



Municipal Infrastructure Support Programme
An EU-funded project

MUNICIPAL INFRASTRUCTURE SUPPORT PROGRAMME

●●● Building together for the future

PROGRAM PODRŠKE RAZVOJU INFRASTRUKTURE LOKALNE SAMOUPRAVE

●●● Gradimo zajedno za budućnost

Practical guide to contract procedures for EC external actions



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MANAGEMENT OF PROCUREMENT PROCEDURES

There are 3 possible approaches for management of supplies:

- **Centralized** – European Commission is the Contracting Authority and takes decisions for and on behalf of the beneficiary country;
- **Decentralized “Ex-Ante”** – decisions concerning the procurement and award of contracts are made by the Contracting Authority and referred for approval to the European Commission;
- **Decentralized “Ex-Post”** – decisions concerning the procurement and award of contracts are taken by the Contracting Authority without prior reference to the European Commission, but with ex post control of implementation.



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Nationality

Participation in the procurement procedures is open on equal terms to all natural and legal persons from:

- Member State of the European Community
- Member State of the European Economic Area
- an official candidate country / a country that is a beneficiary of the European Commission funds
- In the case of procurement and grants financed under a thematic programme, a developing country as specified in OECD Development Assistance Committee
- International organizations
- any other country that are beneficiary of the decision establishing reciprocal access to external aid funds.



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Origin

All goods and equipment purchased under the contract financed under the Community instrument must originate from the EU countries or other countries that fulfills criteria.

Rule on origin is applied on all items tendered and supplied. Therefore, it is insufficient that only certain percentage of the goods tendered and supplied or a certain percentage of the total tender and contract value comply with this requirement.

Certificate is issued by the competent authorities of the supply's or supplier's country of origin and must comply with the international agreements to which that country is a signatory.



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OTHER ESSENTIAL POINTS

Conflict of interest – Participation in the project preparation excludes participation in the tenders

Awarding principles – All contract awards must respect principles of transparency, proportionality, equal treatment and non-discrimination.

No retroactive awards – Activities can begin only after the signing of the contract.

Use of standard documents

Record keeping: - Written records on all tender procedures related to contract is confidential and Contracting Authority is obliged to keep this documentation for minimum period of seven years from payment of the balance. Originals of all submitted offers, together with relevant tender documentation and eventual correspondence.



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The purpose is twofold:

- to ensure the transparency of operations;
and
- to obtain the desired quality of services, supplies or work at the best possible price.



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SERVICES	≥ €200,000 International restricted tender procedure	< €200,000 but > € 5,000 1. Framework contracts 2. Competitive negotiated procedures		≤ €10,000 Single tender
SUPPLIES	≥ €150,000 International open tender procedure	< €150,000 ali ≥ 60,000 Local open tender procedure	<€60,000 ali > €10,000 Competitive negotiated procedure	≤ €10,000 Single tender
WORKS	≥ €5,000,000 1. International open tender procedure 2. International restricted tender procedure (in exceptional cases).	< € 5,000,000 ali ≥ €300,000 Local open tender procedure	< € 300,000 ali > € 10,000 Competitive negotiated procedure	≤ €10,000 Single tender



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- **Open procedure:** All interested candidates may submit the proposal upon publication of the Calls for tender.
- **Restricted procedure:** Only short listed candidates are invited upon publication of the Calls for tender.
- **Competitive negotiated procedure:** Only selected candidates are invited to participate (without publication)
- **Framework contracts:** Contract for several individual contracts for the period not longer than four years.
- **Dynamic purchasing system:** electronic process for making commonly used purchases (not yet available)
- **Competitive negotiated procedures with several candidates:** Dialog with candidates prior to submission of proposals
- **Negotiated procedure:** Only in exceptional cases.



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Contract are awarded on one of the following ways:

- a) Under the lowest price principle, in which case the contract is awarded to the tender which, while being in order and satisfying the conditions laid down, quotes the lowest price;**
- b) Under the best value for money principle (the most economically advantageous tender).**

The criteria should be precise, non-discriminatory and not prejudicial to fair competition.



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Cancellation of procurement procedure if:

- a) There are no appropriate or any response at all
- b) The economic or technical data of the project have been fundamentally altered
- c) Force majeure render normal performance of the contract impossible
- d) All technically compliant tenders exceed the financial resources available
- e) There have been irregularities in the procedure, in particular when these have prevented fair competition.



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After canceling the tender procedure Contracting Authority may decide:

- To launch new tender procedure
- To open negotiations with one or more tenderers who fulfill selection criteria and submitted proposals that are satisfying technical conditions, provided that the original terms of the contract have not been substantially altered
- Not to award the contract



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ETHICS CLAUSES

Any attempt by the tenderer to obtain confidential information from the Contracting Authority during tender procedure is not allowed.

Contracting Authority must declare that there is no potential conflict of interest

Civil servants cannot participate in the tender

Contractor:

- Must not provide other services, supplies or works during the same project
- Must act impartially
- Must respect human rights
- May accept no payment connected with the contract other than that provided therein
- Must maintain professional secrecy
- Must maintain independency
- Must refrain from corrupt practices
- Provide on request all supporting documents that are necessary for implementation of the contract

Failure to comply with these ethics clauses may result with penalties and exclusion of the candidate

Contracting Authority:

It is the obligation of the Contracting Authority to ensure that the procurement procedure is concluded in a transparent manner, based on objective criteria and disregarding any possible external influences.