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*\* “In order to apply the decentralised framework, a positive assessment shall be formalised before the adoption by the Commission of the present financing decision by the relevant Authorising Officer (AO) on the basis of an external audit report to be finalised by an external consultant by the end of August 2008. Should the results of this audit be insufficient to allow the relevant AO to make a positive assessment of the internal procedures of the Health Ministry, EuropeAid shall restrict in the Financing agreement with the Government from country X the delegated tasks to the minimum, maintaining as principle the ex-ante control of the Commission for contracting and payments.”*





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## Practical case 4: Substantial changes requiring an addendum

In a project dealing with water sanitation systems of an ACP country, a **national body part of the Ministry of Infrastructures was foreseen within direct decentralised operations to carry out the implementation** of the activities through Programme Estimates. The ACP country, some time after the Financing Agreement had been signed, asked the EC to change the management modes. Instead of entrusting the body within the said Ministry, the NAO **proposed to launch a restricted tender procedure in order to recruit a company for the carry out of the activities through indirect decentralised operations**. Since the text of the FA detailed the type of contract to be used, this request **had to be considered as a change of the technical solutions foreseen** in the decision taken by the EC and therefore a rider for substantial technical modification was introduced in the circuit.





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## Practical case 5: Use of the negotiated procedure

### *Case a)*

For the preparation of actions of technical cooperation in security-related areas, it was considered necessary to make recourse to experts in relevant public administrations of EU Member States. Given the **institutional nature of the envisaged activities (capacity-building measures for law enforcement and judicial authorities of the beneficiary countries)**, the **negotiated procedure was used to contract public bodies for carrying out the requested services**. In order to respect the principles of objectivity, transparency and non-discrimination in the selection of the public bodies to be contracted, the Commission services launched an **informal call for expression of interests** to all EU Member States.





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## Practical case 5: Use of the negotiated procedure

### *Case b)*

Within the framework of a regional programme, it was envisaged the setting up and the strengthening of potable water conveyance systems. The aim of this technical assistance was to carry out the monitoring of several small photovoltaic solar pumping systems. This study aimed to make a series of field measurements with a view to better identify and evaluate some of the main parameters such as temperature, daily irradiation and irradiance used for the design of photo- voltaic systems.

It was therefore planned to entrust the aforementioned study to a local research institute through a negotiated procedure. The justification for this negotiated procedure, following point 3.2.3.1.b) of the PRAG, was based on the fact that: this scientific institution is a **public body with the suitable technical equipment, the proved technical competences and a proven experience** in the field of the solar photovoltaic systems; the **object of this study is of an institutional nature and the corresponding project aims to provide assistance to the people in the social field.**







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## Practical case 6: Use of grants to contract TC

### *Case a)*

For the implementation of a **technical cooperation action in the area of fight against drugs**, it was considered appropriate to **contract with EU Member States administrations**, due to their **specialised personnel and comparative advantage** in working with beneficiary institutions in **such specific and highly sensitive areas of assistance**. Given the **intention to support an action whose implementing details are proposed by a third party** (i.e. the Commission does not impose its terms of reference but only objectives, together with the beneficiary country), and also with a **view to ensuring that all potentially interested public administrations would be able to apply**, the **actions was designed from the formulation phase as a grant contract**. A **direct award was justified on the basis of the technical competence and high degree of specialisation required** for this type of action. In order to respect the principles of objectivity, transparency and non-discrimination in the selection of the public body to be contracted, the Commission services launched an **informal call for expression of interests to all EU Member States**. A **derogation to the co-financing rule** was justified in the financing decision because the Commission, for **reasons of visibility**, was interested to be the sole donor of the action.







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## Practical case 6: Use of grants to contract TC

### *Case b)*

The **objective of an action was to establish a tool to enhance cooperation between European and local enterprises** in a city of country X in order **to improve links between businesses and science and technology stake** - holders involving business, industry and public bodies from the EU and that country. Some of the activities were to establish common technology networks or to assist in the development of joint new technologies. In order to implement this action, **two options** were considered in the beginning: **service contract or grant contract**. It was decided to design this action as a grant and thus **leave to the applicants to propose the most suitable tool to meet the aforementioned objectives**. Also, the proposed means which would develop these objectives (= the outcome of the action) should remain independent (**not owned by the EC**). For these reasons, the selected option was the award of a grant contract following a **call for proposals**. Following the open of the call for proposals, the grant contract was awarded to company Y which has developed a European Business and Technology Centre (EBTC).





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## Practical case 7: Participation of the beneficiary country in the evaluation

For the **TACIS Nuclear Safety programme**, it is a **common practise to invite a representative of the partner country as an evaluator** in the evaluation committee. Sometimes an **interpreter/translator** also has to be foreseen as the command of the English language is not always well enough. In this case, the **Commission usually pays for the participation of one representative per country**, the **translation costs have to be borne by the country concerned**. These participation costs include **travel costs and per diems**. Financing of these costs is done **through the global allocation and a contract has been concluded to this end with one of the framework Consultants**.





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## Practical case 8: Rejection of the expert by the partner country

In country X (the beneficiary country), a **tender was launched for carrying out studies in the field of health**. The **EC delegation rejected the first tender as the key expert was a civil servant** from the Ministry of Health (beneficiary of the study), being, therefore, in **conflict of interest**.

Then, the second best tender was proposed. The **beneficiary rejected this tender as the key expert proposed was a civil servant** in the same field in a local administration and would fall as well in conflict of interest. **Third best tender was then selected**.





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## Practical case 9: Rejection of an expert by the Commission

This practical case concerns a **service contract which has been awarded and signed by the EC (centralised management) after an international restricted tender.**

Immediately after the signature of the service contract, it appeared that the **key expert was no longer available** (the reality was that he did not want to come to the country concerned as there had been a bomb attempt). What did the EC do?

- in conformity with the contractual clauses of the contract **EC asked for the replacement of the key expert** (with at least the same profile),
- a **replacement was proposed** by the company who was not found adequate,
- the **contract was terminated by the Commission** (see point 3.3.14 of PRAG),
- a new **service contract was signed with the second company** on the list (whose offer was still valid) following the restricted tender procedure.

In case **no other company is selected following the tender procedure, the only option is to cancel the contract and to restart the procedure** if the contracting deadline permits this.





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# Restricted tenders



1. Publication of prior information notices
2. Publication of contract notices
3. Drawing up shortlists
4. Drafting and content of the tender dossier
5. Additional information during the procedure
6. Evaluation process
7. Cancelling the tender procedure
8. Award of the contract
9. Contract preparation and signature
10. Publicizing the award of the contract



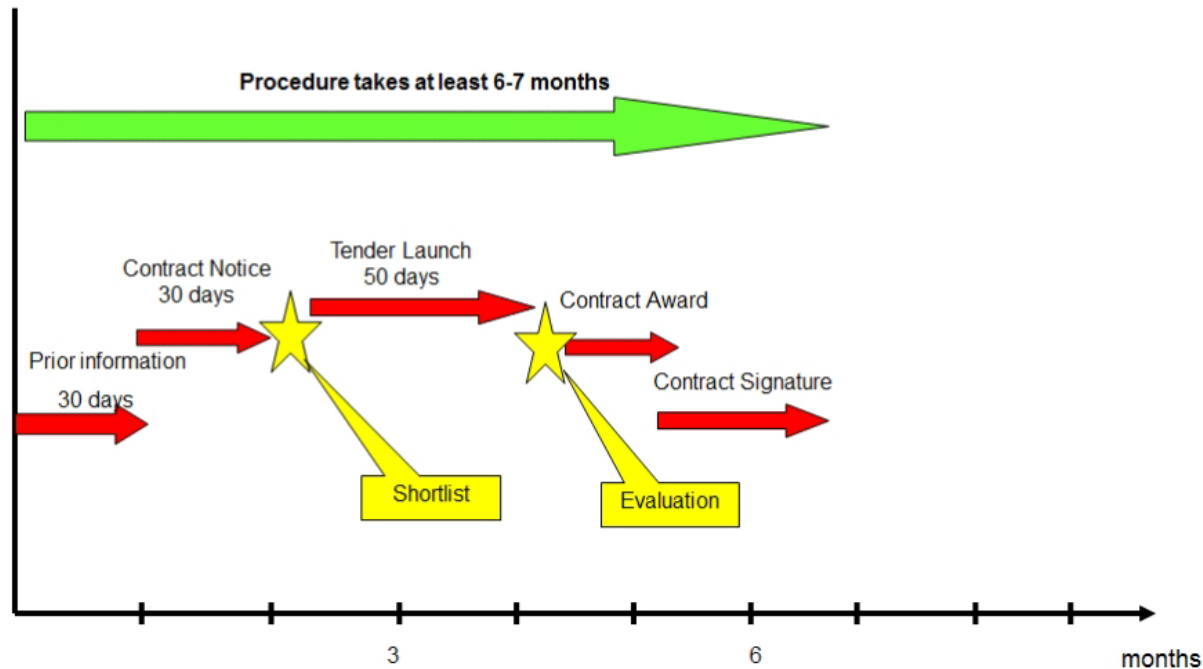


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# Restricted tenders



## Timeline of an international restricted tender procedure for a service contract





# 1. Publication of prior information notices

- at least 30 days before the publication of the contract notice,
- does not oblige the contracting authority to award the contracts proposed, and
- service providers are not expected to submit applications at this stage.



## 2. Publication of contract notices

- must be published in the Official Journal of the European Union, on the EuropeAid website,
- Indirect management with Ex-ante controls: the finalized terms of reference must be submitted to EC either at the same time,
- must provide would-be service providers with the information they need to determine their capacity to fulfil the contract in question,
- selection criteria must be set out in the contract notice.



Microsoft Word  
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### 3. Drawing up shortlists

- Shortlisting by evaluation committee;
- Drawing up a long list summarizing all the applications received;
- Eliminating applications that are inadmissible due to being submitted by ineligible candidates (see point 2.3.1.) or by candidates falling into one of the situations described in sections 2.3.3.1. and 2.3.3.2.;
- applying the selection criteria exactly as published.

# 3. Drawing up shortlists

- The shortlist comprises 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 contract notice are applied in order to reduce the number to the eight best candidates.
  - If the number of eligible candidates meeting the selection criteria is less than the minimum of four, the contracting authority may invite only those candidates who satisfy the selection criteria to submit a tender.
- INDIRECT MANAGEMENT WITH EX-ANTE CONTROLS: Prior authorisation by the European Commission is required.
- The shortlisting process and the final shortlist itself must be fully documented in a shortlist report (see template in Annex B5).
  - contracting authority must check that no candidate (including partners) is in an exclusion situation in the Early Detection and Exclusion System.
  - Selected candidates will receive a letter of invitation to tender and the tender dossier.



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## 4. Drafting and content of the tender dossier

- A. Instructions to tenderers
- B. Draft Contract Agreement and Special Conditions with annexes:
  - ANNEX I: GENERAL CONDITIONS FOR SERVICE CONTRACTS
  - ANNEX II: TERMS OF REFERENCE
  - ANNEX III: ORGANISATION & METHODOLOGY
  - ANNEX IV: KEY EXPERTS
  - ANNEX V: BUDGET
- C. Other information (shortlist notice, administrative compliance grid, evaluation grid)
- D. Tender submission form



# Preparation and Verification of Terms of Reference

- **The thorough preparation of the Terms of Reference is extremely important for the ultimate success of the project!!!**
- Gives guidance to the tenderers about contractor's tasks in the implementation phase
- Will become part of the contract (what, when, how, where and by whom should be done)
- The final version of the ToR approved by EC

# Purpose of ToR

ToR should provide a clear description of:

- the rationale for undertaking an assignment or study
  - the expected methodology and work-plan (activities), including timing and duration
  - the anticipated resource requirements, particularly in terms of personnel
  - reporting requirements.
- A key contractual document against which the performance of contractors and/or other stakeholders can be judged.

# Structure of the ToR

(Annex B9)

1. Background information
2. Project objectives, purpose & expected results
3. Assumptions & risks
4. Scope of the work
5. Logistics and timing
6. Required inputs
7. Required outputs/reporting
8. Monitoring and evaluation



# 1. Background information

- Provides overview of the history behind the assignment and its rationale
- Relates the assignment to the wider policy or programming context
- Could vary in length from a few paragraphs to some pages
- Includes:
  - Partner country
  - Contracting Authority
  - Relevant country background
  - Current situation in the sector
  - Related programmes and other donor activities

## 2. Project objectives

- clearly and concisely states what the assignment is expected to achieve, and who the target audience is
- Includes:
  - Overall objectives
  - Purpose
  - Expected results

### 3. Assumptions & risks

- Description of all foreseeable assumptions which is important for the implementation and risks which can threaten the implementation
- Includes:
  - Assumptions underlying the project intervention
  - Risks

## 4. Scope of the work

- Should describe how the study/mission will be carried out, including the main methods to be used, description of activities, stakeholders (incl. target groups), ways of project management
- Includes:
  - General
  - Specific work
  - Project management

## 5. Logistics and timing

- Provides the exact location(s) for implementation and the anticipated time-schedule
- Includes:
  - Location
  - Start date & period of implementation



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## 6. Required inputs



- Specifies the requirements of the individual and/or team
- Important to determine the requirements for experts very exactly (incl. the expected number of working days)!
- General identifications of experts: key and non-key, international and local, long-term and short-term, senior and junior experts, team leader and others
- Includes:
  - Staff
  - Office accommodation
  - Facilities to be provided by the Contractor
  - Equipment
  - Incidental expenditure
  - Lump sums
  - Expenditure verification





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## 7. Required outputs/reporting



- Specifies the reporting requirements:
  - the contents and anticipated length of the reports (e.g. inception report, progress reports, final report)
  - the language, the format or font, the computer software programmes to be used
  - the submission date(s) for drafts and final copies
  - to whom the report should be submitted
  - the number of copies to be produced, whether in hard copy/and or electronic copy
- Includes:
  - Reporting requirements
  - Submission & approval of reports





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## 8. Monitoring and evaluation



- Specifies all relevant conditions, requirements are needed for the M&E (e.g. performance measures)
- Includes:
  - Definition of indicators
  - Special requirements



# Legal Meaning of ToR

- Legally binding part of Invitation to Tender
- Legally binding part of Contract
- Should be prepared and read in connection with other parts of contract

# Budget Planning for ToR

- An indicative calculation showing the basis for the amount of the provision to be included in the eventual service tender dossier must be submitted to the ECD for approval with the ToR
- Fee-based Service contract:
  - Fees (actual fees, per diems, travel, overheads)
  - Incidental Expenditure, Lump sums, expenditure verification
- Global Price Service contract
  - Lump Sum



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# Award criteria



- To **identify the best quality-price ratio**, cover both the technical quality and price of the tender.
- Technical criteria:
  - **methodology**, and
  - for fee-based contracts, the **curriculum vitae** (CV) of the key experts proposed.
- Each criterion is **allotted a number of points out of 100** distributed between the different sub-criteria.
- The tender dossier must contain full details of the technical **evaluation grid**, with its criteria and sub-criteria and their weightings.
- There must be **no overlap** between the selection criteria used to draw up the shortlist and the award criteria used to determine the best tender.



# Tendering period

- Min. 50 days for international restricted tenders (min. 30 days for competitive negotiated procedure)
- Additional information: may request up to 21 days, shall reply at least 11 days before the deadline
- Site visit or clarification meeting is possible
- Period of validity: 90+40 days, successful tender +60 days
- Submission of tenders: double envelope system, e.g. separate technical & financial envelope

# Evaluation Committee (1)

- Comprising a non-voting **Chairman**, a non-voting **Secretary** and an odd number of **voting members** (minimum of three), optionally **observer(s)**
- Appointed on a personal basis by the CA
- Members must have a **reasonable command of English** and **technical and administrative capacities**
- Members should **attend all meetings**, contracting authority will appoint a replacement evaluator for each procedure to prevent delays in case of unavailability.
- All members and any observers must sign a **Declaration of Impartiality and Confidentiality** (see Annex A4)
- Member has potential conflict of interest shall immediately withdraw, evaluation process must be restarted

## Evaluation Committee (2)

- The proceedings of the Evaluation Committee are **conducted in camera and are confidential**
- Any attempt by a tenderer to influence the process in any way (whether by initiating contact with members of the Evaluation Committee or otherwise) will result in the immediate exclusion of its tender from further consideration!!!
- Only members and authorized observers can attend
- The tenders should not leave the room/building, they should be kept in a safe place when not in use
- No information may be given to tenderers before the signature of the contract

## Evaluation Committee (3)

### Responsibilities:

- Chairman responsible for coordinating the evaluation process and for ensuring its impartiality and transparency
- Voting members collectively responsible for decisions taken by the Committee
- Secretary responsible for carrying out all administrative tasks connected with the evaluation procedure

# Stages in Evaluation Process (1)

- Receipt and registration of tenders
- Tender Opening session
  - **Preparatory meeting**
    - TD circulated
    - purpose of the tender procedure
    - award criteria and weightings specified in the tender dossier
    - procedures to be followed
    - technical evaluation grid
  - **Tender Opening:** See tender opening checklist in Annex B9



## Stages in Evaluation Process (2)

- **Compliance with formal submission requirements** (see Annex B10)
  - Examine and state the condition, announcing the name of the tenderer
  - Sign Declarations of Impartiality and Confidentiality (see Annex A4)
  - Open technical offer and mark the tender envelope number, front page initialed
  - Initial the inner envelope containing the financial offer across the seal, mark the tender envelope number, remain sealed
  - Prepare summary of tenders received

# Stages in Evaluation Process (3)

## — Administrative compliance checking

- Copies of the technical offers are distributed to the members
- Each technical offer is examined for compliance with TD, administrative compliance grid (see Annex B8):
  - Tender submission form duly completed?
  - Tenderer's declaration (signed by each consortium member)?
  - The language required?
  - Organisation & methodology exists?
  - Key experts (list + CV)?
  - Key experts are present in only one tender as key experts?
  - All key experts have signed statements of exclusivity & availability?
  - Sub-contracting statement acceptable?
  - Nationality of sub-contractors eligible?
- Clarification can be requested
- Preparing Tender Opening Report



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# Stages in Evaluation Process (4)



- Evaluation of technical offers
  - Score out of a maximum 100 points in accordance with the technical evaluation grid.
  - Only offers which achieve a score of 75 or more are declared "technically accepted".
  - Each voting member of the Committee completes an evaluation grid.
  - In the case of major discrepancies, a full justification has to be provided.
  - Key members of the team of experts can be invited to interviews.
  - Technical score = (final score of the technical offer in question/final score of the best technical offer) x 100



# Evaluation grid

- **Rationale (maximum 10 points):** Any comments on the Terms of reference of importance for the successful execution of activities, in particular its objectives and expected results, thus demonstrating the degree of understanding of the contract. An opinion on the key issues related to the achievement of the contract objectives and expected results.

# Evaluation grid

- **Strategy (maximum 15 points):** An outline of the approach proposed for contract implementation.
- **Timetable of activities (maximum 5 points):** The timing, sequence and duration of the proposed activities, taking into account mobilisation time.

# Evaluation grid

- **Communications Plan (maximum 5 points):**  
An outline of the communications plan, proposed taking into account the nature of the TORs. The outline is to explain how the proposed communication plan will contribute to raising the visibility and publicity of the project results within the wider framework of partner country relations.



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# Evaluation grid



- **Log frame (maximum 5 points):** A Logical framework reflecting the considerations described above.



# Evaluation grid

- **Key Expert 1 - Team Leader (maximum 25 points):**
  - **Qualifications and Skills (maximum 5 points)**
  - **General Professional Experience (maximum 5 points)**
  - **Specific Professional Experience (maximum 15 points)**



# Evaluation grid

- **Key Expert 2 (maximum 20 points) :**
  - **Qualifications and Skills (maximum 3 points)**
  - **General Professional Experience (maximum 5 points)**
  - **Specific Professional Experience (maximum 12 points)**

# Evaluation grid

- **Key Expert 3 (maximum 15 points) :**
  - **Qualifications and Skills (maximum 2 points)**
  - **General Professional Experience (maximum 4 points)**
  - **Specific Professional Experience (maximum 9 points)**



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# Evaluation grid



	Maximum point	Initial assessment	Proposed strategy of evaluation	Initial Point	Revised assessment	Revised Point
Rationale	10 points					
Strategy	15 points					
Timetable of activities	5 points					
<i>Communications Plan</i>	<i>5 points</i>					
<i>Log frame</i>	<i>5 points</i>					
<b>Organization &amp; methodology</b>	<b>Total 40 points</b>					
Key Expert 1	25 points					
Key Expert 2	20 points					
Key Expert 3	15 points					
<b>Key experts</b>	<b>Total 60 points</b>					





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# Evaluation of technical offers



	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	$84.67/85.33 \times 100=99.22$	100.00





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## Stages in Evaluation Process (5)



- Evaluation of financial offers
  - Opening those envelopes which are technical compliant
  - Checking that the financial offers satisfy all formal requirements and contain no arithmetical errors
  - Total contract values are compared with the maximum budget available for the contract: tenders exceeding the maximum budget allocated for the contract are eliminated
  - Financial comparison of the fees and lump sums: tender with the lowest total receives 100 points
  - Financial score = (lowest total fees + lump sums / total fees + lump sums of the tender being considered) x 100





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# Evaluation of financial offers

	Maximum possible score	Tenderer 1	Tenderer 2	Tenderer 3
Total fees + lump sums		Eliminated following technical evaluation	EUR 951 322	EUR 1 060 452
Financial score (lowest total fees + lump sums/actual total fees + lump sums x 100)			100	$\frac{951\,322}{1\,060\,452} \times 100 = 89.71$





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## Stages in Evaluation Process (6)



- The evaluation committee's conclusions
  - The best value for money is established by weighing technical quality against price on an 80/20 basis:  
Overall score: Technical score x 0.80 + Financial score x 0.20
- Preparing evaluation report consisting tender opening report





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# The evaluation committee's conclusions



	Maximum possible score	Tenderer 1	Tenderer 2	Tenderer 3
Technical score x 0.80		Eliminated following technical evaluation	$99.22 \times 0.80 = 79.38$	$100.00 \times 0.80 = 80.00$
Financial score x 0.20			$100.00 \times 0.20 = 20.00$	$89.71 \times 0.20 = 17.94$
Overall score			$79.38 + 20.00 = 99.38$	$80.00 + 17.94 = 97.94$
Final ranking			1	2





# Evaluation Committee 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,
  - which meets the minimum technical requirements,
  - which is the best value for money.
- Cancel the tender procedure in exceptional circumstances:
  - None of the tenders satisfies the selection/award criteria.
  - No tenders achieved the minimum technical threshold.
  - The total price of all tenders received exceed the budget.

# Notifying the award decision

- The notification letter (Annex B13a) to the **successful tenderer** implies that the validity of the successful tender is automatically extended for a period of 60 days.
- At the same time the **second best tenderer** is informed about the result (Annex B13b). The contracting authority reserves the right to send a notification of award to the second best tenderer in case of inability to sign the contract with the first ranked tenderer.
- The contracting authority will furthermore, at the same time, also inform the **remaining tenderers** (Annex B13c). The consequence of these letters will be that the validity of their offers must not be retained.



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# Availability of key experts and proposed replacements



- In the notification of award the contracting authority requests the successful tenderer to confirm the **availability/unavailability of the key experts within 5 days** of the date of the notification letter.
- Should any of the key experts be unavailable the successful tenderer will be allowed to propose a replacement expert.
- The contracting authority will **verify that the replacement expert's total score in relation to the evaluation criteria is at minimum the same** as the scores given in the evaluation to the expert he/she is proposed to replace.
- The **maximum time limit** for proposing a replacement should be within **15 days** of the date of the notification letter.
- If none of the replacements are accepted, the **contract may either be awarded to the second best tenderer** or the procedure **may be cancelled**.



# Contract preparation and signature

- Contracting authority must prepare a **contract dossier**:
  - a) Explanatory note using the format in Annex A6 (if applicable including the justification for acceptance of replacement key experts)
  - b) Copy of the financing agreement authorizing the project
  - c) Copy of the call announcements (prior information notice, contract notice and shortlist), Shortlist Report, Tender Opening Report, Evaluation Report with award decision, and any other relevant information
  - d) Three originals in indirect management; two originals in direct management, of the proposed contract, which is based on the standard contract template

# Publicizing the award of the contract

- Regardless of the type of procedure, the Contracting Authority **informs candidates and tenderers** of decisions reached concerning the award of the contract as soon as possible, including the grounds for any decision not to award a contract.
- Once the contract has been signed the Contracting Authority is responsible for drafting the **award notice** without delay using the template in Annex B14 and for submitting it for publication on the EuropeAid website and in the Official Journal to the European Commission.



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