

***Procurement under EU aid***

Omsar – Procurement Team

May 2007

Service Tenders and Contracts  
(Decentralized ex-ante)

### ***Type of Tendering Procedure***

- International Restricted Procedure  $\geq 200k$
- Framework Procedure  $< 200k$
- Competitive Negotiated Procedure  $< 200k$
- Single Tender  $\leq 10k$
- Negotiation after Derogation  $> 10k$
- Competitive Dialogue

### ***Framework Procedure***

- What to do when you have a services activity  $< 200K$ ?
- Consult with the EU database of topics (lots) covered by such FA.
- If the topic is covered, prepare a TOR and a budget.
- send the same for the EC officially to launch the process.
- Experts may be mobilized in around 45 days.
- May be used for an action of  $< 730$  calendar days and  $< 260$  working days

## ***Service Tenders***

- **Instructions to Tenderers**
- **Draft Contract Agreement & Special Conditions with annexes**
- **Other information:**
  - Shortlist notice
  - Administrative compliance grid
  - Evaluation grid
- **Tender submission form**

## ***Service Contracts***

- **Contract agreement & Special Conditions**
  - Annex I: General Conditions for service contracts financed by the European Community
  - Annex II: Terms of reference
  - Annex III: Organisation and methodology
  - Annex IV: Key experts
  - Annex V: Budget
  - Annex VI: Forms and other relevant documents

### ***Pre-Tender*** (partial contribution of Proc)

- Identification of Project in Work plan
- Assignment of Technical Person to handle preparation of Brief (& later TOR)
- Review of TOR by Procurement staff and his/her approval on the final version
- Approval of TOR Beneficiary
- Approval of TOR by EU

### ***The Tendering Phase***

- International Restricted Tender  $\geq 200k$
  - Publication
  - Reception of Applications
  - Shortlisting
  - Tendering
  - Evaluation
  - Award
  - Finalization & signature
  - Publication of Award Notice
- 
- The diagram illustrates the tendering phase with a list of steps on the left and a vertical column of milestones on the right. Arrows point from each milestone to its corresponding step:
- No Objection FN & PN → Publication
  - Observers → Reception of Applications
  - No Objection S.L.Rep → Shortlisting
  - No Objection T.D. → Tendering
  - No Objection Eval Rep → Evaluation
  - Contract Endorsement → Award
  - No Objection notice → Publication of Award Notice

## *IRT - Minimum Timescales*

SCFN	SCPN	Receipt of Applications & Short-listing	Invitation to Tender	Receipt of Tenders & Evaluation	Contract Award	Contract Award Notice
90 days = 30SCFN + 30SCPN + ~30 short-listing & approvals		80 days = 50 ITT + ~ 30 evaluation & approvals		40 days = ~25 docs + ~15 signatures		
[ ]		[ ]		[ ]		
<u>Accelerate:</u>		<ul style="list-style-type: none"> <li>• speed up short-listing</li> <li>• speed up approval process</li> </ul>	<ul style="list-style-type: none"> <li>• shorten submission period after prior EC approval</li> <li>• speed up evaluation</li> <li>• speed up approval process</li> </ul>	<ul style="list-style-type: none"> <li>• receive docs in &lt; 15 days</li> <li>• analyse docs in &lt; 10 days</li> <li>• speed up the signature process</li> </ul>		
• Minimum Total Period to C.A.N.: 210 days • Possible Accelerated Period to C.A.N.: 170 days						

## *Publication* (Proc in charge)

- Forecast Notice (before TOR is final)
  - Requires EU approval (published by both EU and OMSAR)
  - Min. 30 days before Procurement Notice
  - No response is required
- Procurement Notice (after TOR is approved)
  - Requires EU approval (published by both EU and OMSAR)
  - Solicits expressions of interest (applications)
  - Contains selection criteria

### ***SFN Publication Process***

- Proc in Charge prepares the draft Forecast Notice collecting basic info from the technical counterpart
- Notice is shared electronically with Coordinator and EC for approval
- Final version is sent electronically to EC
- EC HQ translates the notice into EU languages and publishes (~ 15d)
- Proc in charge publishes simultaneously in Website

### ***SPN Publication Process***

- Proc in Charge prepares the draft Procurement Notice collecting basic info from the technical counterpart
- Notice is shared electronically with coordinator and EC for approval
- Final version is sent electronically to EC and subsequently officially through MSAR.
- EC HQ translates and publishes (~ 15d)
- Proc in charge publishes simultaneously in Website and an abridged version in local press

### ***A note about committees***

- Non-Voting chairperson and secretary
- Odd numbers of voting members
- Role of chairperson and secretary
- Role of voting members
- Voting members score individually.
- Importance of role of committees
- Declaration of impartiality and confidentiality to be signed
- If any of the committee members change, the EC approval must be taken.

### ***A note about committees***

- Opening and evaluation are done in camera: the meeting is opened and adjourns only upon completion when the report is signed.
- If the chairperson has evidence that things are not going on properly, he can stop the procedure before opening the financial offers (services). He, then, refers to the Contracting Authority and may propose to change the committee.

### ***A note about committees***

- The Evaluation Committee does not take any decision; it proposes to the C.A. who decides and sends to the EC for approval.
- Chairperson and secretary CAN give a neutral opinion on technical offers but cannot score.

### ***By signing, you declare that ...***

- You are familiar with the information available to date concerning this tender
- You are familiar with the PRAG
- You will execute your responsibilities honestly and fairly
- You will hold in trust and confidence any information or documents



***By signing, you declare that ...***

- You are independent of all applicants, tenderers, subcontractors, or partners:
  - no past or present relationship, direct or indirect, whether financial, professional or of another kind
  - there are no facts or circumstances, past or present, or that could arise in the foreseeable future, which might call into question my independence in the eyes of any party

***Shortlisting*** *(Proc in charge)*

- Formation of Shortlisting Panel
- EU approval on committee (within max of 5 days) and nomination of observers
- Reception of Applications
- Establishing long list
- Assessment and establishment of Shortlist
- Preparation & Signature of Shortlisting Report
- CA approval on Report
- Obtaining EU approval on Report

## ***Shortlisting Process***

- Proc in charge prepares letter to Beneficiary (and possibly CDR or other relevant entities) to nominate representative(s) in committee
- Where there are multiple beneficiaries, the Proc in charge may nominate an internal committee only.
- Proc in charge prepares draft decision forming committee after due consultations.
- Applications are received by Proc dept.
- Committee meets and chairman & secretary receive applications with register
- All members sign declaration
- Applications opened as per rules

## ***Shortlisting Process***

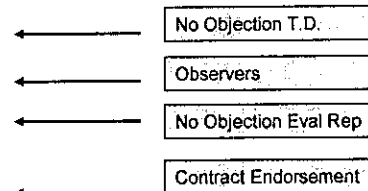
- Assessment is done in camera and report is prepared by rapporteur
- All members sign the report
- Report is passed finally to head of C.A. along with a letter of transmittal to EC for approval
- Ineligible candidates must be eliminated.
- Selection criteria must be strictly adhered to (Yes/No).
- Absence of Conflict of Interest is checked
- If shortlist is < 4, invite those who meet the criteria to submit tenders [3.3.2]
- If shortlist is > 8, reduce to 8 based on published criteria and relative strengths and invite to submit tenders
- Before finalizing shortlist report, committee to verify no detection of candidate & partners in the early warning system (done by EU in case of decentralized mgt).
- Public notifications

## ***Competitive Negotiated Procedure***

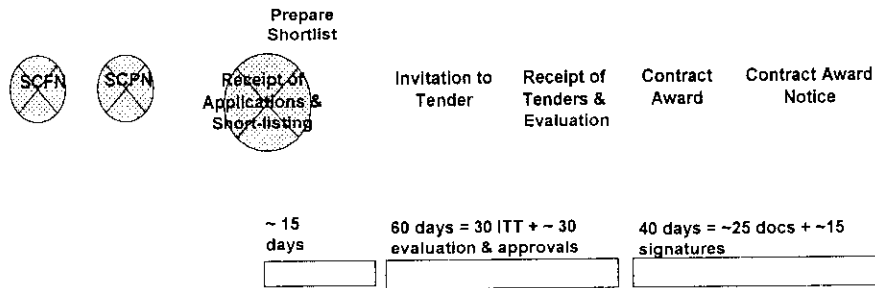
- Before proceeding into the details of the tendering process, let us review slightly the variations of the CNP from the IRT.

## ***The Tendering Phase***

- Competitive Negotiated Procedure
- Prepare shortlist
- Tendering
- Evaluation
- Award
- Finalization & signature
- Publication of Award Notice



## *CNP - Minimum Timescales*



**Accelerate:**

- speed up evaluation
- speed up approval process
- receive docs in < 15 days
- analyse docs in < 10 days
- speed up the signature process

Minimum Total Period to C.A.N. 115 days  
 Possible Accelerated Period to C.A.N. 90 days

### *The Competitive Negotiated Procedure*

- Comes as the second option after Framework (i.e. must use Framework first)
- CA draws up a shortlist of its choice  $\geq 3$
- TD is sent to the shortlist and given  $\geq 30$  days to submit
- Even if one tender is received and is admin and technically valid, award may be made.
- After one cancellation of a CNP (following the use of a Framework Procedure), CA may use negotiated procedure after EU approval
- The procedure for all other activities is the same as IRT.

For a Competitive Negotiated Procedure to succeed, one admin and tech valid tender must be received.  
 [3.4.2]

### ***Tendering Process***

- Preparation of Terms of Reference
- Preparation of Tender dossier with feedback from counterparts regarding Evaluation criteria, Budget, etc...
- Decide on key matters (contract type, revision of prices, evaluation criteria, etc...)
- Share key sections of TD with EC for unofficial approval
- Initial all pages (except TOR which is signed by its author)
- Send TD to EU officially for Approval
- Invitation to shortlisted firms: Get the letters of invitation signed by C.A. and distribute approved TD (or ask shortlisted firms to collect it keeping a register for receipt)
- Answer any clarifications raised within deadline
- Tenders are received by Proc dept.
- Committee meets and chairman & secretary receive tenders with register

### ***Tendering Process***

- Assessment is done in camera and report is prepared by rapporteur
- All members sign the report
- In Evaluation, after opening the financial offers, the Technical scores already given **MUST NOT** be revised; they are final as of the minute the financial offers are opened
- Report is passed finally to C.A. along with a letter of transmittal to EC for approval (including copies of received tenders if there is an award proposal)

## ***Tendering Process***

- “The Evaluation Report, in particular, is for official use only and may be divulged neither to tenderers nor to any party outside the authorised services of the Contracting Authority, the European Commission and the supervisory authorities (e.g., the Court of Auditors).”

## ***General Tendering Rules 1***

- The evaluation report must not be sent to protesting tenderers / applicants.
- The reason behind publishing the shortlist is to inform tenderers of their competitors so that they do not cooperate if subcontracting is allowed (i.e. after award, they cannot subcontract to another shortlisted firm)
- The Evaluation Criteria are based on the TOR requirements
- The TOR for both fee-based and Global price contracts is the same; for global price, you may want to concentrate on reports and methodology.
- Tasks of the TOR need to be as specific as possible in terms of quantity and general requirements to enable the tenderers to properly understand and price.
- If winner disagrees with the arithmetic error corrections, the financial evaluation is restarted.
- If winner fails to provide documentary evidence as per article 2.3.3 of the PRAG, we go to the second.
- Before cancelling the procedure, need to get prior approval of the EC

## ***General Tendering Rules 2***

Supporting documents for selection criteria are asked only from the successful tenderer before contract signature for services. SUP DOCS for 2.3.3 are asked at tender stage.

For contracts  $\leq 200,000\text{€}$  these documents may not be asked but then any prefinancing must be accompanied by a bank guarantee [2.3.3]

Conflict of Interest may be proven void by a firm/expert through proving that previous involvement does not constitute unfair competition [2.3.7]

Evaluation strictness has been relaxed allowing the committee greater discretion at accepting/rejecting tenders (# of copies, signature, presentation, etc...) [2.8.3]

## ***General Tendering Rules 3***

For Decentralized ex-ante and when payment is not being done by the EU, the Delegation may decide that there is no need for approving the T.D. unless the Financing agreement specifies otherwise. [3.3.3]

All variant tenders must be scored separately based on posted criteria. [3.3.10.3]

### ***The Contract Signature Process***

- After EU approval on Eval Rep, Send letter of Award
- Preparing Contract Dossier with Expl. Note
- Assessing documentary proof submitted by successful tenderer
- Contract signature by C.A. → endorsement by EU → signature by firm
- Returning original contract to EU and to Firm with the third original with CM.

### ***The Contract Management Process***

- Relationship structure (firm, EU, Benef, CM, PM, Coordinator, etc...)
- Administrative Order (if needed)
- Implementation Meeting (kick-off)
  - Chaired by CM
  - Introduction of counterparts to each other
  - Agreement on Reporting formats
- Payment Processing
- Acceptance process



## ***Key Contract Management Issues***

After signature, ensure that the contractor gets the contract registered at the MoF within 5 working days from signature.

Remember to issue the Administrative Order to commence if commencement is linked to this order.

Make sure that the execution period falls within the allowable limits set forth in the financing agreement.

Handle with care administrative orders and variations and make sure that no one tool is used instead of another.

Keep well documented and organized records for all notices, telephone calls, emails, letters, etc... exchanged with donors, beneficiaries and contractors

Delays in execution may be penalized.

## ***Key Contract Management Issues***

Pre-financing payment guarantees are released in one go when [3.3.3]

- the related pre-financing has been cleared & latest by the time 80% of the contract value has been paid (fee-based)
- the final payment has been made (global-price)

Extending activities already under way must be treated as a new Negotiated Procedure [2.10.1]

To add complementary services, sign a new contract [2.10.1]

To add similar services, sign an addendum [2.10.1]

In signing an addendum, sign all originals of addendum and initial only the pages of the SCC [2.10.2]

## ***Key Contract Management Issues***

- Advance payment for fee-based contracts :
  - 40% of contract value if: duration <= 12 months
  - 30% if: 12 months < duration < 24 months
  - 20% if: duration >= 24 months
- Interim payments redesigned requiring expenditure verification and allowing further pre-financing
- Minimum final payment = 10%

Global-price contracts: 60% → 40%

Introduction of Expenditure verification budget line (GCC 28) and a sample TOR and Output Report

Introduction of a GCC clause (6.4) for consultants to respect international Labor standards, etc...

GCC clause 9.5 amended allowing CA to approve recruiting civil servants

## ***Competitive Dialogue***

*'A procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.'*

No Threshold Applies: may be used for any value

For Particularly Complex contracts

## ***Competitive Dialogue***

- Step 1: Decide if it is difficult to specify the technical means to meet the needs or the project is too complex? If yes,
- Step 2: Publish a contract Notice inviting interested candidates
- Step 3: Open a dialogue with those that meet the selection criteria individually in order to finalize those solutions that meet the needs
- Step 4: Invite those that provide an acceptable solution to submit tenders (min. of 3 to be invited)
- Step 5: award the tenderer offering the best value for money.

To be used with precaution

Equal treatment & confidentiality must be maintained

No specific templates – customize existing

**End of Services  
section**

## ***Coming next***

Case Studies



### ***Case 5***

- In a global price (lump-sum) service contract, the Contracting Authority (Purchaser) deems that the study is not up to the requirements but fails to locate any acceptance criteria in the contract based on which to reject the study.
  - Question 1: Would you accept the study because it answers every issue you requested in the TOR (though not to your satisfaction)?
  - Question 2: If not, what would you do?

### ***Case 6***

- If the previous contract was a fee-based training contract, and the training delivered was not to your satisfaction. In absence of any instructions to enhance the training service while it was being delivered,
  - Question 1: Would you accept the training because it answers every issue you requested in the TOR (though not to your satisfaction)?
  - Question 2: If not, what would you do?

### *Case 7*

- In a technical assistance tender, you (chairperson) find that one of the proposals has included in its proposal a study tour program destined to some civil servants and including 2 completely free-of-charge trips for three officials to Europe to visit similar entities. The TOR does not ask for such study tours.
  - Question 1: Would you accept to continue evaluating this proposal?

### *Case 8*

- Assuming you did, you find later that one of the civil servants, who may benefit from such a tour, is scoring this proposal generously compared to other evaluators.
  - Question 1: What would you do if you were
    - the chairman (not voting)
    - a voting member in the committee

### ***Case 9***

- In spite of discussions, the said civil servant refuses to reduce his scores to match those of his other colleagues, and, while other members have ranked it second, his scores push the proposal in question to be ranked no. 1 technically.
  - Question 1: would you accept this discrepancy as a chairperson?
  - Question 2: If you did and this consultant is awarded, would you allow the study tours?

### ***Case 10***

- During contract execution, the consultant has provided some of the staff (CDR, OMSAR, etc...) with portable PC's for project use although the same is not provisioned in the TOR. After the project is complete, the consultant leaves the PC's with the beneficiary staff who worked on the project.
  - Question 1: Is this acceptable? What would you do?

*Coming next*

Supply Tenders & Contracts  
(decentralized ex-ante)

*Procurement under EU aid*

Omsar – Procurement Team

May 2007

General Procurement Notions



### *Question*

- If you wanted to make a trip from Beirut to Tripoli, aside from trying to stay alive, what would be your actual goal:
  - Respecting the driving rules, or
  - Getting there!

### *Goals versus Constraints*

- Difference between goals and constraints
- Public Procurement (PP) goals
- Means to achieve such goals
- PP Constraints
- Ethics prerogatives versus economic prerogatives

### ***PP Constraints***

- Transparency / access to information
- Fairness / equal treatment
- Ethics & Integrity
- Proportionality
- Awareness
- Proficiency of staff
- Confidentiality
- ...
- ...
- National Welfare

### ***PP Goals***

- Economy & Value for Money
- Protecting Public Expenditure
- Efficient & Effective use of public funds
- Protection of the best interest technically and financially of the procuring entity ...  
... National Welfare.

## ***Gov. vs. donor funded procurement***

- Diversions (e.g. EU)
  - In goals: “EU policies are related to political interests.”
    - ensuring that the EC has a voice in the world;
    - geopolitics, trade, security and global environmental problems;
    - basic European principles: promotion of human rights; equality between men and women; environmental sustainability; ensuring good governance and the rule of law, and conflict prevention.

## ***Gov. vs. donor funded procurement***

- Diversions
  - In Constraints: Several factors, however, act as a counterbalance to these influences and help ensure that aid
    - is distributed in a fair and constructive way,
    - serves the best interests of the recipient countries, and
    - ultimately contributes to the achievement of globally defined goals

## *Goal of EC procurement rules*

- help ensure
  - that suitably qualified contractors are selected without bias and
  - that the best value for money is obtained, in full transparency appropriate for public funds.

## *Coming Next*

Contract Procedures for EC External Actions  
*BUDGET*  
Introduction

## ***European External Action Aid***

- Sources for EU development aid funds are two main budgets:
  - from the European Union budget (BUDGET)
  - from the European Development Fund (EDF).
- EuropeAid is a department of the EC responsible for implementing all external assistance.
- It implements such external assistance except humanitarian aid programmes that are handled by the EC's humanitarian aid office (ECHO).
- Aid from the EU's budget is classified into themed budget lines; such aid requires the approval of the EU Parliament.
- The EDF is a separate fund from the EU budget; it receives funding from member states and is managed also by the EC.

## ***Control & Management Patterns***

- Decentralization vs Centralization: defined in the financing agreement
  - Decentralized: Beneficiary Country is in charge
    - ex ante: pre-approval in key stages with little risk held by Beneficiary Country
    - ex post: post checkup with risk of repayment in case of default.
    - the Beneficiary is fully responsible for its actions and will be accountable for these in any audit or investigation.
  - Centralization: EC Commission is in Charge
  - Indirect Centralization

## *New Control & Mgt Patterns*

- Joint Management
  - certain implementation tasks delegated to international organizations.
- Shared Management
  - implementation tasks delegated to Member States...
  - applies, in principle, for joint operational programmes for cross-border cooperation implemented by a joint managing authority under the regulation establishing a European Neighborhood and Partnership Instrument.

## *Devolution*

- Decided in 2002 as a key part of a reform initiative
- EC Delegations are thereby given responsibility for key operational tasks:
  - Project/programme identification, preparation, and implementation
  - contracting and disbursement of funds, and
  - project monitoring and evaluation/appraisal.
- EuropeAid supervises the above, giving technical, financial and contractual support to the delegation staff.

## ***Guiding Procurement Rules***

- Continuously updated (latest May 2007).
- Reference: “Practical Guide”  
<http://europa.eu.int>
- Guide does not apply to humanitarian aid or emergency operations carried out by ECHO.
- EC may allow some beneficiaries of EC funds to apply their own procurement rules.

## ***Untying of EC External Aid***

- The EC have amended their eligibility rules for all procurement processes launched starting 28 December 2005. Main provisions include the following:
  - Eligibility for participation in EC tenders:
    - Members of EU states and countries listed in financing agreements
    - International organizations
    - Members of European Economic Area (Iceland, Norway, Liechtenstein)
    - Members of countries candidate to enter the EU (Turkey, Bulgaria, Croatia, Romania, Macedonia)
    - Members of developing countries (as defined by the OECD list) only for specific predefined thematic & geographic instruments
    - Members of other countries subject to the ‘reciprocal access’ rule
  - Experts used by eligible tenderers may be of ANY nationality
  - For projects implemented by an international organization, the latter’s eligibility rules apply
  - For projects co-financed by a third country, the latter’s eligibility rules apply
  - Rule of origin applies similarly to eligibility

### *Eligibility & Origin: changes?*

- A project awarded to UNDP, for ex., can use computers from the US or Malaysia.
- A technical assistance awarded to an eligible consultant may use experts from China, Brazil, South Africa, etc...
- Turkey, Bulgaria, Romania, Croatia, Iceland, Norway & Liechtenstein are all eligible countries (tenderers and origin)
- Projects co-financed with the Japanese government assume eligibility and origin rules of Japan (reciprocal access)

### *Exclusion*

- EC has set basic exclusion filters that must be applied to any economic party benefiting from EC fund → article 2.3.3 of the PRAG
- C.A. may refrain from requesting the declaration that a candidate/tenderer is not in any of the situations mentioned in article 2.3.3 of the PRAG for purchases  $\leq 10,000$
- Tenderers, partners and subcontractors shall all not fall in any of the situations mentioned in article 2.3.3



### ***Exclusion***

- If a successful tender has already submitted for another procedure doc evidence that are still valid and dated < 1 year ago, the CA may suffice with a deceleration that the same are still valid.
- before taking the award or grant decision, the C.A. shall ensure that the contractor & its partners are not listed in the Early Warning System

### ***Topics Covered***

- Services: studies, design, engineering, supervision, training, technical assistance, software development, etc...
- Supplies: equipment, hardware, off-the-shelf software, vehicles, books, publications, etc...
- Works: buildings, factories, roads, infrastructure, etc...
- Grants: to third parties

## ***Changes to Procurement Rules***

NEW RULES APPLY to ALL PROCEDURES  
LAUNCHED STARTING 1<sup>st</sup> MAY 2007

Procedures launched before 1<sup>st</sup> MAY 2007 remain  
governed by the PREVIOUS RULES

## ***Key issues before “procuring”***

- Locate the reference financing agreement and framework;
- Ensure whether such aid is channeled through BUDGET or EDF funds;
- Identify the project nature and budget
- Check under what mode of control does the project fall (centralized, ex-ante, ex-post, etc...)

### ***Key issues before “procuring”***

- Identify any special procurement issues noted in the special conditions of the financing agreement or the technical & administrative annexes.
- The above should normally be established early on in a procurement annual / global work plan
  - List of activities spread on a time and budget scale
  - Involving durations, sub-activities, team members, relationships, budgets and sub-budgets, milestones, procurement methods, risks, assumptions, etc...

### ***Basic Awarding Principles***

- Transparency
- Proportionality
- Equal Treatment
- Non-Discrimination
- Competitive tendering to ensure transparency and obtaining the desired quality at the best possible price.

### ***Selection Process***

- The procedure used to select economic parties that will compete in the process
- Criteria include eligibility and capability (financial, economic, technical, professional, etc...)
- Modalities include single sourcing, direct short-listing, public short-listing, advertisement, etc...

### ***Importance of Selection***

- Selection Criteria are key to the success of the tendering process because they dictate who are the parties that are likely to compete.
- Relaxing the criteria too much opens the door for many competitors while tightening the criteria restricts competition to a few.
- However, allowing too many to compete may scare away qualified parties in fear of price competition from less qualified ones.

## Award Process

- Competition among selected economic parties leads to award based on either:
  - Price alone - automatic procurement procedure
  - Price and Quality - most economically advantageous tender
- The EU has no provision for award based on technical criteria (quality) alone (compared for example to the QBS of the WB)

## Thresholds

SERVICES	$\geq \text{€}200,000$ International restricted tender procedure	$< \text{€}200,000$ but $> \text{€}10,000$ (BUDGET) $\text{€}5,000$ (EDF) 1. Framework contracts 2. Competitive negotiated procedure (BUDGET) Simplified procedure (EDF)	$\leq \text{€}10,000$ Single tender (BUDGET) $\leq \text{€}5,000$ Single tender (EDF)	
SUPPLIES	$\geq \text{€}150,000$ (BUDGET) $> \text{€}150,000$ (EDF) International open tender procedure	$< \text{€}150,000$ but $\geq \text{€}60,000$ (BUDGET) $\leq \text{€}150,000$ but $\geq \text{€}30,000$ (EDF) Local open tender procedure	$< \text{€}60,000$ but $> \text{€}10,000$ Competitive negotiated procedure (BUDGET) $< \text{€}30,000$ but $> \text{€}5,000$ Simplified procedure (EDF)	$\leq \text{€}10,000$ Single tender (BUDGET) $\leq \text{€}5,000$ Single tender (EDF)
WORKS	$\geq \text{€}5,000,000$ (BUDGET) $> \text{€}5,000,000$ (EDF) 1. International open tender procedure 2. International restricted tender procedure (exceptional cases BUD)	$< \text{€}5,000,000$ but $\geq \text{€}300,000$ (BUDGET) $\leq \text{€}5,000,000$ but $\geq \text{€}300,000$ (EDF) Local open tender procedure	$< \text{€}300,000$ but $> \text{€}10,000$ (BUDGET) $\text{€}5,000$ (EDF) Competitive negotiated procedure (BUDGET) Simplified procedure (EDF)	$\leq \text{€}10,000$ Single tender (BUDGET) $\leq \text{€}5,000$ Single tender (EDF)

←

The arrow points from the less tight to the tighter procedures.

### *Notes about thresholds*

- Launching a process based on a certain threshold should yield a contract equal or less than the threshold; if the tenders received are all higher than threshold → cancel and re-tender based on a logical budget.
- No contract addendum may increase the price of a contract above the relevant threshold.
- In case of co-financing, the total contract value dictates threshold
- In case of multiple lots, the aggregate of the lot estimates dictates the overall threshold.
- Single tenders normally require no much documentation; however, the practice of getting at least 3 quotations should be adopted (if not possible, justification documented) and a contract/PO must be signed.
- Regardless of the financing agreement, Framework contracts are only handled by the Delegation.
- You may use the procedure linked to a tighter threshold at any time without needing any specific approval.

### *The Tendering Process*

- Define type of item(s) to be tendered for
- Setup lots or packages
- Identify budget and applicable threshold
- Set required type of contract
- Prepare Tender Dossier (TD)
- Invite, Receive and Evaluate Bids
- Award and sign contract

## *Services*

- Type of Service
- Type of Contract
  - Fee-based
  - Global price
- Type of Tendering Procedure
  - International Restricted Procedure
  - Framework Procedure
  - Competitive Negotiated Procedure
  - Single Tender
  - Negotiation after Derogation
  - Competitive Dialogue

## *Supplies*

- Type of Supply
- Type of Contract
- Type of Tendering Procedure
  - International Open Procedure
  - Local Open Procedure
  - Competitive Negotiated Procedure
  - Single Tender
  - Negotiation after Derogation
  - Competitive Dialogue
  - Dynamic Purchasing System

### ***Works***

- Type of Work
- Type of Contract: Unit-price or Lump-sum
- Type of Tendering Procedure
  - International Open Procedure
  - International Restricted Procedure after Derogation
  - Local Open Procedure
  - Competitive Negotiated Procedure
  - Single Tender
  - Negotiation after Derogation
  - Competitive Dialogue

### ***Grants***

- Call for Proposal (open or restricted)
- Equal opportunity to all: publication necessary (there are exceptions)
- Interested parties may submit proposals including financial details of their requested grant
- Appraisal is done in stages and, then, beneficiaries are selected



## *Packaging*

- to achieve economies of scale,
- to ensure maximum co-ordination between related activities and
- to keep programme administration as simple as possible,
- → design projects to allow for maximum contract size and consequently to avoid the unnecessary fragmentation of programmes into a series of small contracts.

## *Packaging*

- Packaging is very important in order to avoid falling into the 'segregation or splitting' trap. Annual work-plans dictate what are the purchases and how are they going to be tendered for.
- No supplies can be procured from within a service contract:

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

### *Packaging – mixed contracts*

- Services, Supplies and works packed together are tendered either as supplies or as works (or services). The dominating percentage dictates which process to follow. This decision requires the approval of the EC Delegation.
- The assessment is made depending on which of the components prevails and on the basis of the value and strategic importance of each component in relation to the whole contract.
- For example, we may use the works

### *Coming next*

Group Selection for  
Case Studies



### *Case 1*

- After completion of a 3-year technical assistance project, the contractor invites you to attend a closing ceremony involving several ministries, donor, media, etc... and including speeches and lunch. This ceremony is fully funded by the contractor and was not foreseen as part of the project.
  - Question 1: Is it OK to go? Why?
  - Question 2: If the Minister (or head of the C.A.) decides to attend, will this affect your opinion?

### *Case 2*

- You are part of a team managing a donor funded construction programme comprising several construction, supply and service projects; this team is targeting to succeed in executing the programme.
  - Question 1: In your opinion, what are the associated risks and what are the critical success factors?
  - Question 2: If this is the first time your team is managing such programmes and the team is new to public construction projects, what method of project delivery would you recommend? Why?

### *Case 3*

- The EU project you are working on involves procuring for a municipality a set of agricultural items as follows: (tractors: eur 130,000; agricultural tools and accessories: eur 3,000; eur seeds: 15,000; and specialized training: eur 50,000)
  - Question 1: How will you package and tender for the above?
  - Question 2: Will your decision differ if the items are required in different delivery schedules? Why?
  - Question 3: what if the value of tractors is eur 1,300,000?

### *Case 4*

- The EU project you are working on involves procuring for a municipality the following: (miscellaneous laboratory and agricultural items: eur 30,000; technical assistance and training: eur 2,000,000)
  - Question 1: How will you package and tender for the above?

*Coming next*

Service Tenders and Contracts  
(Decentralized ex-ante)

## *Procurement under EU aid*

Omsar – Procurement Team

May 2007

### *Two contracts at the same time?*

- Without the Contracting Authority's prior written authorisation, a Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for **the project**.
- This prohibition also applies to **any other projects** that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

Supply Tenders & Contracts  
(Decentralized ex-ante)

***Type of Tendering Procedure***

- International Open Supply  $\geq 150k$
- Local Open Supply  $<150k$  &  $\geq 60k$
- Competitive Negotiated Procedure  $<60k$
- Single Tender  $\leq 10k$
- Negotiation after Derogation  $>10k$
- Competitive Dialogue
- Dynamic Purchasing System

### ***What are supplies?***

- 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.

### ***What about used supplies?***

- GCC: The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract.
- SCC: The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials.
- ➔ no used supplies may be procured through a supply contract.
- ← unless a derogation is secured!



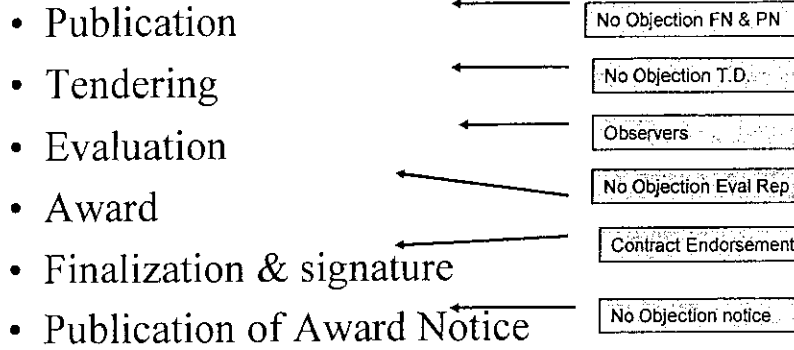
## ***Supply Tenders***

- **Instructions to tenderers**
- **Draft Contract Agreement & Special Conditions with annexes:**
  - General Conditions for supply contracts
  - Technical Specifications
  - Technical Offer (template)
  - Budget Breakdown (template)
  - Forms
- **Further information:**
  - Glossary
  - Administrative compliance grid
  - Evaluation grid
- **Tender Form for a Supply Contract**

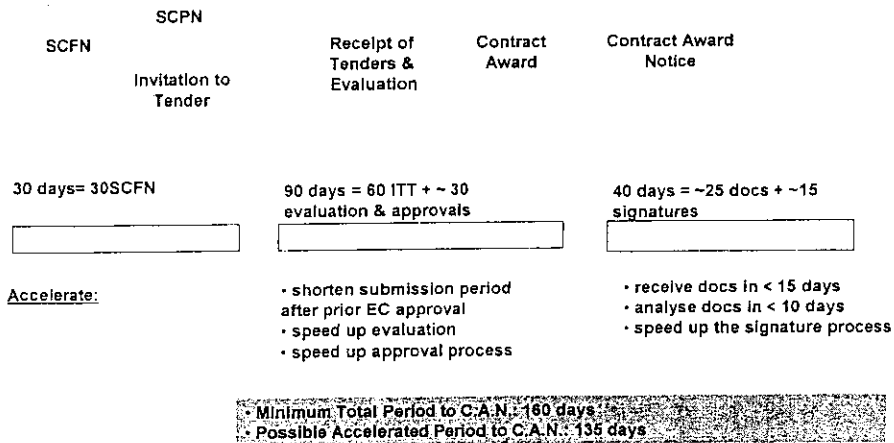
## ***Pre-Tender*** (partial contribution of Proc)

- Identification of Project in Work plan
- Assignment of Technical Person to handle preparation of Brief (& later T.S.)
- Review of T.S. by Procurement staff and his/her approval on the final version
- Approval of T.S. Beneficiary/C.A.
- Approval of T.S. by EU

## The Tendering Phase – IOT (ex ante)



## IOT - Minimum Timescales



### ***Publication*** (Proc in charge)

- Forecast Notice (before T.S. is final)
  - Requires EU approval (published by both EU and C.A.)
  - Min. 30 days before Procurement Notice
  - No response is required
- Procurement Notice (after T.D. is completed and approved)
  - Requires EU approval (published by both EU and OMSAR)
  - Solicits BIDS
  - Contains selection criteria, details about bid submission, etc...

### ***SFN Publication Process***

- Proc in Charge prepares the draft Forecast Notice collecting basic info from the technical counterpart
- Notice is shared electronically with Coordinator and EC for approval
- Final version is sent electronically to EC
- EC HQ translates the notice into EU languages and publishes (~ 15d)
- Proc in charge publishes simultaneously in Website

### ***SPN Publication Process***

- Proc in Charge prepares the draft Procurement Notice collecting basic info from the technical counterpart
- Notice is shared electronically with coordinator and EC for approval
- Final version is sent electronically to EC and subsequently officially through MSAR.
- EC HQ translates the notice into EU languages and publishes (~ 15d)
- Proc in charge publishes simultaneously in Website and an abridged version in local press
- T.D. is also ready and approved simultaneously for posting on EU & CA

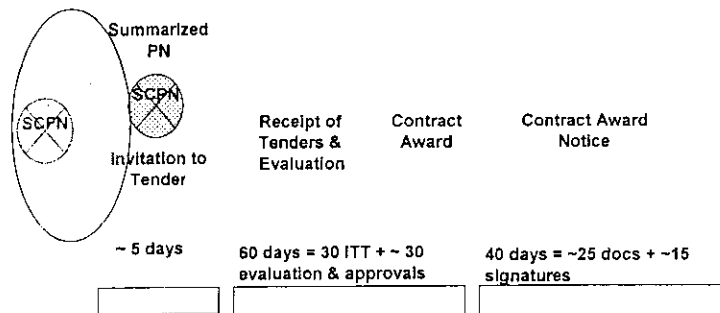
### ***The Local Open Tender***

- Same as the IOT except
  - No SCFN
  - Summarized PN to replace the SCPN
  - No publication of PN on EU / Local only
  - EU publishes references of the process
  - Any eligible supplier may participate
  - 30 days minimum to receive bids
- Even if only one bid is received, the process may proceed normally

## The Tendering Phase- LOT (ex ante)

- Prepare summarized Ad \_\_\_\_\_  No Objection ad
- Tendering ← \_\_\_\_\_  No Objection T.D.
- Evaluation ← \_\_\_\_\_  Observers
- Award ← \_\_\_\_\_  No Objection Eval Rep
- Finalization & signature ← \_\_\_\_\_  Contract Endorsement
- Publication of Award Notice

## LOT - Minimum Timescales



Accelerate:

- speed up evaluation
- speed up approval process
- receive docs in < 15 days
- analyse docs in < 10 days
- speed up the signature process

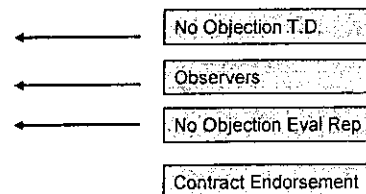
Minimum Total Period to C.A.N.: 110 days  
Possible Accelerated Period to C.A.N.: 85 days

## ***Competitive Negotiated Procedure***

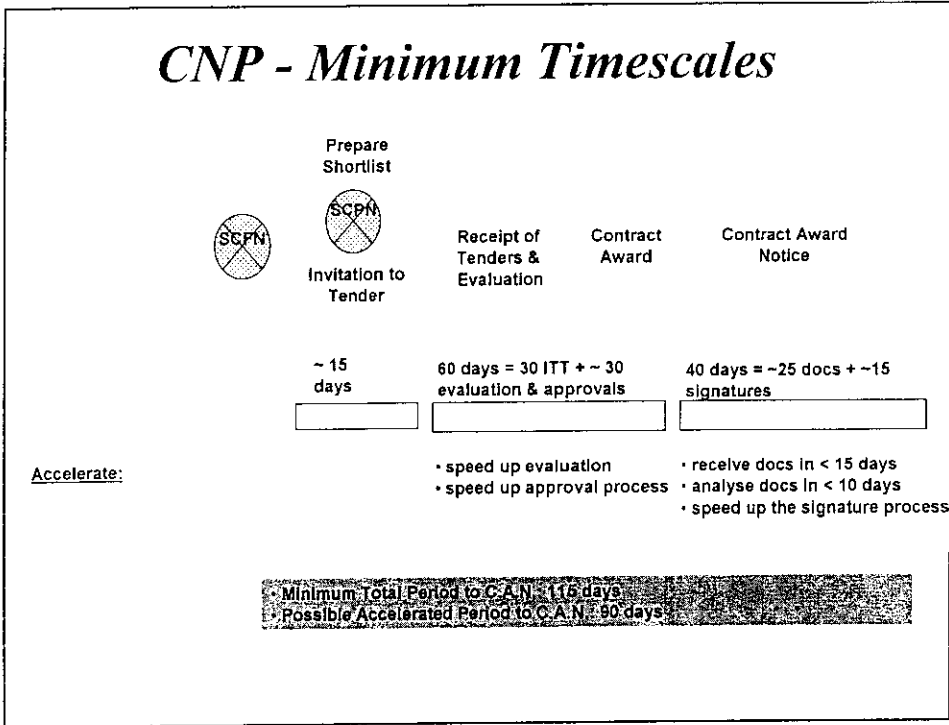
- Same as the LOT except for No publicity.
- CA draws up a shortlist of its choice  $\geq 3$
- TD is sent to the shortlist and given  $\geq 30$  days to submit
- Even if one tender is received and is admin and technically valid, award may be made.
- After 2 successive failures of a CNP, CA may use negotiated procedure after EU approval
- No tender guarantee is required
- The procedure for all other activities is the same as IOT.

## ***The Tendering Phase- CNP (ex ante)***

- Prepare shortlist
- Tendering
- Evaluation
- Award
- Finalization & signature
- Publication of Award Notice



## *CNP - Minimum Timescales*



## *Tendering Process*

- Similar process to that of services
- Selection and Award are done in one shot (IOT and LOT)
- No publication of budget
- Evaluation on YES/NO basis
- In case of complex products with particular security/production/implementation constraints, Quality rating may be applied subject to the prior approval of the EC.

## ***Tender Dossier***

- Key matters to watch out for:
  - Selection criteria
  - Homogeneity of lots
  - Clear and unbiased T.S.
  - Presence and duration for warranty
  - Presence and duration of after-sales service
  - Training requirements
  - Allowance for variant solutions
  - Allowance for subcontracting
  - Incoterms
  - Taxes & duties

## ***Technical Specification***

- Clarity, conciseness and consistency:
  1. the quality levels;
  2. environmental performance;
  3. design for all requirements;
  4. the levels and procedures of conformity assessment;
  5. fitness for use;
  6. safety or dimensions, including, for supplies, the sales name and user instructions, and, for all contracts, terminology, symbols, testing and test methods, packaging, marking and labeling, production procedures and methods.



### ***Technical Specification***

- Expert advice
- Market research
- Bias
- Conflict of interest

### ***The Evaluation Process***

- Public bid opening
- No scoring
- Evaluation comprises:
  - Formal submission compliance
  - Admin compliance
  - Technical evaluation (based on T.S.)
  - Financial evaluation
    - Arithmetic errors
    - Discount assessment
    - Abnormally low tenders
    - Worthiness of the financial proposal
    - Comparison with financial resources available
- Before canceling the procedure, need to get prior approval of the EC

### ***The Contract Signature Process***

- Similar to that for services
- Note that there is a possibility to buy from a firm that is not complying with all the rules of 2.3.3 in the case of advantageous purchase (when a firm is winding up for ex.)

### ***Key Contract Management Issues***

Performance guarantee to be provided along with signed contract (5-10%)

Payment Terms (GCC 26.5):

- 60% of contract value: advance against performance sec.
- 40% of contract value: balance against prov. Acceptance
- In case of partial acceptance, 40% of the same may be paid in the interim and the respective proportion of the security is reduced accordingly

Pre-financing payment guarantees are released in one go within 45 days from Provisional Acceptance

Performance guarantees are released within 45 days from Final Acceptance

## ***ORIGIN***

- Production must occur in the country declaring eligible origin → necessary but not sufficient condition
- Shipment port is not necessarily the port of the country of origin
- In case of multi-production processes occurring in different countries:
  - “last, economically justified, substantial transformation”
  - Declaration of origin by that country
- In case of systems/plants comprising subcomponents, each subcomponent must be of an eligible origin
- Proof: Official Certificates of Origin

## ***IMPORT ISSUES***

- Taxes & Duties
  - VAT
  - Custom Duties
  - Stamp duties (0.3% + 0.3%)
- All may not be paid from EC funds
- Port Clearance
- Incoterms

## ***INSURANCE***

- Transportation
- Third Party Liability
- Contractor's All Risk
- Plant and Equipment

## ***Delays***

- 0.5% of value of delayed items up to 15% of contract value
- If delayed items affect the whole project, then apply penalty on whole contract.
- When penalty amount  $\geq 15\%$ , C.A. may
  - Call upon the performance guarantee
  - Terminate w/o any compensation
  - Sign a contract with another supplier with previous contractor bearing extra charges.

## ***Dispute Resolution***

- Step One: amicable settlement
- Step Two: conciliation through EC
- Step three: litigation
  - National or
  - International arbitration

## ***Dynamic Purchasing system***

*'A completely electronic process for making commonly used purchases, the characteristics of which, as generally available on the market, meet the requirements of the contracting authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification'*

No Threshold Applies: may be used for any value

A completely electronic purchasing system for commonly used purchases

## *Dynamic Purchasing system*

- Step 1: Publish a contract Notice inviting indicative bids
- Step 2: Evaluate received bids within 15 days
- Step 3: Admit compliant tenders into the system
- Step 4: Keep the system open at all times for receiving compliant indicative bids
- Step 5: Issue a simplified contract notice for each individual contract (call off) to allow those firms who have not yet been admitted to submit bids within 15 days
- Step 6: Invite all tenderers admitted to the system to submit a tender
- Step 7: Award the tenderer offering the best value for money based on published award criteria

IT tools (confidentiality, security, etc...) are not yet available at nor specified by the EC

The system cannot last longer than four years

**End of Supplies section**

## *Coming next*

### Case Studies



### ***Case 11***

- Assuming that all the below are technically compliant, how would you recommend award:

Prices in euros (000)	Company A	Company B	Company C	Company D
Lot 1	100	120	105	85
Lot 2	n/a	40	n/a	45
Lot 3	80	n/a	75	n/a
Lot 4	270	310	280	290

A proposes 5% discount for being awarded the three lots. B (10%), C (7.5%) and D (0%)

### ***Case 12***

- You have hired a consultant to prepare the specification and drawings for an EU funded project involving the supply of equipment for a hospital that has a budget ceiling that cannot be surpassed. The estimate prepared by the consultant is higher than the ceiling budget by about 30%.
  - Question 1: How would you handle this problem?
  - Question 2: If the estimate prepared by the consultant is very close to the ceiling budget, will there be a problem?
  - Question 3: All the bids you received are higher than the maximum budget you have; what are your options?

### ***Case 13***

- You are the Procurement Officer of one of the supply tenders. You receive bids and am chairing the public bid opening process and later the evaluation though you have no voting rights.
  - Question 1: You receive 10 bids one of them is received 2 minutes beyond the deadline and the other is 25 minutes late. Would you open those bids in the public session? Why?
  - Question 2: What would you do if you only received 3 bids: one within the deadline; one 2 minutes late and one 25 minutes late?

### ***Coming next***

Works Tenders & Contracts  
(decentralized ex-ante)



*Procurement under EU aid*

Omsar – Procurement Team

May 2007

Works Tenders & Contracts  
(decentralized ex-ante)

### ***Type of Tendering Procedure***

- International Open Tender  $\geq 5,000k$
- Int'l Restricted (after approval)  $\geq 5,000k$
- Local Open Tender  $< 5,000k$  &  $\geq 300k$
- Competitive Negotiated Procedure  $< 300k$
- Single Tender  $\leq 5k$
- Negotiation after Derogation  $> 5k$
- Competitive Dialogue

### ***What are works?***

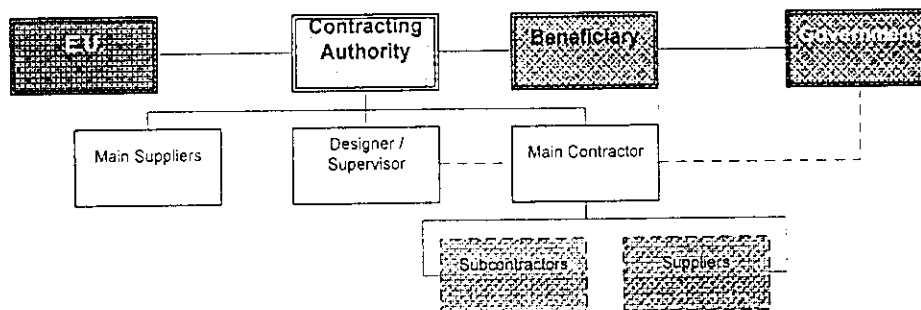
- Execution of a Work or
- Design and execution of a Work or
- Realization by whatever means of a Work
- A 'work' means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfill an economic or technical function.
- A word on 'closed engineering systems'

## *Challenges of Construction*

- Coordination & control
  - C.A., donor, Supervisor, Contractor, Subcontractors, Suppliers, etc...
- Quality
  - Design by whom? Review process?
  - Inspection, acceptance, etc...
  - Labor proficiency + material quality
- Time
  - Permit periods
  - Unplanned weather/site conditions
  - Impact of emerging variations
- Costs
  - Rising cost of material, labor, etc...
  - Impact of emerging variations

## *Coordination Complexity*

### TRADITIONAL CONSTRUCTION



### ***Traditional Construction (fixed price)***

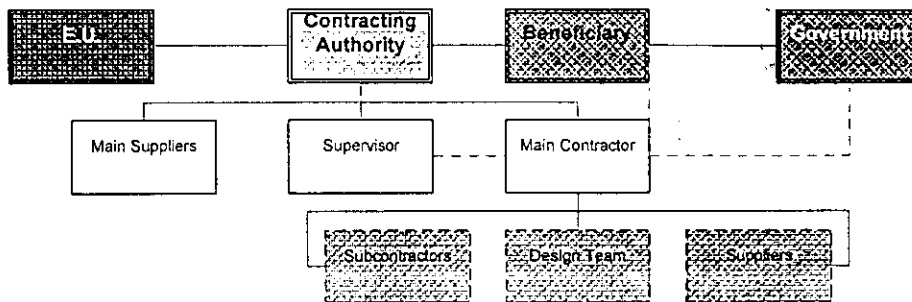
- Advantages
  - Historically established
  - Allows cost to be predetermined (lump-sum)
  - Allows fair payment of variable quantities (fee-based)
  - C.A. has minimal involvement in construction process
  - C.A. benefits from competitiveness of the process
  - Contractor assumes all construction risks in absence of variations or unforeseen events

### ***Traditional Construction (fixed price)***

- Disadvantages
  - Separating design from construction reduces possibility for value engineering
  - Overall time is the longest (design to construct)
  - C.A. is usually in dispute with contractor
  - Designer is usually in dispute with contractor (C.A. acting judge)
  - Variations & unforeseen events → disputes
  - C.A. has minimal control over performance
  - Measurement is very costly for payment purposes (fee-based)
  - Competition over lowest bid may imply extensive use of less qualified subcontractors

## *Coordination Complexity*

### DESIGN-BUILD



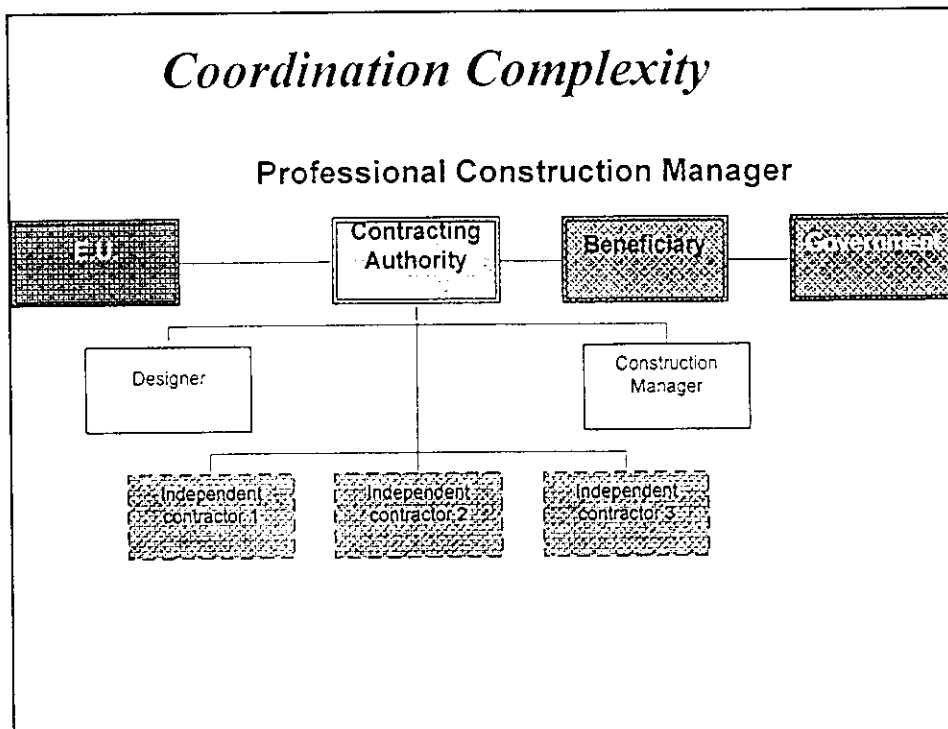
## *Design-Build or Turnkey*

- Advantages
  - One main contract with C.A.
  - Minimal C.A. coordination between contractor and designer
  - Overall time may be reduced through phasing
  - Value engineering if contractor is skilled and experienced (using same in design)

## *Design-Build or Turnkey*

- Disadvantages
  - Absence of firm project cost at beginning
  - Option may not be lowest in a competitive situation
  - Contractors may abuse this option if unskilled
  - Quality may be jeopardized in quest for profits (lump-sum)
  - Little control by C.A. and C.A. may be kept ignorant of design/construction problems
  - Works may not finally comply with requirements
  - Integration of Design and Construction may

## *Coordination Complexity*



## ***Professional Construction Manager***

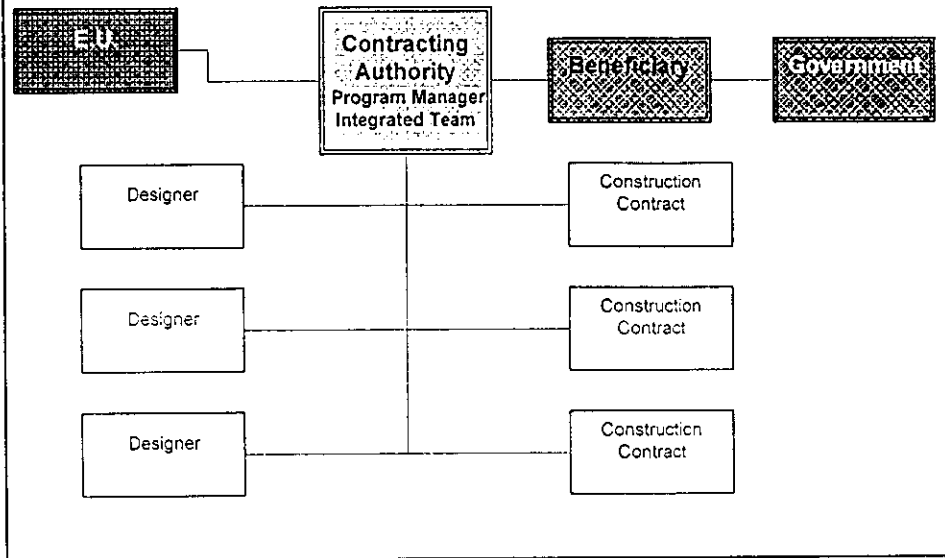
- Advantages
  - Use of specialized construction skills throughout the process eliminating conflict of interest between designer and owner
  - Best interest of owner preserved by PCM especially in assessment of costs, changes, schedules, performance, etc...
  - Coordination between designer and contractors is maximized and made more efficient
  - Use of phased construction to reduce time
  - Opening competition to small local contractors
  - Value engineering opportunities

## ***Professional Construction Manager***

- Disadvantages
  - Using phased construction ==> start project before establishing total cost.
  - Proves ineffective if owner has a fixed amount to spend (use traditional method)
  - Owner must comply with a number of responsibilities and obligations in a timely manner
  - Success is greatly in the hands of the PCM
  - Yet the PCM guarantees neither the total price nor the quality

## *Coordination Complexity*

### Programme Management



## *Works Tenders*

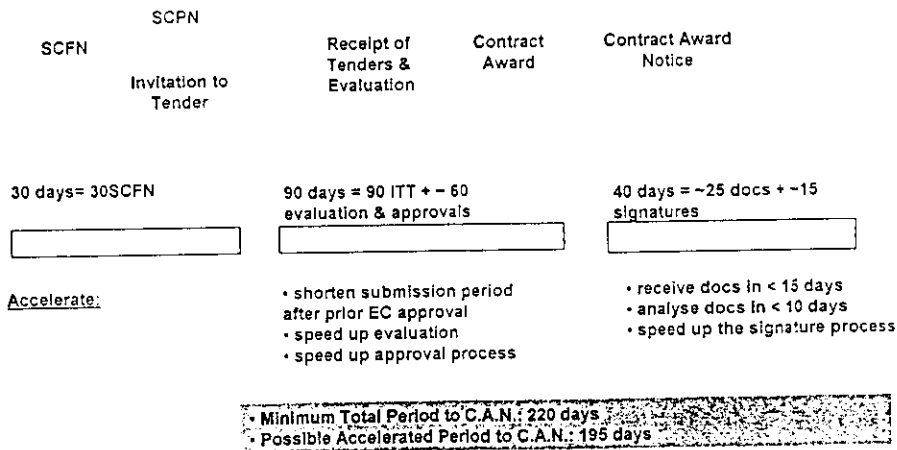
- VOLUME 1
  - o SECTION 1 : INSTRUCTIONS TO TENDERERS
  - o SECTION 2 : TENDER FORM
  - o SECTION 3 : TENDER GUARANTEE FORM
  - o SECTION 4 : QUESTIONNAIRE
  - o SECTION 5 : GLOSSARY
  - o SECTION 6 : EVAL'N GRID & OTHER ANNEXES
- VOLUME 2
  - o SECTION 1 : CONTRACT FORM
  - o SECTION 2 : GENERAL CONDITIONS
  - o SECTION 3 : SPECIAL CONDITIONS
  - o SECTION 4 : SPECIMEN PERFOR. GUARA
  - o SECTION 5 : SPECIMEN PREFINANCING GUARA
  - o SECTION 6 : SPECIMEN RETENTION GUARANTEE



## *Works Tenders*

- VOLUME 3
  - TECHNICAL SPECIFICATIONS
- VOLUME 4
  - MODEL FINANCIAL BID
  - BREAKDOWN OF THE OVERALL PRICE IN LUMP SUM CONTRACTS
  - BILL OF QUANTITIES IN UNIT PRICE CONTRACTS
  - BREAKDOWN OF THE OVERALL PRICE
  - BILL OF QUANTITIES
- VOLUME 5
  - DESIGN DOCUMENTS, INCLUDING DRAWINGS

## *IOT - Minimum Timescales*



## *IRT - Minimum Timescales*

SCFN	SCPN	Receipt of Applications & Short-listing	Invitation to Tender	Receipt of Tenders & Evaluation	Contract Award	Contract Award Notice
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90 days = 30SCFN + 30SCPN + ~30 short-listing & approvals

80 days = 60 ITT + ~ 60 evaluation & approvals

40 days = ~25 docs + ~15 signatures

**Accelerate:**

- speed up short-listing
- speed up approval process

- shorten submission period after prior EC approval
- speed up evaluation
- speed up approval process

- receive docs in < 15 days
- analyse docs in < 10 days
- speed up the signature process

• Minimum Total Period to C.A.N.: 260 days  
 • Possible Accelerated Period to C.A.N.: 210 days

## *The Local Open Tender*

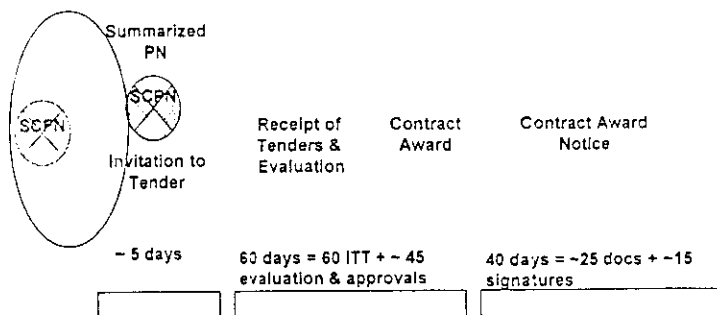
- Works contracts  $\geq$  eur 300k &  $<$  eur 5000k
- Same as the IOT except
  - No SCFN
  - Summarized PN to replace the SCPN
  - No publication of PN on EU / Local only
  - EU publishes references of the process
  - Any eligible supplier may participate
  - 60 days minimum to receive bids
  - minimum number of voting members is three
  - A tender Guarantee may be required
- Even if only one bid is received, the process may proceed normally

## The Tendering Phase- LOT (ex ante)

- Prepare summarized Ad \_\_\_\_\_
- Tendering ←
- Evaluation ←
- Award ←
- Finalization & signature ←
- Publication of Award Notice

No Objection ad
No Objection T.D.
Observers
No Objection Eval Rep
Contract Endorsement

## LOT - Minimum Timescales



Accelerate:

- speed up evaluation
- speed up approval process
- receive docs in < 15 days
- analyse docs in < 10 days
- speed up the signature process

• Minimum Total Period to C.A.N.: 155 days

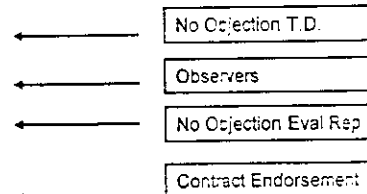
• Possible Accelerated Period to C.A.N.: 130 days

## ***Competitive Negotiated Procedure***

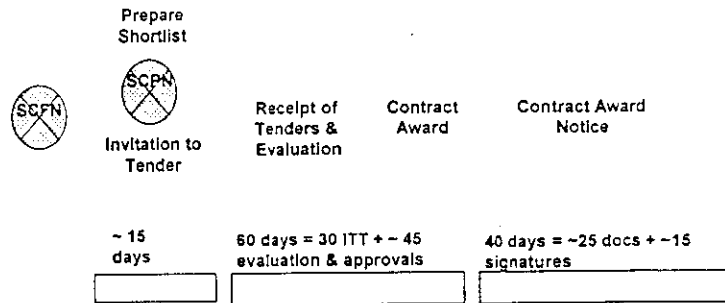
- Works contracts < eur 300,000
- Same as the LOT except for No publicity.
- CA draws up a shortlist of its choice  $\geq 3$
- TD is sent to the shortlist and given  $\geq 30$  days to submit
- Even if one tender is received and is admin and technically valid, award may be made.
- After 2 successive failures of a CNP, CA may use negotiated procedure after EU approval
- No tender guarantee is required
- The procedure for all other activities is the same as IOT.

## ***The Tendering Phase- CNP*** *(ex ante)*

- Prepare shortlist
- Tendering
- Evaluation
- Award
- Finalization & signature
- Publication of Award Notice



## CNP - Minimum Timescales



### Accelerate:

- speed up evaluation
- speed up approval process
- receive docs in < 15 days
- analyse docs in < 10 days
- speed up the signature process

- Minimum Total Period to C.A.N.: 130 days
- Possible Accelerated Period to C.A.N.: 105 days

## Tendering Process

- Similar process to that of services/supplies
- Selection and Award are done in one shot (IOT & LOT) or in two (CNP & IRT)
- No publication of budget
- Evaluation on YES/NO basis

### ***Tender Dossier***

- Key matters to watch out for:
  - Fee-based or lump-sum
  - Role & identity of supervisor (A/E)
  - Amount of Retention ( $\leq 10\%$ )
  - Permits & licenses
  - Extent and duration for warranty
  - Presence and duration of maintenance

### ***Fee-based or Lump-sum***

- Project delivery method
  - Traditional Construction
  - Design-Build
- Risk allocation
  - C.A.
  - Contractor
- Availability of design and feasibility studies
- Cost impact of each method
- Mixed fee-based and lump-sum

### ***The Evaluation Process***

- Similar to that of supplies

### ***The Contract Signature Process***

- Similar to that for services, supplies

## *Key Contract Management Issues*

- Performance guarantee to be provided along with signed contract (5-10%)
- PG is released within 45 days from Final Acc
- PG may be reduced by half upon Prov Acc

Payment Terms are laid down in SCC:

- Advance:
  - 10% of contract value: advance lump-sum
  - add 20% of contract value: adv agst proof of subcon.
  - both require Performance guarantee
  - both require Adv guarantee if adv > eur 150k
  - prefinancing guarantee shall be released as and when advances are repaid
- Interim – to be designed and specified in the SCC
- Retention
  - <= 10%
  - May be replaced by a retention guarantee
  - released within 45 days from final acceptance.

## *Delays*

Direct impact: the number of days that the delay directly affected the project. This results in the application of liquidated damages

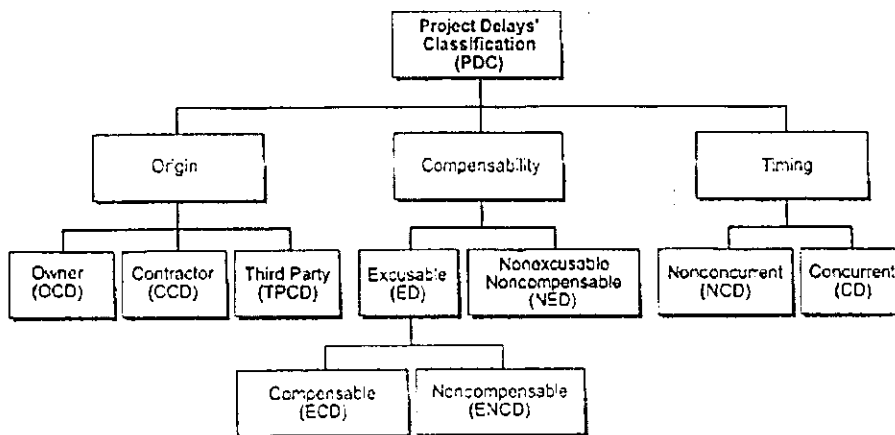
Indirect / ripple impact: a consequential effect claimed to be an indirect impact of the delay (difficult to quantify). This results in the application of consequential damages

Daily rate & maximum amount left to SCC

In case of partial acceptance, LD may be reduced proportionally



## *Delays*



## *Performance Guarantee*

- Standard text with clear and straight forward language
- May have the form of a bank guarantee, a banker's draft, a certified cheque, an insurance/surety bond or an irrevocable letter of credit.
- No need to notify the bank of any change or amendment of the contract.
- Enters into force upon its signature.
- Submitted simultaneously with contract signature.
- Released within 45 days from final acceptance certificate.
- valid "until the contract has been fully and properly performed"
- Possibility to reduce it's amount between provisional acceptance and final acceptance

## *Performance Guarantee*

- Notice requirements:
  - “Before making any claim under the performance guarantee, the Contracting Authority shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.”
- Built-in conditionality:
  - “the Contractor has failed to perform his contractual obligations fully and properly” or
  - “the Contract has been terminated for any reason whatsoever”
- Then, we can only call after we terminate or when the contractor has not performed “fully and properly”...*when is that established??*
- Before calling, we must write to the contractor → it can pursue an injunctive relief!
- What if the contractor is delayed for an interim milestone, can we call on this bond?
- What if he later fast tracks the project and completes on time?!

## *Performance Guarantee*

- The answer lies in the difference between L.D. and penalty under the performance guarantee:
  - L.D. penalize the contractor for delays in implementation
  - When the maximum L.D. is reached, the owner may notify the contractor and
    - Call on the performance security
    - Terminate the contract w/o compensation
    - Employ a third party to complete the contract with any extra costs or damages borne by the defaulting contractor

## *Delay and Performance Securities*

- Things to watch out for:
  - When can we apply delay damages: in the interim or at the end) → (contract provisions)
  - How can we apply delay damages → deduct from due payments, deduct from future payments, deduct from final balance, etc...
  - The impact of applying delay damages versus calling on a security → calling on a security affects the reputation of the contractor while deducting payments does not
  - P.S. covers owners against breach. Breach >> Delay

**End of Works  
section**

## *References*

- D. Barrie, B. Paulson, *Professional Construction Management*, 3<sup>rd</sup> ed, McGraw Hill, 1992
- S. Kartam, "Generic Methodology for Analyzing Delay Claims", *Journal of Construction Engineering and Management*, Nov/Dec 1999
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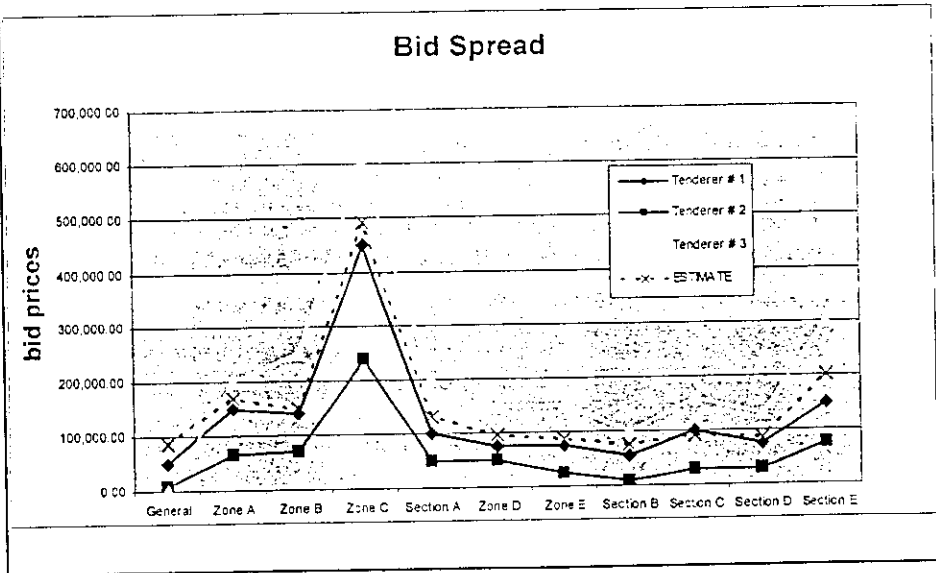
# Coming next

## Case Studies



### Case 14

- To which tenderer would you recommend award?



### *Case 15*

- You have hired a consultant to prepare the design, specification and drawings for an EU funded public school construction project that has a budget ceiling that cannot be surpassed. The estimate prepared by the consultant is higher than the ceiling budget by about 30%.
  - Question 1: How would you handle this problem?
  - Question 2: If the estimate prepared by the consultant is very close to the ceiling budget, will there be a problem?
  - Question 3: All the bids you received are higher than the maximum budget you have:

### *Case 16*

- You want to launch a project involving the following: construction of a hangar (200,000 eur); design of the hangar (10,000 eur); and installation of mechanical equipment (300,000 eur).
  - Question 1: How would you package this project?

### *Case 17*

- You are part of a team managing a donor funded construction programme comprising several construction, supply and service projects;
  - Question 1: If this is the first time your team is managing such programmes and the team is new to public construction projects, what method of project delivery would you recommend? Why?

### *Coming next*

Grant Agreements

***Procurement under EU aid***

Omsar – Procurement Team

May 2007

Grant Agreements

### ***Definition***

- A direct financial contribution to a (generally) non-for-profit natural or legal person / entity to help achieve an objective forming part of a European Union policy;
- The body signing a grant contract is known as the grant beneficiary (different from the final beneficiary or the target group)
- Takes the form of
  - Financing an action:
  - Operating Grant: Direct financial contribution to finance the functioning of a body

### ***Grant vs Procurement Contracts***

- A grant is made for an operation which is proposed TO the Contracting Authority BY a potential beneficiary
- A grant beneficiary is responsible for implementing the operation and retains ownership of its results.
- A grant beneficiary normally contributes to the financing of the action
- A grant can only be made for an operation whose immediate objective is non-commercial. Under no circumstances may the grant give rise to profits.



### ***Basic Awarding Rules***

- programming (Annual Work Plan)
- transparency (wide publication) and
- equal treatment (impartial evaluation)
- Non-cumulation (one EU grant per beneficiary per action)
- Non-retroactivity (eligible costs are those incurred after signature of a contract; no retroactive awards)
- Non-Profit
- Nationality and eligibility rules

### ***Co-financing***

- Grants may not as a rule finance the entire cost of the action, with the following exceptions:
  - humanitarian aid;
  - aid in crisis situations;
  - health protection of peoples
  - protection of fundamental rights of peoples;
  - actions resulting from the implementation of financing agreements or actions with international organisations.

### ***Co-financing***

- The beneficiary supplies evidence of the amount of the co-financing brought either with its resources or in the form of financial transfers from third parties.
- The Contracting Authority may accept co-financing in kind, if considered necessary or appropriate.
- For grants with a total value of less than or equal to EUR 25 000, the Contracting Authority depending on his risk assessment, waive the obligation to provide evidence for co-financing.

### ***Non-Profitability***

- Profit is defined as a surplus of receipts over the costs incurred by the beneficiary

## ***Procurement***

- Services, supplies and works → follow annex IV
- Grants (re-granting to 3<sup>rd</sup> parties) →
  - re-granting is not a major part of the action
  - expressly provisioned in the grant contract
    - Min & Max amounts that may be given
      - 100,000 eur in total
      - 10,000 eur per each third party
    - Criteria for determining the amount
    - The fixed list of activity types to receive funds

## ***Award Procedures***

- Call for Proposals
  - EuropeAid publication and Local publication
  - Open or Restricted
- Direct Award
  - Crisis situations
  - De facto monopoly
  - Beneficiary nominated by name in FA
  - R&D – Benef nominated in the FA
  - High degree of specialization, power, competence, etc...
  - Grants < 10,000 eur
  - Int'l organizations (joint mgt)
  - → justification report required

### ***Call for Proposal - Publicity***

- Guidelines must be published locally and internationally
- Language to be proper to the context
- Information sessions may be provided to interested entities

### ***Call for Proposal – Guidelines***

- Specify SELECTION & AWARD criteria
  - Eligibility criteria
  - Evaluation criteria
- Instruct parties about
  - the context, objectives, priorities
  - Modality of application
    - Concept note
    - Proposed action & budget
    - Information about applicant and partners
  - Contractual terms

### ***Eligibility Criteria***

- Eligibility of APPLICANT
  - Nationality
  - Exclusion situations (2.3.3)
  - Eligibility criteria for partners may differ
- Eligibility of ACTION
  - Types of themes, sectors, domains admissible
  - Geographic regions covered, if any
- Eligibility of COSTS
  - Costs that may be financed
  - Type, timing and relevance

### ***Evaluation Criteria***

- SELECTION
  - Financial capacity
  - Operational capacity
- AWARD
  - Quality of proposals
  - Relevance to / compatibility with objectives
  - Impact & sustainability
  - Cost-effectiveness
  - visibility

## Minimum Timescales – Open Call

staggering

Work program	CALL notice	Receipt of Proposals	Evaluation	Grant Award	Grant Award Notice
-----------------	----------------	-------------------------	------------	----------------	-----------------------

90 days (60d if <= 100,000)

60 days (dep on # of prop)

30 days = contract prep  
and signatures




**Accelerate:**

- shorten submission period after prior EC approval

- speed up evaluation
- speed up approval process

- pre-prepared contracts
- speed up the signature process

• Minimum Total Period to C.A.N.: 180 days  
• Possible Accelerated Period to C.A.N.: 155 days

## Proposals

- CONTENT
  - Concept Note
  - Application
  - Checklist
  - Declaration
  - Supporting Documents (may be asked along with application or later after provisional selection)
  - Grants <=25,000 require no supporting documents

### ***Evaluation Committee***

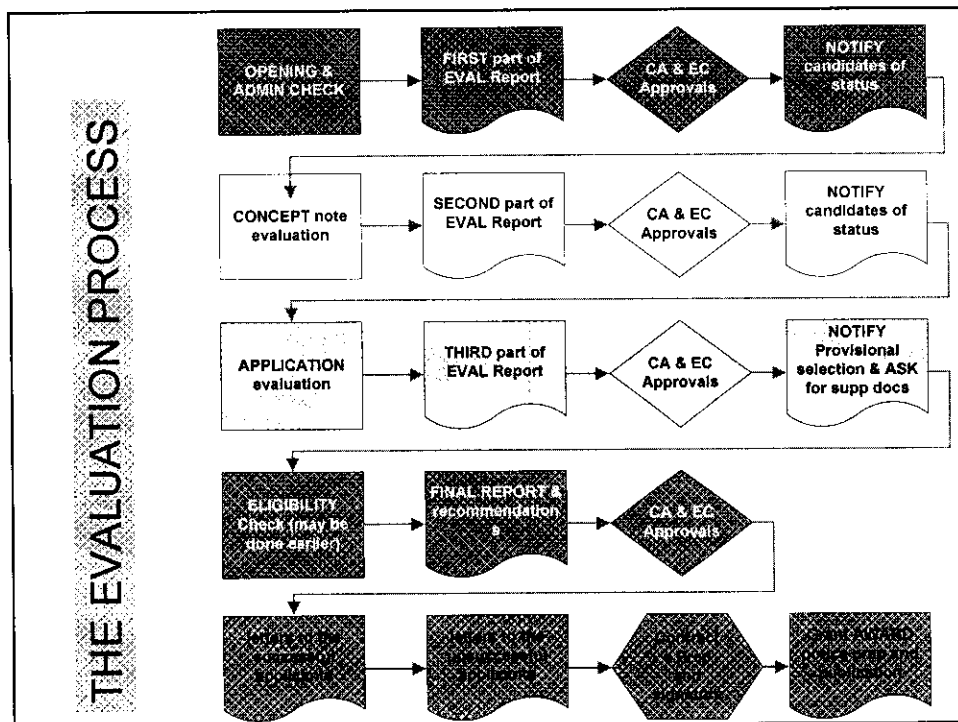
- non-voting Chairperson & Secretary
- odd number of voting members (minimum of three) who represent at least two organizational entities of the C.A. with no hierarchical link between them
- EU is informed and has 5 days to object or nominate observers
- Other observers require the prior approval of the EU
- All members should attend all meetings except opening
- Substitutes in case of withdrawal
- Evaluation Committee completes one
- One collective evaluation grid for each respective step of the procedure

### ***Evaluation - Assessors***

- In case of numerous or complex proposals
- all or part of the detailed examination may be carried out by assessors
- Evaluation Committee may conduct its deliberations on the basis of their assessments
- Assessors may attend meetings as observers
- Assessors work under the supervision of the Chairperson
- same assessors may be used for the different stages
- use different persons/expertise if possible.
- A minimum of five years' experience of a particular issue should be expected (for evaluation of concept note & application)

## *Role of Assessors*

- administrative check & verification of eligibility
  - Screening based on checklist and declaration
  - One assessor per proposal
- evaluation of concept notes and proposals
  - Written assessment based on grids
  - Two assessors per concept note and application
  - Work individually





## ***Grants 1 - Opening & Admin.***

Secretary supervises the process.

The secretary may request the assistance of other staff of the Contracting Authority as need be.

Original Proposals are kept in a safe place.

CHECKLIST evaluation by members or assessors

Secretary draws a list of all applications not carried out further specifying the administrative requirements not met.

OUTPUT : Proposal Opening session and administrative check Report

## ***Grants 2 – Concept Note Evaluation***

If done by committee → one score

If done by assessors → average of scores of assessors

Secretary draws a list of all applications ranked by concept note score

Concept Note Evaluation:

- passing score = 30 out of 50 AND
- minimum score on relevance is 12
- selected proposals are to be specified (those that amount to twice or three times the available funds)
- this score has no relation to other technical scores

OUTPUT : Concept Note Evaluation Report: pre-selection

The committee has the right to skip the evaluation of the Concept Notes whenever considered justified

## ***Grants 2 – Concept Note Evaluation***

	<b>Scores</b>	
<b>1. Relevance of the action</b>	Sub-score	15
1.1 Relevance of the problems to needs and constraints of the country/region to be addressed in general, and to those of the target groups and final beneficiaries in particular	5	
1.2 Relevance to the priorities and objectives mentioned in the Guidelines	5(x2)*	
<b>2. Effectiveness and Feasibility of the action</b>	Sub-score	25
2.1 Assessment of the problem identification and analysis	5	
2.2 Assessment of the proposed activities (practicality and consistency in relation to the objectives, purpose and expected results).	5(x2)*	
2.3 Assessment of the role and involvement of all stakeholders and proposed partners.	5(x2)*	
<b>3. Sustainability of the action</b>	Sub-score	10
3.1 Assessment of the identification of the main assumptions and risks, before the start up and throughout the implementation period.	5	
3.2 Assessment of the identification of long-term sustainable impact on the target groups and final beneficiaries.	5	
<b>TOTAL SCORE</b>		<b>50</b>

## ***Grants 3 – Technical Evaluation***

### Technical Evaluation:

#### • Selection Criteria

- stable and sufficient sources of finance
- management capacity, professional competencies and qualifications

#### • Award Criteria

- quality of the proposals
- consistency with the objectives
- expected impact
- sustainability and
- cost-effectiveness

### Rejection if scores on

- *Financial and operational capacity* < 12 out of 20
- *Relevance* < 20 out of 25

OUTPUT : Evaluation Report; provisional selection within available funds and a Reserve List

## ***Grants 4***

Supporting documents with the application are replaced by a declaration. Such documents are required from the selected applicants.

Supporting documents need neither be original nor certified copies.

All calls for proposals will be posted on EuropeAid website regardless if international or local

Simplified rules introduced for grants  $\leq$  10,000 euro

- no need for Calls for Proposals
- transparency & Equal Treatment to be maintained
- procurement within the grant must respect origin & nationality

## ***Grants 5***

Unification of template for reporting by grant beneficiaries.

Contingencies ( $\leq$ 5%) added to be used by grant beneficiaries subject to prior approval by the C.A.

Audit procedures clarified and expenditure verification budget line added.

## ***Grants 6***

In an Open Call: the applicant submits the full proposal (concept note & full proposal) at the same time.

In a Restricted Call: the applicant submits the Concept Note in the first phase and the full proposal in the second phase. There are 45 calendar days between both phases.

In both cases, supporting documents will only be requested from those whose proposals have been provisionally recommended for funding.

## ***Grants 6 – procurement, a***

Contracts must be awarded “to the most economically advantageous tender (i.e., the tender offering the best price-quality ratio)” [6.8.1]

Beneficiaries must ensure transparency and fair competition and avoid conflict of interest. [6.8.1]

International Organizations benefiting from EU grants can apply their own equivalent rules. [6.8.1]

The EC conducts ex-post checks as well as on the spot checks on documents and contractors and subcontractors. [6.8.1]

Procurement rules apply to both beneficiaries and their partners.

Failure to abide by the set rules renders the relevant expenditure ineligible for EC financing.

## ***Grants 6 – procurement, b***

### **ELIGIBILITY / Nationality Rule**

Tenderers must comply with relevant EC regulations and must provide the requisite proofs.

Experts nominated by Tenderers may be of any nationality.

### **ELIGIBILITY / Origin Rule**

Supplies tendered must comply with relevant Origin rules mandated by the specific financing agreement and access regulations; tenders must state the origin.

Where the unit cost of purchase of an item > euro 5000, the contractor must provide C.o.O. no later than the date of presenting the first invoice.

The C.o.O. must be issued by the competent authorities and must comply with international agreements or relevant EU legislation in case of EU origin

## ***Grants 6 – procurement, c***

### **ELIGIBILITY / Exceptions**

Either based on financing agreement allowing widening the access

Or in duly substantiated exceptional cases allowed by the EC

### **ELIGIBILITY / exclusion from participation**

Tenderers are excluded from participation in tenders if they are

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

have not fulfilled obligations relating to payment of social security contributions / taxes

**[REDACTED]**

they have been declared to be in serious breach of contract

## ***Grants 6 – procurement, d***

### **ELIGIBILITY / Exceptions**

Either based on financing agreement allowing widening the access

Or in duly substantiated exceptional cases allowed by the EC

### **ELIGIBILITY / exclusion from participation**

Entities are excluded from participation in tenders if they are

- ██████████
- ██████████
- ██████████
- ██████████
- have been convicted of an offence concerning their professional conduct
- ██████████
- have not fulfilled obligations relating to payment of social security contributions / taxes
- ██████████
- they have been declared to be in serious breach of contract

Tenderers must certify that they are not in any one of those situations

## ***Grants 6 – procurement, e***

### **ELIGIBILITY / Exclusion from award of contracts**

Tenderers will not be awarded if they are

- ██████████
- guilty of misrepresentation in supplying the information required
- fail to supply this information

### **GENERAL RULES**

tender documents must be drafted in accordance with best international practice.

Beneficiaries may use EC models/templates

The EC will neither review the tender documents nor will it post the same on its website.

exclusion, selection and award criteria must be announced in advance

Deadline for bid submission must allow tenderers sufficient time

Committees must be odd numbered (min three, capable members)

## ***Grants 6 – procurement, f***

### **SERVICE CONTRACTS $\geq$ 200,000 euro**

international restricted tender procedure following posting a PN

PN to be posted locally and internationally

PN to specify maximum number of candidates to be shortlisted: (4-8)

PN to specify selection criteria

Once applications are received, they are screened by the committee based on advertised criteria

The shortlisted firms are then invited to submit tenders.

## ***Grants 6 – procurement, g***

### **SERVICE CONTRACTS $<$ 200,000 euro**

Negotiated procedure w/o publication

Beneficiary consults at least 3 service providers of its choice.

Beneficiary negotiates a contract with one or more of those.

### ***Grants 6 – procurement, h***

**SERVICE CONTRACTS <= 10,000 euro**

Single Tender

Beneficiary places an order following receipt of a single tender

### ***Grants 6 – procurement, i***

**SUPPLY CONTRACTS >= 150,000 euro**

international open tender procedure following posting a PN

PN to be posted locally and internationally

All eligible entities may submit tenders



### ***Grants 6 – procurement, j***

60,000 euro <= SUPPLY CONTRACTS < 150,000

open tender procedure published locally

PN posted locally but any eligible supplier may participate.

### ***Grants 6 – procurement, k***

SUPPLY CONTRACTS < 60,000 euro

Negotiated procedure w/o publication

Beneficiary consults at least 3 suppliers of its choice.

Beneficiary negotiates a contract with one or more of those.

***Grants 6 – procurement, l***

SUPPLY CONTRACTS  $\leq$  10,000 euro

Single Tender

Beneficiary places an order following receipt of a single tender

***Grants 6 – procurement, m***

WORKS CONTRACTS  $\geq$  5,000,000 euro

international open tender procedure following posting a PN

PN to be posted locally and internationally

All eligible entities may submit tenders

### ***Grants 6 – procurement, n***

300,000 euro <= WORKS CONTRACTS < 5,000,000

open tender procedure published locally

PN posted locally but any eligible contractor may participate.

### ***Grants 6 – procurement, o***

WORKS CONTRACTS < 300,000 euro

Negotiated procedure w/o publication

Beneficiary consults at least 3 contractors of its choice.

Beneficiary negotiates a contract with one or more of those.

## ***Grants 6 – procurement, p***

WORKS CONTRACTS <= 10,000 euro

Single Tender

Beneficiary places an order following receipt of a single tender

## ***Grants 6 – procurement, q***

NEGOTIATED PROCEDURE

Crisis situations  
additional deliveries additional works  
tender procedure unsuccessful

contract can be awarded only to a particular service provider

orders placed with a procurement centre Exp verif report & financial guarantee

The following general rules that apply to the Beneficiary apply to its contractors as well: GCC articles 1,3,4,5,6,8 & 16.

## ***Grants 6 – procurement, r***

### **MISCELLANEOUS**

The following general rules that apply to the Beneficiary apply to its contractors as well: GCC articles 1,3,4,5,6,8 & 16.

Beneficiaries may rent, lease or buy supplies and equipment that may be brand new or used.

Prices of services or supplies procured must correspond to market rates

## ***Grants 6 – procurement, s***

International Organizations benefiting from EU grants can apply their own equivalent rules.

Introduction of Procurement Centers selected using a service tender and responsible for handling the purchases of the Beneficiary.

No certificate of origin is needed for supplies costing < 5000 euro per unit cost.

## ***Grants 8 – Contract Management***

### **Basics from the General Conditions of Contract**

Beneficiary implements the Action under his own responsibility and in accordance with the Description of the Action

Beneficiary alone is accountable to the C.A. for the implementation of the Action (and not any of its partners or subcontractors)

EU is not a party to this contract yet it endorses it

### ***Reporting***

Interim and final reports consist of a narrative and a financial sections

full account of all aspects of the implementation for the period covered

list detailing each item of expenditure incurred & justifying documents

Others...

## ***Grants 8 – Contract Management***

EU visibility must be maintained in all activities

Beneficiary is the owner of all outcomes of the contract

Beneficiary allows CA and EU full access and free use of all documents generated by the action.

### ***Amendments***

Must be set out in an addendum

If requested by the Benef, it must be communicated at least 30 days in advance

When change involves  $\leq 15\%$  variation between budget lines or changes from one subheading to another within the same budget line, and when there is no basic change in purpose, the Beneficiary may apply the change w/o an addendum and notify the CA in writing.

This may not be used to amend headings for administrative costs or contingency reserve

The maximum grant amount may not be increased.

## Grants 8 – Contract Management

Beneficiary can request an extension of the implementation period no later than one month before it ends. The request must be accompanied by all the supporting evidence needed for its appraisal.

**Costs that may be considered eligible as direct costs must**

be necessary for carrying out the Action

have actually been incurred during the implementation period

be identifiable, verifiable and backed by originals of supporting evidence

## Grants 8 – Contract Management

Hence, the following are eligible direct costs:

cost of staff assigned to the Action

Travel & subsistence costs

costs of services

subcontracting expenditure

Costs associated with implementation

Requires prior authorization to use

5 % contingency reserve

Dissemination of information

Evaluation and audit

Translation, reproduction of docs

Insurance and financial charges

## ***Grants 8 – Contract Management***

### ***Indirect Costs***

7% contingency of total eligible amount

covers the administrative overheads incurred by the Beneficiary

### ***Contributions in kind***

Contributed by the Beneficiary, its partners or any other source

Not actual expenditures

Not eligible costs

Unless SCC stipulate otherwise

## ***Grants 8 – Contract Management***

### ***Costs that are NOT eligible are***

Debts or losses on debts

purchases of land or buildings unless mandated by the action

Taxes, duties, VAT, etc...

Unless Beneficiary cannot reclaim paid tax

AND applicable regulations authorise coverage of taxes

credits to third parties



## Grants 8 – Contract Management

### Payments

OPTION 1: period  $\leq$  12 months OR financed amount  $\leq$  100,000

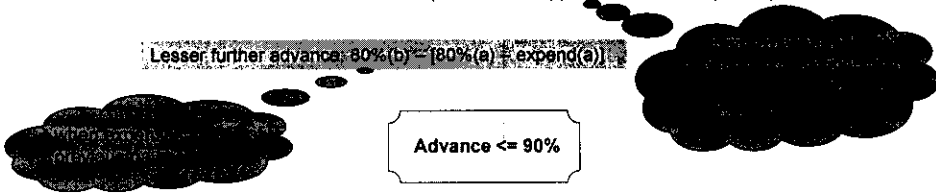
[REDACTED]

OPTION 2: period  $>$  12 months AND financed amount  $>$  100,000

[REDACTED]

80% advances for each 12 month periods after approval of interim rep & Exp Verif

Lesser further advance:  $80\%(b) - [80\%(a) + \text{expend}(a)]$



[REDACTED]

## Grants 8 – Contract Management

OPTION 3: ALL Actions

[REDACTED]

### Payments - General

Reports are deemed approved within 45 calendar days from receipt

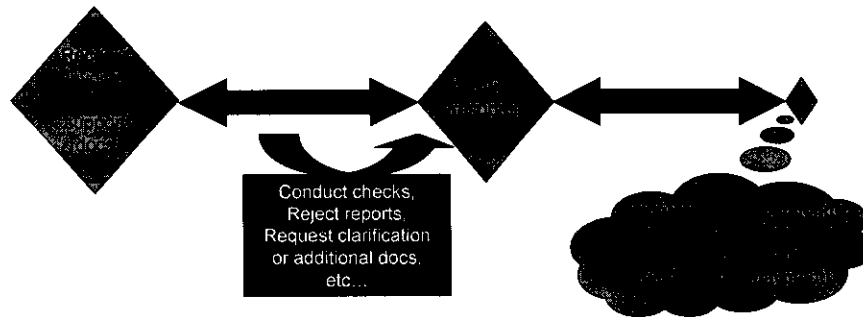


Payments shall be made to the A/C stated in the FIF and that allows the calculation of interests generated by those payments. Such interests shall be refunded to the CA and are not taken into account when calculating the total amount fo advance.

## ***Grants 8 – Contract Management***

Payments are to be effected within 45 calendar days

The 45 days expire when the C.A. account is debited



## ***Grants 8 – Contract Management***

### ***Expenditure Verification Report***

by an approved auditor- member of an internationally recognised supervisory body for statutory auditing

Certifies whether costs declared by the Beneficiary are real, exact and eligible in accordance with the Contract

Must be submitted along with:

[REDACTED]

(For grants > 100,000) the RFP of the balance

[REDACTED]  
(for operating grants) any RFP > 100,000 per year

## ***Grants 8 – Contract Management***

### ***Financial Guarantee***

If total un-cleared advance at any time is > 80% of contract AND is > 60,000, it must be covered by a financial guarantee

If the Beneficiary is an NGO, this guarantee is required if the total advance paid and un-cleared > 90% of contract OR is > 1,000,000

CA releases guarantee when total amount of advance drops below 1,000,000 or after payment of balance.

This is not applicable when the beneficiary is a government or public entity

## ***Grants 8 – Contract Management***

### ***Technical and financial Accounts***

accurate and regular accounts

appropriate accounting and double-entry book-keeping system

Accounts and expenditure relating to the Action must be easily identifiable and verifiable

Accounts must provide details of interest accruing on funds paid by the Contracting Authority

**End of Grants  
section**

## *Coming next*

### Case Studies



### *Case*

- One of the grant beneficiaries approaches you as the contracting authority asking for your approval on the modality to purchase computers as foreseen in the budget.
  - Question 1: what will be your depth of intervention in this request? What would you tell the beneficiary?
  - Question 2: if the value of computers exceed the allocated budget by 10%, what would your recommendation be?
  - Question 3: if after the purchase immediately, you discover that the computers were misprocured, what would you do?

### *Case*

- In one of the grants dedicated to helping the poor in rural areas involves preparing local food and distributing the same for free to the less privileged people in the community. The costs for preparation of such food items are funded by the grant.
  - Question 1: is such an action acceptable taking into consideration EU rules.
  - Question 2: The beneficiary requests that the residual (undistributed items) be put on sale in wealthier communities and the returns support funding the beneficiary in other actions. Is this acceptable?

### *Case*

- If in the previous case, the proposal was to “sell” the locally-prepared food items and distribute the profit to people who participated in the processing and preparation while the costs for preparation of such food items are funded by the grant.
  - Question 1: is such profit generation acceptable taking into consideration EU rules.
  - Question 2: if the beneficiary requests that the residual (undistributed items) be put on sale in wealthier communities and the returns distributed to the less privileged community. Is this acceptable?

*Coming next*

Works Tenders & Contracts  
(decentralized ex-ante)