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ANNEX IV
Procurement by grant beneficiaries in the context of European Union external actions

1. PRINCIPLES

If the implementation of an action requires procurement by the beneficiary(ies), the contract must be awarded to the tender offering best value for money (i.e. the tender offering the best price-quality ratio) or, as appropriate, to the tender offering the lowest price. In doing so, the beneficiary(ies) shall avoid any conflict of interests and respect the following basic principles:

Where the beneficiary does not launch an open tender procedure, it shall justify the choice of tenderers that are invited to submit an offer.

The beneficiary shall evaluate the offers received against objective criteria which enable measuring the quality of the offers and which take into account the price (the offer with the lowest price shall be awarded the highest score for the price criterion).

The beneficiary shall keep sufficient and appropriate documentation with regard to the procedures applied and which justify the decision on the pre-selection of tenderers (where an open tender procedure is not used) and the award decision.

With reference to Section 2.4 of PRAG, the beneficiary shall be responsible for the respect of EU restrictive measures in the award of contracts.

The beneficiary may decide to apply the procurement procedures set forth in the practical guide. If these procedures are correctly followed, the principles above will be deemed to be complied with.

The European Commission will carry out *ex post* checks on beneficiary(ies)'s compliance with the principles above and the rules of section 2 below. Failure to comply with these principles or rules would render the related expenditure ineligible for EU/EDF funding.

The provisions of this Annex apply *mutatis mutandis* to contracts to be concluded by the beneficiary(ies)'s affiliated entity(ies).

2. ELIGIBILITY FOR CONTRACTS

2.1. The nationality rule

Participation in tender procedures managed by the beneficiary(ies) is open on equal terms to all natural who are nationals of and legal persons (participating either individually or in grouping-consortium- of tenderers) effectively established in a Member State or a country, territory or region mentioned as eligible by the relevant regulation/basic act governing the eligibility rules for the grant as per Annex A2a to the practical guide. Tenderers must state their nationality in their tenders and provide the usual proof of nationality under their national legislation.

This rule does not apply to the experts proposed under service tenders financed by the grant.

2.2. The rule of origin

If the basic act or the other instruments applicable to the programme under which the grant is financed (namely for grants financed by a basic act under the Multiannual Financial Framework for the years 2014-2020 and for grants financed by the INSC

Regulation 2021/948 of 27 May 2021 under the Multiannual Financial Framework 2021-2027) contain rules of origin for supplies acquired by the beneficiary in the context of the grant[1], the tenderer must be requested to state the origin[2] of the supplies, and the selected contractor will always have to prove the origin of the supplies.

For equipment and vehicles of a unit cost on purchase of more than EUR 5 000, contractors must present proof of origin to the beneficiary(ies) at the latest when the first invoice is presented. The certificate of origin must be made out by the competent authorities of the country of origin of the supplies and must comply with the rules laid down by the relevant Union legislation. Failure to comply with this condition may result in the termination of the contract and/or suspension of payment.

Where supplies may originate from any country, no certificate of origin needs to be submitted.

Likewise, for grants financed by a basic act under the multiannual financial framework for the years 2021-2027 with the exception on the INSC Regulation 2021/948 of 27 May 2021, supplies may originate in any country and no certificate of origin needs to be submitted.

2.3. Exceptions to the rules on nationality and origin

Where an agreement on widening the market for procurement of goods, works or services applies, access must also be open to nationals and goods originating from other countries under the conditions laid down in that agreement.

In addition, in duly substantiated exceptional cases foreseen by the applicable regulations, in order to give access to nationals or goods originating from countries other than those referred to in Sections 2.1 and 2.2, a prior authorisation by the European Commission must be sought prior to the launch of the procedure, unless the action takes place in a country under a crisis declaration.

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[1] Under the CIR (i.e. not IPA I) and the EDF supplies may originate from any country if the amount of the supplies to be procured is below EUR 100 000 per purchase.

[2] For the purpose of this annex, the term 'origin' is defined in Chapter 2 of Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the EU Customs Code (Modernised Customs Code).