

PROCUREMENT GUIDELINES FOR PROJECT PROMOTORS AND PROJECT PARTNERS

These Procurement Guidelines are based on the Standard Terms and Condition on EEA and Norway Grants from Innovation Norway. The purpose of these Procurement Guidelines is to help Project Promoters perform their procurement in line with Programme expectations.

1. GENERAL PROVISIONS

- 1.1.** Unless otherwise stated under Special Conditions of the Project Contract, signed between Innovation Norway and the Project Promotor, Procurement Guidelines described in this Paper (hereinafter referred to as: HR-INNOVATION Procurement Guidelines) are applicable to all Project Promotors - beneficiaries of grants under this Programme, provided that they receive less than 50% grant from total approved eligible budget.
- 1.2.** HR-INNOVATION Procurement Guidelines set forth in this Paper shall also be applicable to all beneficiaries of grants under this Programme, when beneficiaries receive 50% or more of a grant, compared to total approved eligible budget, provided that estimated value of procurement is below the thresholds set forth in Article 4 of [Directive 2014/24/EU](#) of the European Parliament and of the Council of 26 February 2014, that is, appropriate thresholds set by the European Parliament and of the Council for the corresponding period.
- 1.3.** In case of projects receiving 50% or more of a grant compared to total eligible approved budget, and estimated value of procurement is equal or above the thresholds set forth in Article 4 of [Directive 2014/24/EU](#) of the European Parliament and of the Council of 26 February 2014, that is, appropriate thresholds set by the European Parliament and of the Council for the corresponding period, Procurement must take place in compliance with the national Public Procurement Act as though the Project Promotor were a Contracting Authority under Point 1 of Article 1 of the above Directive.
- 1.4.** Beneficiaries of grants carrying out procurement activities applying these HR INNOVATION Procurement Guidelines shall also be referred to as Contracting Project Promotors.

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1.5. The implementation of these HR INNOVATION Procurement Guidelines shall be monitored by Innovation Norway, the Fund Operator of the “Business Development and Innovation Croatia” Programme (hereinafter referred to as Fund Operator),.

1.6. When carrying out procurement activities, Contracting project Promotors shall comply with the following **Procurement Principles**:

1.6.1. Principle of Avoidance of Conflict of Interest.

This principle implies that all entities that are in conflict of interest with Contracting Project Promotors (further referred to as tied entities¹) shall be excluded from the procurement procedure, which also includes contract awarding and issuing of purchase orders, except when due to technical reasons or reasons that include exclusive rights of tied entity on the subject of procurement, such entity is the only entity being in the position to deliver goods or services or carry out works that are subject of the procurement.

In such case, it is the obligation of Contracting Project Promotors to provide satisfactory evidence in that regard.

Conflict of interest between Contracting Project Promotors and tied entities involves situations in which representatives of Contracting Project Promotors², involved in carrying out procurement procedures, or those that can influence the outcome of the procedure have direct or indirect, financial, economic or any other personal interest that can be considered damaging for its impartiality or independence within the procedure

Conflict of interest also exists between Contracting Project Promotors and other entities, not necessarily included into the definition of tied entity, if it involves situations in which persons that can influence the outcome of the procurement procedure have any direct or indirect, financial, economic or other personal interest that can be considered damaging for its impartiality or independence within the procedure.

¹ Tied entity means entity as defined by general tax rules. It also involves natural persons that are blood relatives in the straight line, and side line up to a fourth instance, relatives by in law up to a second instance, spouse or extramarital partner, even if the marriage has ended, as well as adopters and adoptees of representatives of Contracting Project Promotor (CEO, member of Management or Supervisory Board of the Contracting Project Promotors.

² This includes CEO or other persons on management position, member of management and supervisory board of Contracting Project Promotors, member of Procurement Committee (if established), other persons involved in the implementation or persons that may have influence on decision making of Contracting Project Promotors in the procurement procedure, as well as persons involved with procurement services (consultants, etc.) who act on behalf of Contracting Project Promotors.

1.6.2. Principle of Equal Treatment and Avoidance of Discrimination

Contracting Project Promotor must ensure impartial and objective treatment of all participants, in the course of all stages of procurement process. Contracting Project Promotor must not define conditions for participation in such a manner that would represent unjustifiable obstacle for participation of specific entities in the tender procedure (such as preference toward entities with domicile in Croatia, or other discriminatory conditions for participation of foreign entities, such as requiring specific licenses, certifications etc., which are not equally available to all participants, technical specifications or terms of reference specifically designed for a particular entity, referring to specific trade-marks, norms, etc.).

When selecting the appropriate procurement procedure, Contracting Project Promotors must ensure that the subject of the procurement is not divided artificially³, in order to avoid more transparent tendering procedure, in accordance with provisions of these Procurement Guidelines.

1.6.3. Principle of rational and economic spending of public funds

The Contracting Project Promotor is obliged to make rational decisions on contract awarding, to ensure that the maximum value of the subject of the procurement is obtained at the minimum cost, having in mind other requirements specified in the tender documentation.

In case of a reasonable suspicion that the contracted price with the supplier/contractor/service provider is unjustifiably high, the Fund Operator may require Contracting Project Promotor to provide additional documentation, and/or may carry out analysis of market prices, and, if justified, in the course of cost/expenses eligibility control has the right to declare such cost/expenses as ineligible.

2. TENDER ANNOUNCEMENT

2.1. Tender Announcement must contain at least the following information:

³ When defining subject of procurement, Contracting Project Promotor uses CPV codes. The subject of procurement is defined so that it represents the technical, technological, functional and other unit. The subject of procurement may be divided into groups. Contracting Project Promotor may divide subject of procurement into groups based on objective criteria, e.g. categories, characteristics, purpose, etc. In such case, subject of each group of procurement must be clearly defined separately, with corresponding technical specifications, bill of quantities etc., as necessary/appropriate.

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- a) The name of Contracting Project Promotor (address, phone number, contact person);
- b) Description of subject of procurement/technical specification;
- c) Bill of quantities (*if applicable*);
- d) Awarding criteria;
- e) Deadline and venue of execution of subject of procurement;
- f) Deadline and address for submission of Tenders;
- g) Reference to the source of financing.

2.2. In the Tender Announcement, Contracting Project Promotors may indicate additional requirements if considered necessary (contract conditions, warranties, payment terms, etc.).

2.3. In the Tender Announcement, Contracting Project Promotor may require that tenderers meet specific competence conditions (professional competence, economic and financial competence, technical competence). In the case of setting competence conditions, such conditions should not lead to unequal treatment of potential tenderers, by bringing some of them to more or less favorable position in comparison to others. Specific competences requested from tenderers should be kept at minimum, in order not to distort free competition.

2.4. The subject of the procurement should be described by technical characteristics and functional requirements. Using of trade marks should be avoided to the extent possible. In case it is not possible, and reference to trade marks is necessary for appropriate description of functional features of the subject of procurement, reference to trade mark should always be followed by the expression „or equivalent“. In such case, it would be an obligation of Contracting Project Promotor to appropriately justify reference to specific trade-mark.

Additionally, technical requirements must not be drafted in a way to discriminate in favor of specific trade mark, that is, enable only specific trade mark to fit into the requirements. This implies that technical specifications should not be drafted in a way to enable only one tenderer to comply with tendering requirements. Contracting Project Promotor is obliged to describe subject of the procurement in clear and nondiscriminatory manner, to enable free competition among tenderers and comparability of tenders with the requirements set forth in the Tender Announcement.

2.5. Tender Awarding Criteria may be:

- a) The lowest price, or

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b) The most commercial advantageous Offer (the best value for money based on the comparison between quality and price and technical advantages, functional features, operational expenses, delivery dates etc.). In the Tender Announcement, the Contracting Project Promotor must clearly define the relative weight of each particular criterium that will be used for defining the most commercial advantageous Offer.

2.6. When defining the appropriate deadlines for submission of tenders, Contracting Project Promotors must take into account the complexity of subject of procurement as well as the time that potential tenderers need to prepare their Tenders. The deadlines are specifically defined for each procurement procedure. The counting of deadline starts the very next day, after ending the day on which the Tender Announcement has been published, and expires by ending the last day of the deadline. National holidays, Saturdays and Sundays have no influence on the beginning and course of the deadline. The term “working day” means all days except for the national holidays, Saturdays and Sundays. If the deadline falls on the national holiday, on Saturday or Sunday, the deadline expires with ending of the first next working day.

2.7. In case of a need for changing the Tender Announcement (e.g. if the economic entity requires additional information, if clarifications or changes related to conditions from the Tender Announcement are needed, and are asked for before the deadline for submission of tenders has expired), it has to be transparently published, and/or sent to all potential tenderers (in case the Invitation has been sent to more economic entities), so that all economic entities are informed about the change at the same time. If the change is substantial (technical specifications are changed, additional documentation is required from tenders etc.), the deadline for submission of tenders should be extended as appropriate.

3. REVIEW AND EVALUATION OF TENDERS

3.1. After expiration of the deadline for submission of tenders, tenders received must be reviewed, technical specifications/terms of reference from tenders must be compared with those specified in the Procurement Documentation, and compliance of tenders with other terms and conditions from Tender Announcement and supporting Procurement Documents must be checked.

3.2. The tender that complies with all terms and conditions specified in the Tender Announcement/Procurement Documents, and:

- has the lowest price (when awarding criterium is the lowest price), or is
- commercially the most advantageous (when awarding criterium is the most commercial advantageous Offer)

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Is considered the most advantageous offer.

- 3.3.** Contracting Project Promotor may not change conditions stipulated in the Tender Announcement in the course of review and evaluation of tenders.
- 3.4.** If the information or documentation that the economic entity has submitted are incomplete, erroneous or appear to be so, or if some documents are missing, Contracting Project Promotor may, respecting the principles of equal treatment and transparency request from economic entity to complement, clarify or submit the missing information or documentation within the appropriate period, which may not be shorter than five days. The above should not lead to negotiation related to tender awarding criteria or offered subject of procurement.
- 3.5.** The Contracting Project Promotor must evaluate the tenders by using objective criteria and is obliged to prepare and safeguard appropriate documentation that justifies selection of tenders and contract awarding, and taking other actions in accordance with these Procurement Guidelines.
- 3.6.** Contracting Project Promotor is obliged to notify Tenderers in writing about the results of Procurement Procedure in the most appropriate and efficient manner. Tenderers are considered notified with the expiration of the day that follows the day at which notification has been published on Contracting Project Promotor's web site (if indicated so in the Procurement Documents), or sent to tenderers electronically.
- 3.7.** Contracting Project Promotor must give possibility to unsuccessful tenderers to have an insight into the procurement documentation three (3) days after notification on the results of tendering has been made available to tenderers.
- 3.8.** In case unsuccessful tenderers believe their tender has been unjustifiably rejected, or inappropriately rated, they may submit an appeal to a Fund Operator electronically (using the following email address: cro.innovation@innovationnorway.no), within five (5) days from the day of being notified. Appeal must be written in English, appropriately argued and supported by evidence, as appropriate. At the same time, copy of appeal must be sent to Contracting Project Promotor, who must send the entire package of Procurement Documents to Fund Operator immediately, and may provide its counter-arguments to Fund Operator within five (5) days from receipt of copy of appeal.
- 3.9.** Based on the analysis of procurement documentation, and arguments of both parties, Fund Operator makes the decision within ten (10) days from which appeal has been submitted. The Fund Operator's decision on the appeal is final.

- 3.10.** In case no appeal has been received within five days from the date of notifying the tenderers on the results of the Tender Procedure, the Contracting Project Promotor may proceed with issuing purchase order or signing of contract with successful Tenderer.

4. TENDERING PROCEDURES

4.1. Procurement of works, goods and services, where estimated value of procurement is less than EUR 20.000.

- 4.1.1. When estimated value of procurement is below EUR 20.000, the Contracting Project Promotor selects the economic entity capable of executing the subject of procurement.
- 4.1.2. The Contracting Project Promotor sends to the economic entity request for submission of offer in writing, and must give minimum three days to economic entity to submit its offer.
- 4.1.3. Contracting Project Promotor reviews the offer received in terms of compliance with procurement requirements, and notifies economic entity on its decision in writing.
- 4.1.4. Contracting Project Promotor may opt between concluding the contract with economic entity whose offer has been accepted, and issuing of purchase order. Purchase order must contain all the data legally required.
- 4.1.5. Entire Procurement Documentation must be kept on project file and made available for subsequent review to Fund Operator upon request.
- 4.1.6. Procurement Guidelines set forth under Points 2. i 3. of this Paper are not applicable to the procedure from this point.

4.2. Procurement of works, goods and services, where estimated value of procurement is between EUR 20.000 and EUR 60.000

- 4.2.1. When estimated value of procurement is between EUR 20.000 and EUR 60.000, Contracting Project Promotor must publish Tender Announcement, together with the entire package of tendering documents on its website, and brief summary with link to Tender Announcement must be sent to Fund

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Operator for publishing on its Programme web site

www.innovasjon Norge.no/Croatiainnovation

- 4.2.2. Additionally, Contracting Project Promotor may send requests for submission of tenders to at least three tenderers of its preference, capable of procuring subject of the procurement. Review and evaluation of tenders must be carried out by taking into account all tenders received.
- 4.2.3. Tenderers must be given at least seven days to submit their Tenders.
- 4.2.4. The Content of the Tender Announcement, as well as other tendering conditions to be applied to this procedure, which are not specified under this Point, are defined under Points 1 and 2 of these HR-INNOVATION Procurement Guidelines.
- 4.2.5. Review and Evaluation of Tenders must be conducted in accordance with provisions set forth under Point 3 of these HR-INNOVATION Procurement Guidelines.
- 4.2.6. To select the Tenderer, one valid Tender is sufficient.
- 4.2.7. The Tender Announcement and its supporting documents must be in English. The Contracting Project Promotor may decide to use Croatian language in parallel. In case of non-compliance between English and Croatian version of the Tender Announcement and Tender Documents, English version shall prevail.

Tenderers must submit their tenders either in English or in Croatian.
- 4.2.8. The entire Procurement Documentation must be kept on project file and made available for subsequent review to Fund Operator and other appropriate control entities upon request.

4.3. Procurement of works, goods and services, where estimated value of procurement is above EUR 60.000

- 4.3.1. When estimated value of procurement is above EUR 60.000, Contracting Project Promotor must publish Tender Announcement, together with entire package of tendering documents on its website, and brief summary with link to Tender Announcement must be sent to Fund Operator for publishing on Programme web site. Additionally, Tender Announcement must be published in at least one national newspaper (electronic or hard copy).

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- 4.3.2. Tenderers must be given at least ten (10) days to submit their Tenders.
- 4.3.3. The Content of the Tender Announcement, as well as other tendering conditions to be applied to this procedure, which are not specified under this Point, are defined under Points 1 and 2 of these HR-INNOVATION Procurement Guidelines.
- 4.3.4. Review and Evaluation of tenders must be conducted in accordance with provisions set forth under Point 3 of these HR-INNOVATION Procurement Guidelines.
- 4.3.5. To select the Tenderer, one valid tender is sufficient.
- 4.3.6. The Tender Announcement and its supporting documents must be in English. The Contracting Project Promotor may decide to use Croatian language in parallel. In case of non-compliance between English and Croatian version of Tender Announcement and Tender Documents, English version shall prevail.

Tenderers must submit their tenders either in English or in Croatian.
- 4.3.7. The entire Procurement Documentation must be kept on project file and made available for subsequent review to Fund Operator upon request.

4.4. SPECIAL PROCUREMENT PROCEDURES

- 4.4.1. Contracting Project Promotors may carry out Procurement Procedure by sending request for submission of offer to one or more economic entities as applicable, or by publishing Tender Announcement on its website, regardless of the estimated value of procurement, in case of occurrence of following conditions:
 - a) In exceptional, justifiable circumstances, when it is necessary to act hastily, due to circumstances that Contracting Project Promotors could not foresee, avoid or eliminate, which are not the consequence of its own actions and/or avoidance, and are necessary for safeguarding human lives and health, assets, or avoiding further damage on assets related to the contract, or

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- b) There is no possibility to collect more tenders on the market, because the subject of procurement is exclusively tied to a particular economic entity⁴ which is the only entity that can deliver it (due to technical reasons, e.g. interoperability and/or upgrading of the existing system, or reasons related to protection of specific or exclusive rights), at which case Contracting Project Promotors must clarify reasons and circumstances in details and support the decision with appropriate evidence; or
 - c) In case it is necessary to agree upon additional works, goods or services from those initially planned, which are necessary for finalization of the project. In such case, total value of additionally contracted works, goods or services should not exceed 50% of total value of basic procurement contract. When concluding Annex to the original contract, unit prices from the original contract should not be increased.
- 4.4.2. Circumstances spelled out under Point 4.4.1., from a) until c) must be duly clarified to a Fund Operator, or other controlling entity, as necessary.

5. FINAL PROVISIONS

- 5.1.** Contracting Project Promotor communicates with Fund Operator in accordance with provisions specified in these HR-INNOVATION Procurement Guidelines, and with third parties through regular and electronic mail, personal delivery with confirmation of receipt. Communication, exchange and achieving of information is done by protecting the data and maintaining its secrecy, in accordance with relevant national regulations.
- 5.2.** In case of non-compliance with Procurement Guidelines, such practice shall be reported by the Fund Operator to Financial Mechanism Office (FMO) in Bruxelles as irregularity and remedial actions shall be considered based on the level of irregularity.
- 5.3.** These Procurement Guidelines are applicable to both, Contracting Project Promotors and their Project Partners, in case Project Partners are responsible for carrying out procurement procedures.
- 5.4.** In case procurement is a combination of goods, works and services, the subject of procurement will be determined based on the subject with the highest value in the procurement.

⁴ Economic Entity in this context is considered to be a legal or natural person, or community of such persons that carries out works, and/or deliver goods, and/or deliver services on the market.

**STATEMENT ON NON-EXISTENCE OF CONFLICT OF INTEREST FOR
CONTRACTING AUTHORITIES, BENEFICIARIES OF GRANTS FROM THE
BUSINESS DEVELOPMENT AND INNOVATION CROATIA PROGRAMME**

For representative/s and officials/members of Selection and Award Committee
in the Procurement Procedure

STATEMENT*

By which I,

[Name and Surname]

As representative (responsible person/official/Member of Selection and Award
Committee* *[underline, as appropriate]*) that carries out and/or participates in
carrying out of the procurement procedure

[title and ref. no. of Procurement]

As Contracting Project

Promotor _____

[name of Contracting Project Promotor]

acting in accordance with Procurement Guidelines for Project Promotors -
beneficiaries of the Business Development and Innovation Croatia Programme

Confirm that I am not in the Conflict of interest with the selected Bidder.

By signing of this Statement I understand and accept that in case of establishing
existence of conflict of interest in accordance with HR-INNOVATION
Procurement Guidelines for beneficiaries under the Business Development and

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Innovation Croatia Programme, the procurement will be declared irregular and corresponding amount of grant will be cancelled at 100%.

I am obliged to take appropriate measures in order to avoid conflict of interest.

**This statement should be signed before awarding the contract under each particular procurement procedure (regardless of estimated value of procurement) in accordance with Procurement Guidelines for the Business Development and Innovation Croatia Programme. Each representative/Official/Member of Committee that participates and/or carries out procurement procedure must sign a separate Statement.*

[venue, date and Signature]

In case of Open Tender procedure, in the Invitation to Bid, Contracting Project Promotor is obliged to provide list all tied and other entities with which Contracting Project Promotor is in conflict of interest, or indicate that such entities do not exist.