

ANNEX V

Contract-award procedures in the projects financed in the framework of Kolarctic CBC Programme 2014-2020

1. General principles

If the implementation of project activities requires procurement, the contract must be awarded to the tender offering the best value for money, or, as appropriate, to the tender offering the lowest price. Procurement procedure shall respect the principles of transparency and fair competition for potential contractors and avoid any conflicts of interest.

Tender documents shall give a full, clear and precise description of the subject of the contract and specify the selection and award criteria applicable to the contract.

Project's external auditor shall verify the procurements within the projects' interim/final reporting and the Managing Authority may carry out ex post checks on Lead Partner's and Partner's compliance with the rules. All procurements shall comply with the applicable national legislation, national, EU and Programme regulations and to the conditions set in Grant Contract.

Procurement procedures may be initiated before the signature of the Grant Contract provided that the conditions set by the Programme are followed. Contracts (service, supply, work) can be awarded if it benefits the implementation of the project, taking in to notice that contracts are awarded with the own risk of the Lead Partner or Partner. Implementation of the contract (service, supply, work) may not start before the Grant Contract is signed and the payments regarding to the contracts are eligible only after that.

All tender procedures shall be documented and the selection criteria justified.

Applicable procurement rules depend on the location of the Lead Partner or Partner (Finland, Russia, Sweden, Norway) and the type (public, private) of the organization in question.

2. Eligibility for the award of contracts

2.1 Finnish organizations

Finnish organizations follow the regulations set in the "Laki julkisista hankinnoista / Act on Public Contracts (348/2007)". The act in under the changes and the new act will enter in force in 2017. More information available on

www.hankinnat.fi.

Organizations which are not otherwise liable to follow the Act of Public Contracts must comply with it if the share of the public funding for the project costs exceeds 50%.

Valid national and EU threshold values (net of VAT) are indicated in the webpages www.hankinnat.fi.

Procurements below the amounts of national thresholds

- If the value of the procurement is over 3000 € but less than threshold value, the request for tender must be asked in writing from 3-5 tenderers. The procurement procedure must be documented and the criteria for the decision justified.
- If the value of the procurement is less than 3000 €, it's recommended to ask tenders from three suppliers by phone/e-mail/from webpages.
- The requirements and instructions of the partner organizations may demand additional procedures.

Failure to comply with the above rules shall render the related expenditure ineligible.

2.2 Swedish organizations

Swedish organizations follow the regulations set in the "Lag om offentlig upphandling / Swedish Public Procurement Act (2016:1145 LOU)"

Valid national and EU thresholds are indicated in

www.upphandlingsmyndigheten.se and

www.konkurrensverket.se/upphandling

Procurements below the amounts of national thresholds

- If the value of the procurement is over 3000 € but less than threshold value, the request for tender must be asked in writing from 3-5 tenderers. The procurement procedure must be documented and the criteria for the decision justified.
- If the value of the procurement is less than 3000 €, it's recommended to ask tenders from three suppliers by phone/e-mail/from webpages.
- The requirements and instructions of the partner organizations may demand additional procedures.

Failure to comply with the above rules shall render the related expenditure ineligible.

2.3 Russian organizations

Procurement practises of the Russian entities was agreed in the "Agreement of the financing and implementation of CBC Programme Kolarctic 2014-2020".

Public organizations established in Russian Federation

Where the Lead Partner of Partner is a public entity established in the Russian Federation or a legal entity established in the Russian Federation, which is subject to national procurement legislation, it shall apply the legislation of the Russian Federation. The beneficiary shall award the contract to the tender offering best value for money or as appropriate to the tenderer offering the lowest price. The beneficiary shall avoid any conflict of interests and respect the principles of equal treatment, non-discrimination, fair competition, transparency.

Procurement shall be open on equal terms to all natural and legal persons effectively established in countries eligible under the applicable legislation.

All supplies purchased under a procurement contract shall originate from an eligible country, except when the cost of these supplies is below EUR 100 000. In this case, supplies may originate from any country.

National preferences are prohibited, except for contract with a value not exceeding EUR 20 000 in order to promote local capacities, markets and purchases.

Failure to comply with the above rules shall render the related expenditure ineligible.

Private organizations established in Russian Federation

Procurement of the Russian private entities is regulated in the “Award of procurement contracts by Russian private beneficiaries” which is an official annex of the “Agreement of the financing and implementation of CBC Programme Kolarctic 2014-2020”.

The content of the procurement rules is described in the Annex VI of the Grant Contract

“Annex VI Award of procurement contracts by Russian private beneficiaries”

Failure to comply with the above rules shall render the related expenditure ineligible.

2.4 Norwegian organizations

Norwegian organizations shall follow the national legislation of the public procurement.

www.regjeringen.no/no/aktuelt/nye-og-enklare-reglar-for-anskaffingar/id2416710/

Procurements below the amount of national thresholds

- If the value of the procurement is over 100 000 NOK, the request for tender must be asked in writing from 3-5 tenderers. The procurement procedure must be documented and the criteria for the decision justified.
- If the value of the procurement is less than 100 000 NOK, it's recommended to ask tenders from three suppliers by phone/e-mail/from webpages and d.
- The requirements and instructions of the partner organizations may demand additional procedures.

Failure to comply with the above rules shall render the related expenditure ineligible.

2.5 In all other cases the following obligations shall be complied

Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014, articles 52-56.

Article 52 Applicable rules

- For contracts with a value of more than EUR 60 000 the rules of procurement are indicated in the article 52, item 2 (b)
- In all cases, the rules of nationality and origin set forth in Articles 8 and 9 of Regulation (EU) No 236/2014 shall apply.

Article 53 Service contracts

- Procurement procedures for service contracts with a value of 300 000 EUR or more
- Procurement procedures for service contracts with a value of 60 000 EUR but less than 300 000 EUR

Article 54 Supply contracts

- Procurement procedures for supply contracts with a value of 300 000 EUR or more
- Procurement procedures for supply contracts with a value of 100 000 EUR or more but less than 300 000 EUR
- Procurement procedures for supply contracts with a value of 60 000 EUR but less than 100 000 EUR

Article 55 Work contracts

- Procurement procedures for work contracts with a value of 5 000 000 EUR or more
- Procurement procedures for supply contracts with a value of 300 000 EUR or more but less than 5 000 000 EUR
- Procurement procedures for supply contracts with a value of 60 000 EUR but less than 300 000 EUR

Article 56 Use of negotiated Procedure

- The beneficiary may decide to use negotiated procedure on the basis of a single tender in the cases referred to in Articles 266, 268, 270 of Delegated Regulation (EU) No 1268/2012

3. Grounds for exclusion from participation in procurement (EU Regulation No 966/2012)

EU No 966/2012, Article 106 (1); Candidates or tenderers shall be excluded from participation in a procurement procedure if :

- (1) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (2) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- (3) they have been guilty of grave professional misconduct proven by any means which the Beneficiary can justify;
- (4) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Beneficiary or those of the country where the contract is to be performed;

- (5) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

Candidates or tenderers must certify that they are not in one of the situations listed above.

EU No 966/2012, article 107; Exclusion from award of contracts

Contracts may not be awarded to candidates or tenderers which, during the procurement procedure:

- (a) are subject to a conflict of interests;
- (b) are guilty of misrepresentation in supplying the information required by the Beneficiary as a condition of participation in the contract procedure or fail to supply this information.
- (c) find themselves in one of the situation of exclusion, referred to in Article 106(1), for the procurement procedure

4. Rules common to all tender procedures

The tender documents must be drafted in accordance with best international practice. The time-limits for receipt of tenders and requests to participate must be long enough to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

All requests to participate and tenders declared as satisfying the requirements must be evaluated on the basis of the exclusion, selection and award criteria announced in advance.

5. Frame contracts

Where the Lead Partner or Partner uses a frame contract, which is contracted by the organization they represent and is valid, he selects it in conformity with the procedures set out above.