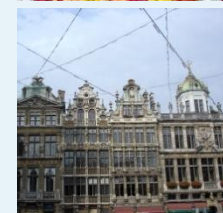


Guidelines on participation in EU External Aid Programmes

by Raphael Zayat, Managing Director of COWI Belgium



Outline of the Presentation

- COWI: a brief description
- EU External aid programmes
- The Procurement guidelines
- The shortlisting and tendering process for service contracts
- The contractor experience and suggestions
- The New PRAG 2013

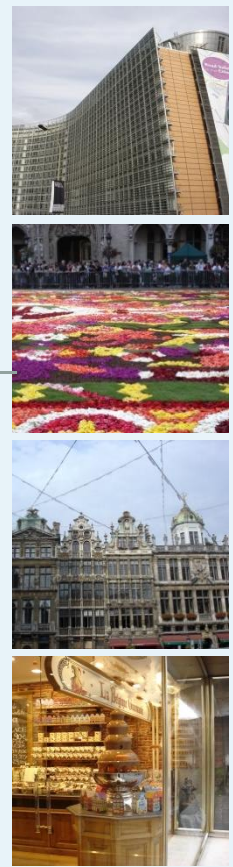
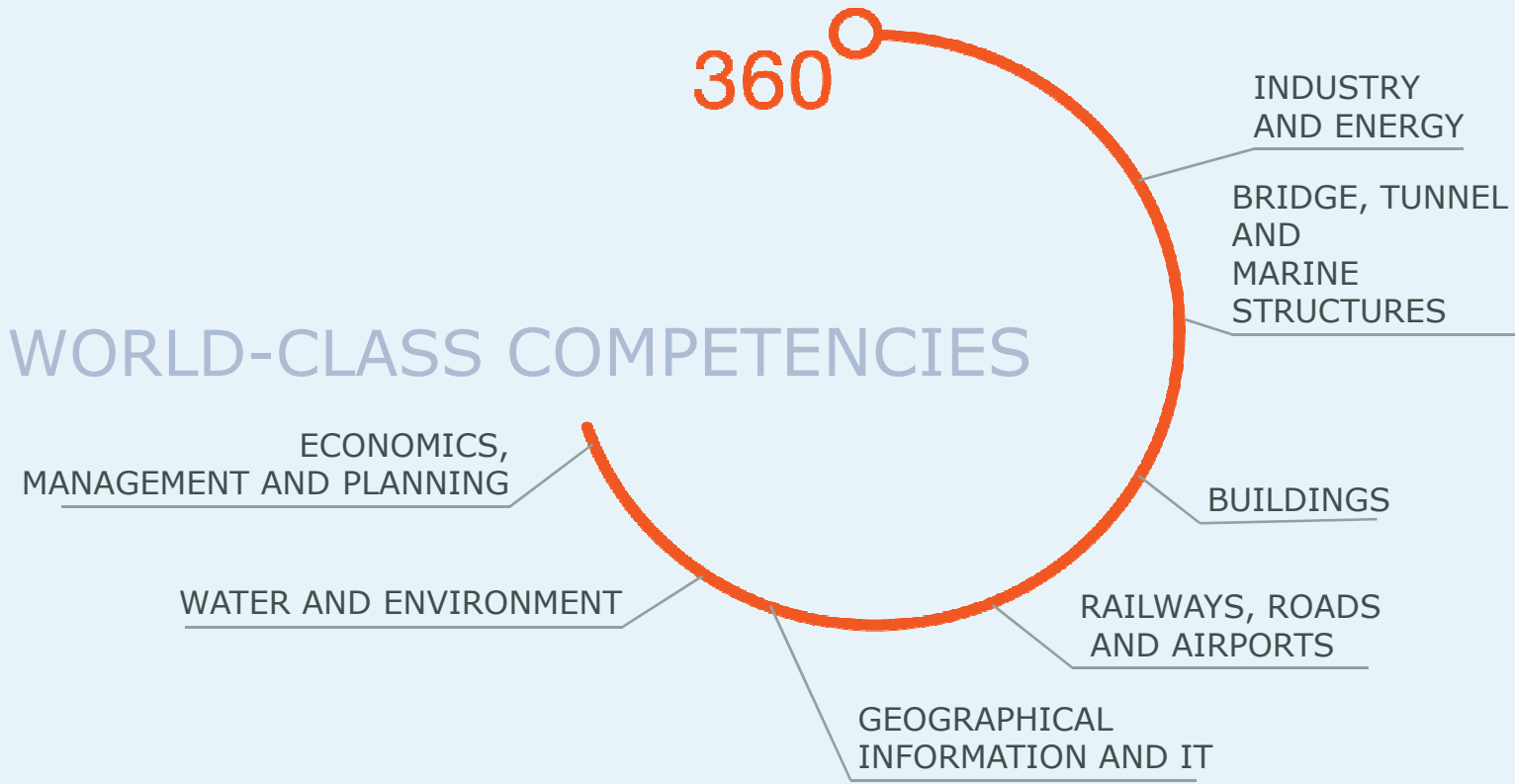


COWI is one of the leading international Consultants in Northern Europe

- **6200** employees generating a turnover close to **630 MEUR** in 2012; with more than half of its employees based outside Denmark
- COWI is **independent**. The COWI Foundation is the major shareholder together with the employees
- COWI provides **consultancy services** of the highest quality within **engineering, environmental science and economics**
- **20 subsidiaries**, several project and branch offices around the world
- COWI Belgium: permanent presence in Brussels since 1997
- More than half the turnover generated outside Denmark and **less than 5%** with the Commission
- Activities in **124 countries** around the world



COWI services



The current legal basis of external aid

- The European Treaty and Agreements
- EU international commitments and obligations towards development aid targets (OECD-DAC, MDGs, Paris Declaration, Accra Agenda, etc..)
- New EU Financial Regulation (FR) applicable to the general budget of the European Communities, 2012
- Practical Guide to Contract procedures for EU external actions (PRAG), March 2013
- Implementing Regulations of each Instrument



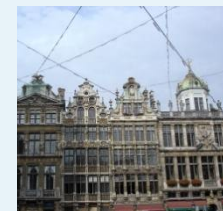
EU: Key Donor of Official Development Aid (ODA)

- The EU is the world's most ambitious group of donors, committed to providing 0.7% of its collective GNI in ODA by 2015, in line with the long-standing UN goal.
- Over the period 2004–2010, the EU and its Member States accounted for 57% of net ODA to developing countries from all OECD DAC (EUR 53.8 billion in 2010)
- Partners: more than 150 States, Territories and Regional organisations
- Geographical programmes
- Thematic programmes: food aid, humanitarian aid, democracy & human rights, co- financing with NGOs, environment, tropical forests, refugees, ...
- A network of more than 120 Delegations and Representations in the world (Aid managers and diplomats - EEAS)



EU External Aid Programmes 2007-2013 (EUR 10 bn/year)

| | Instrument for Pre Accession Assistance (IPA) | European Neighbourhood & Partnership Instrument (ENPI) | Development Cooperation & Economic Cooperation policy (DCI) | European Development Fund (10th EDF) |
|-------------------------------|---|---|---|--|
| Geography | Western Balkans, Turkey and Iceland | Mashrek, Maghreb, Ukraine, Belarus, Moldova, Caucasus | ALA, Central Asia, Gulf | ACP |
| Years | 2007-2013 | 2007-2013 | 2007-2013 | 2008-2013 |
| Budget | EUR 11 bn | EUR 13 bn | EUR 10 bn | EUR 24 bn |
| Relevant Project Areas | Assist Transition and Institution Building Cross-Border and Regional Cooperation: Regional, Human Resources and Rural Development | Finance "joint programmes" with MS and partners sharing a joint border Infrastructure Development, Energy, Sustainability etc. | Support to all forms of cooperation that help achieve the Millennium Development goals and reduce poverty, infrastructure and energy (especially for the "stans") | Economic, social and cultural development: Education Infrastructure Energy Facility |



MFF 2014-2020 (provis. EUR 12 bn/year)

| | Instrument for Pre Accession Assistance (IPA) | European Neighbourhood Instrument (ENI) | Development Cooperation Instrument (DCI) | European Development Fund (10th EDF) |
|--------------------|--|---|---|---|
| Geography | Western Balkans, Turkey and Iceland | Mashrek, Maghreb, Ukraine, Belarus, Moldova, Caucasus | ALA, Central Asia, Gulf | ACP |
| Budget | EUR 13 bn | EUR 17 bn | EUR 20 bn | EUR 27 bn |
| Instruments | Partnership Instrument (EUR 1,1 bn), Instrument for Stability (EUR 2,7 bn), European Instrument for Democracy and Human Rights (EUR 1,6 bn), Instrument for Nuclear Safety Cooperation (EUR 0,6 bn), Instrument for Greenland (EUR 1,6 bn) | | | |



What does the EU fund?

- Studies (feasibility impact assessment etc.)
- Technical assistance/capacity building
- Publication support
- Conferences/Seminars
- Networks
- Evaluation/Monitoring
- Supplies and equipment
- Civil Works
- Budget support

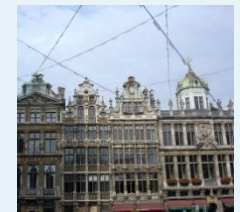
TABLE 5.21
Budget Support 2011 : breakdown by instrument

Commitments in € million

| | General Budget Support | Sector Budget Support | Total Budget Support | Total ODA | Budget Support / Total ODA |
|--|------------------------|-----------------------|----------------------|--------------|----------------------------|
| European Neighbourhood and Partnership Instrument (ENPI) | - | 513 | 513 | 1 976 | 26% |
| Development Cooperation Instrument - Geographic ⁽¹⁾ | 76 | 383 | 458 | 1 423 | 32% |
| Development Cooperation Instrument -Thematic ⁽²⁾ | 56 | 67 | 123 | 1 168 | 11% |
| European Development Fund (EDF) | 74 | 84 | 158 | 2 887 | 5% |
| Grand Total | 205 | 1 047 | 1 252 | 7 454 | 17% |

(1) DCI - Geographic : Asia, Latin America, South Africa

(2) DCI - Thematic : Migration, Food security, Non-state actors, Environment, Human & social development, ACP sugar programmes

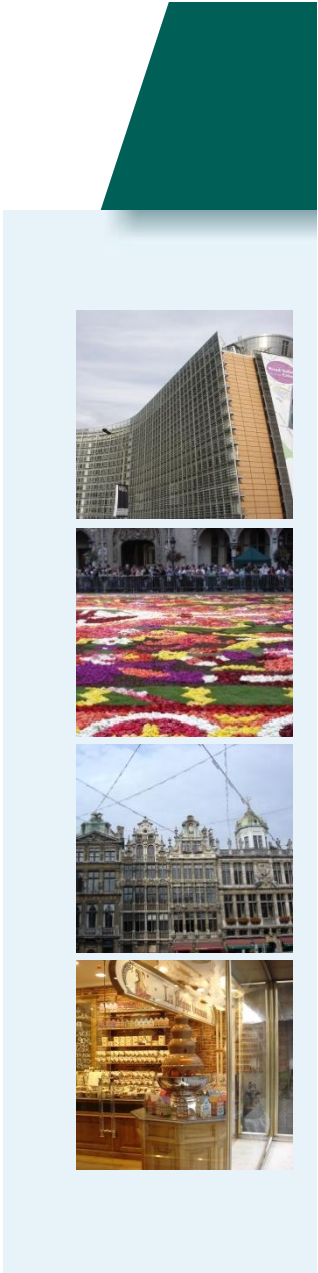
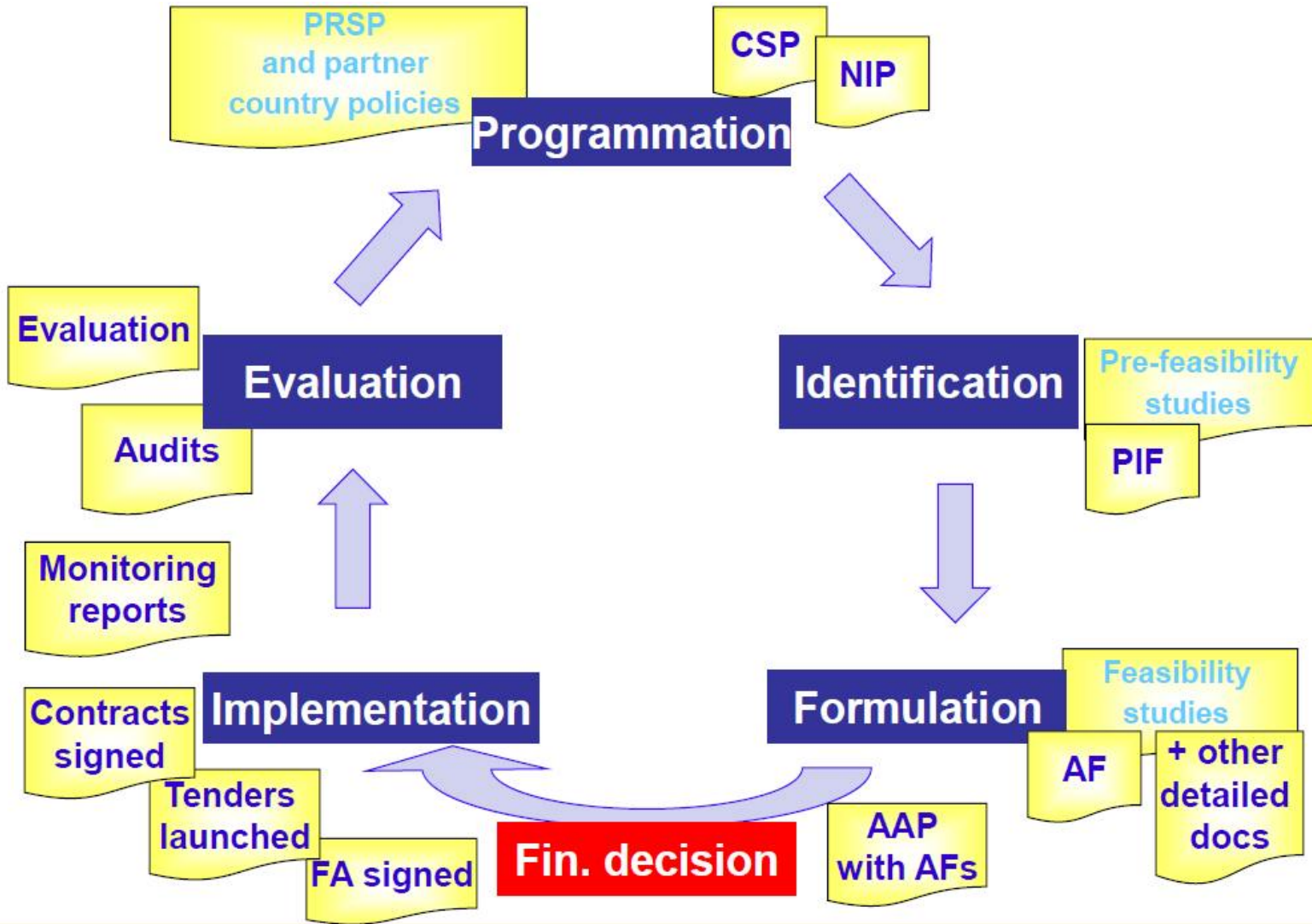


NEW MFF – Global Europe

- Concentration on a limited number of sectors in each country
- Higher concentration on poorer developing countries
- More for more
- Decentralization of programming and execution of development aid/role of EEAS
- New instruments (e.g. blending, PPP, mixed financing instruments)
- Taking into account the appearance of new development actors



The EU Project Cycle



EU Tendering

- Types of Contracts:
 - Services
 - Supplies
 - Works
 - Grants
- Types of tendering:
 - Restricted
 - Call for expression of interest + restricted (IRTP)
 - Open tender
 - Call for Proposal



Forms of Financing: bottom up and top-down

**GRANTS
(calls for proposals)**

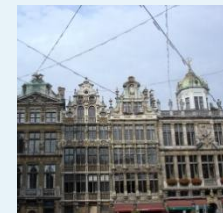
Are you looking for money
to fund your project?

Call for Proposal - co-funded

Are you looking for opportunities
to sell your services or goods?

**PUBLIC PROCUREMENT
(tenders)**
-SER
-SUP
-WKS

Tendering methods:
- Restricted (EoI + shortlist)
or
- Open

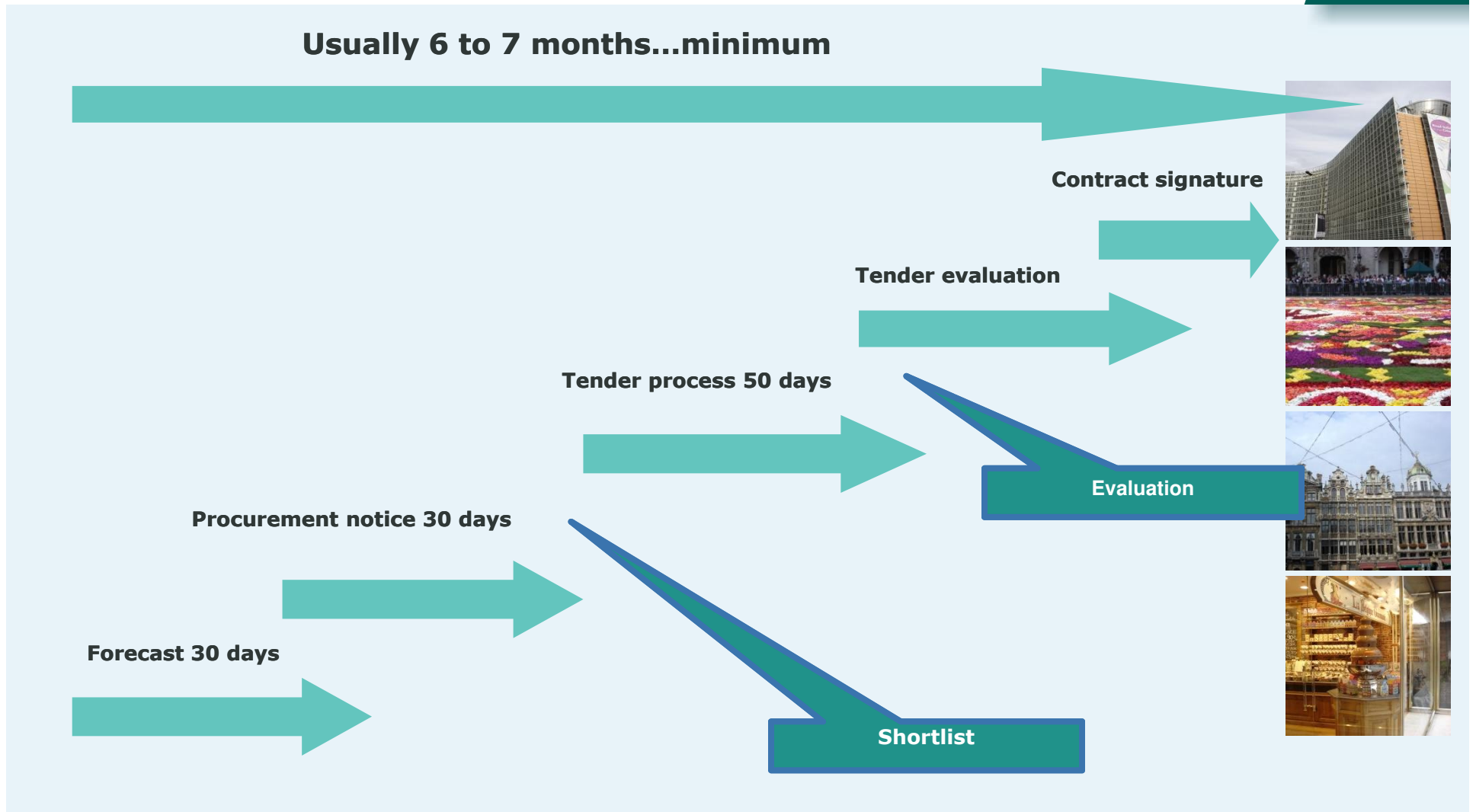


Procurement Financial Thresholds

| | | | | |
|-----------------|---|---|--|--|
| Services | <p>≥ EUR 300.000</p> <p>International restricted tender procedure</p> | <p>< EUR 300.000 but > EUR 20.000</p> <p>Framework contracts or Competitive negotiated procedure</p> | | <p>≤ EUR 20.000 Single tender</p> <p>For service and supply contracts, a payment may be made against invoice without prior acceptance of a tender if the expenditure is ≤ EUR 2.500</p> |
| Supplies | <p>≥ EUR 300.000</p> <p>International open tender procedure</p> | <p>< EUR 300.000 but ≥ EUR 100.000</p> <p>Local open tender procedure or Framework contract</p> | <p>< €100.000 but > €20.000</p> <p>Competitive negotiated procedure or Framework contract</p> | |
| Works | <p>≥ EUR 5.000.000</p> <p>International open tender procedure or International restricted tender procedure</p> | <p>< €5.000.000 but ≥ €300.000</p> <p>Local open tender procedure</p> | <p>< EUR 300.000 but > EUR20.000</p> <p>Competitive negotiated procedure</p> | |



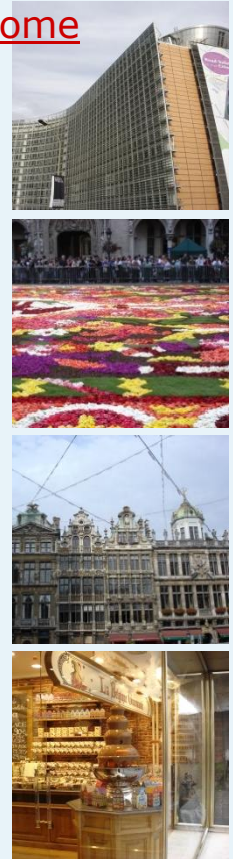
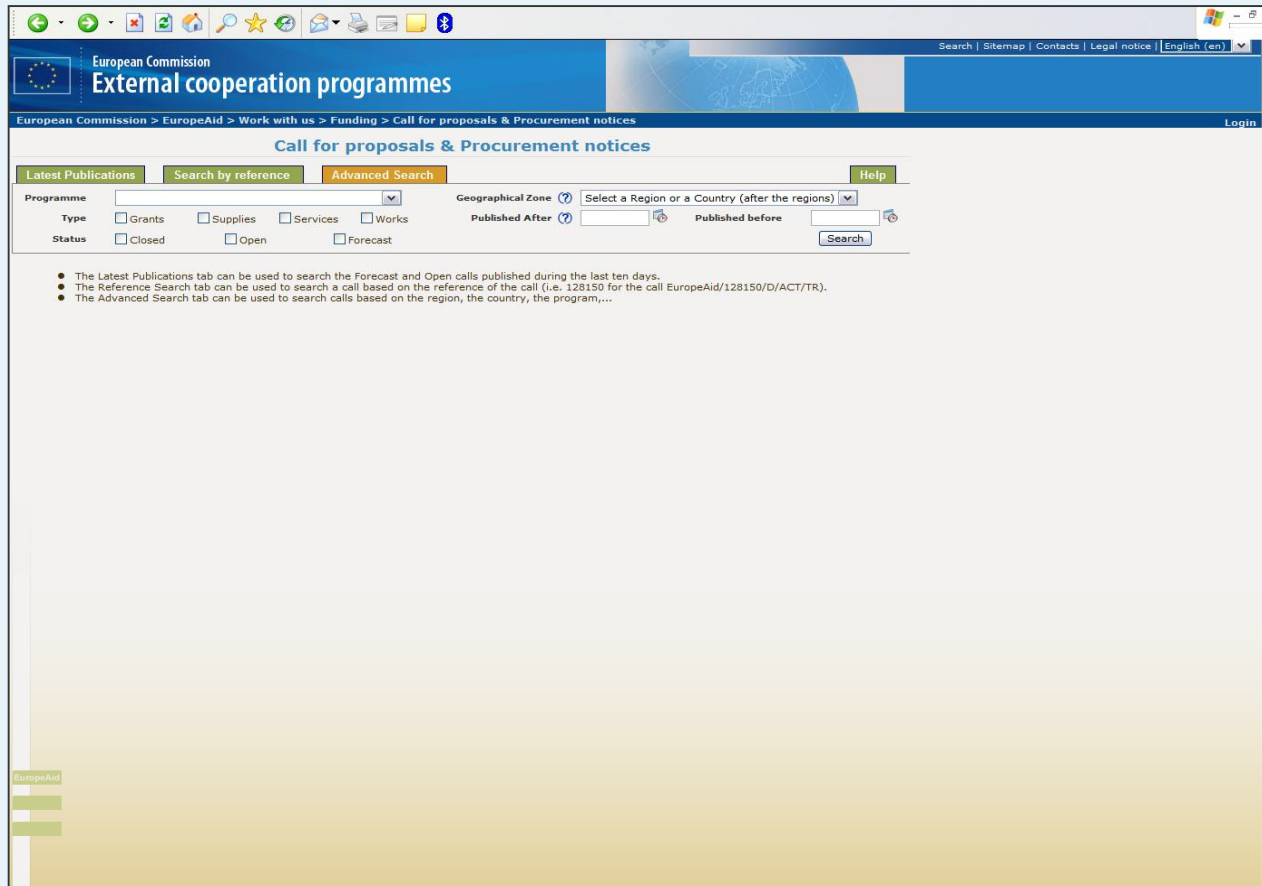
Tendering procedure timeline for service contracts (IRTP)



DEVCO Internet page

- Project opportunities can be found at:

<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome>



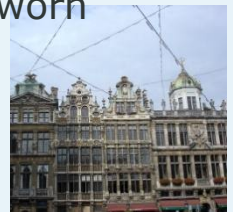
Evaluation of Tenders

- Services
 - Shortlisting 4-8 candidates
 - Tender evaluation
 - Administrative
 - Technical
 - Financial



Useful tips for services contracts: shortlisting

- Always check if your company/consortium meets the selection criteria!
- Pay attention to the project description
- Use or not letters of undertakings
- Straightforward process. Usually can be done in 1 working day
- Evaluation Committee
- Main legal document: Procurement Notice (PN)
- Documents to be submitted by candidate: Submission Form (SF) together with sworn statements (point 15 of the PN)
- Main features:
 - Selection and award criteria (point 21 of the PN)
 - Re-examination (if more than 8 compatible applications)



Useful tips for service contracts (Preparing a proposal)

- Preparing a proposal
 - Requires people who know how to write well
 - Requires good CVs
 - is costly (EUR 20.000 to 40.000)
- Importance of conforming with the TORs, including the annexes
- Don't hesitate to ask questions
- What is not prohibited is allowed
- The number of companies in a consortium can be freely decided but the rationale needs to be explained.
- The companies that have not been awarded the project, can always ask for the reason why. They will receive an answer.



Useful tips for service contracts

- Opening, Administrative, Technical and Financial Evaluation
- Proceedings conducted in camera from the opening to the final award notice
- Role of the evaluators: assess each bid, complete individually one evaluation grid per bid, discuss discrepancies in the scores (usually if higher than 20%), adjust scores
- Minimum 80 points on average to be technically compliant
- *80/20 basis to rank the compliant bids and select the winner*



Possibilities of appeal

- Accept to lose in a fair procedure
- Before or after contract award?
- Formal channels
 - Ombudsman
 - National court
 - OLAF
- Informal channels
 - MEPs
 - EC vs beneficiary
 - Permanent Representations
- Need for facts/basis for argument



Contractor's experience: Tendering and Selection Process

- Unbalanced/Uneven partnership
- Scattered and fragmented consulting industry
- Too much focus on CVs and long term posting in tender requirements, creating excessive dependence on independent consultants (but now changing)
- This expert-oriented selection procedure has led over the years to a large increase in “bodyshopping companies”, which are not equipped to deliver quality control and backstopping services. Procurement system tends to develop and encourage “subcontracting in cascade”, which does not favour the capitalization of expertise and experience.
- New version of the Statement of Exclusivity and Availability (SoEA): clarification that a change in experts' situation includes the signature of another SoEA



Contractor's experience: Implementation challenges

- Long delay between project identification (and TORs), award decision and start of implementation often leads to a difficult inception period:
 - expected baseline differs from current reality
 - decision makers have changed
 - stakeholders have lost ownership and commitment
- Misconception generates over-expectations or change of focus
- Gap between the expectations of the task manager and the flexibility to adjust the projects and the willingness/flexibility of the financial department to accept the financial consequences of the required changes:
 - Somewhat heavy bureaucratic approach in the management of projects to accomodate criticisms raised by MS and Contracting Authorities
 - Negative effects on implementation of projects which by their nature require flexibility
 - Insufficient staffing at CFCAs or EU Delegations.



Contractor's experience: suggestions for improvements

Suggestions for improvements taken on board by EuropeAid:

- Favour performance-based contracts where companies can demonstrate added-value.
- Contracting Authority should evaluate CVs of a core team only and then the rest of the team to be recruited (and interviewed) by Beneficiary and Contracting Authority during inception period.
- Foresee sufficient time for inception/mobilisation period to regain political acceptance and ownership by stakeholders.
- When possible, simplify control and clearance procedures of CFCUs or EU Delegations and increase staffing.



New PRAG 2013: the pros

- Threshold for International Tender and FWC contracts increased to EUR 300.000 (FWC between EUR 20.000 and EUR 300.000).
- Unless exceptionally specified in the ToR, the use of the allocated provision for incidental expenditures does not require a prior approval by the Contracting Authority.
- Individual experts (freelance) recruited for the project as key or non-key experts are not regarded as subcontractors.
- Change of experts: the replacement expert cannot be one presented in a bid from an unsuccessful tenderer participating in the same tender.
- Increased list of Selection Criteria that should not be used.
- Extension of the possible documentary evidence to be provided.
- Use of Global Price encouraged and introduction of interim payments.
- Approval of reports is shortened (45 days) + “automatic” approval
- Key Experts limited to 4



New PRAG 2013: the cons

- Possibility to choose between FWC contract and Competitive Negotiated Procedure, *depending on the context and the needs (3.4.2)*
- For EDF, maintain of preference given to ACP experts, ACP companies or companies using ACP subcontractors/experts (2.4.10)
- Reduction of pre-financing to 20% for all fee-based contracts (but advance system maintained!)
- Increase of payment terms to 60 days (except advance in 30 days)
- Stronger Contractual Conditions (in favor of the Contracting Authority)
- Unclear on how time inputs proposed in Technical Proposals by tenderer are evaluated



New PRAG 2013 : the selection criteria

- Criteria should emphasize quality of consortia rather than biggest project references, e.g. *references to the number of projects presented above the value of the contract being procured should be avoided.*
- Criteria that should not be used:
 - ✓ A request for annual turnover, number of staff, number of previous projects etc. which go way beyond the amount of the contract,
 - ✓ The use of words such as 'sufficient', 'major', 'relevant' as it is not absolutely clear what these words mean in context, or whether a proposed experience fulfills the criterion,
 - ✓ Requesting technical experience relating to EU projects only,
 - ✓ Requesting information which dates back further than three years (Services),
 - ✓ **NEW!** Requesting a percentage of the staff working in specific fields, as this may be discriminatory for large companies;
 - ✓ **NEW!** Requesting prior experience in the beneficiary country, unless specific justification is provided (discriminatory)
 - ✓ **NEW!** Requesting technical experience in an overly prescriptive manner which effectively restricts the number of eligible candidates to one or a few firms.
- **The documents to support the information in response to the selection criteria shall be submitted by all the tenderers together with the tender.** If documentary evidence is missing, it shall be requested from the best tenderer giving a reasonable delay (similar to clarification requests during the evaluation),
- For contract < EUR 300.000, the CA may decide not to ask for documentary proof but then no advance payment without a bank guarantee,
- **Still allowed to rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. But CA may consider not appropriate if too important or key criteria, (what is the definition?),**
- **Still allowed to refer to a part of a project if the contract has not yet been completed. Only completed part may be used as reference but extension of possible documentary evidence to copy of a contract, approval of progress reports, projects deliverables, proof of payment of invoices, etc.**



New PRAG 2013: Global price contracts encouraged

- Section 3.1 in PRAG has been redrafted (in 2012) to explain the choice between a fee-based contract and a global price contract,
- Global price will not be limited to studies,
- Global price must have clearly defined output,
- Global price may exceptionally have incidentals,
- Workplan is introduced in offer which will facilitate the evaluation of global price contracts,
- For a global price, the general rule is no SoEA but may be used exceptionally.



New PRAG 2013 : Award criteria

- Notification of results will be sent simultaneously to all tenderers immediately after evaluation approval. 3 types of information letters
 - a) successful tenderer
 - b) second best tenderer
 - c) unsuccessful tenderers
- Validity of tender only kept for a+b
- Extension of validity (40 days) is exceptional and requires prior approval
- Reminder that cancellation may occur *if the price proposed by the tenderer to whom the contract is to be awarded bears no relation to the market price (anti-dumping)*,
- **NEW!** In their request, information on the strengths and weaknesses of offers can be sent to unsuccessful tenderers
- **Change of expert procedure streamlined !**



New PRAG 2013 : Award criteria

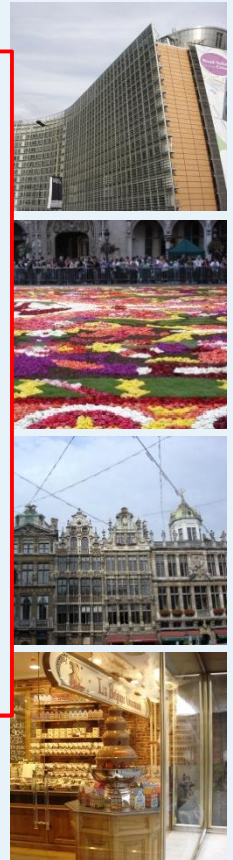
FEE BASED CONTRACTS

1. RATIONALE (20)
2. STRATEGY (20)
3. TIMETABLE OF ACTIVITIES (10)
4. LOG FRAME (N/A)
5. EXPERTS (50)



1. RATIONALE (10)
2. STRATEGY (30)
3. BACKSTOPPING AND INVOLVEMENT OF ALL MEMBERS OF THE CONSORTIUM (10)
4. TIMETABLE OF WORK (10)
5. LOG FRAME (N/A)
6. EXPERTS (40)

The total scores of the key experts shall not exceed 40%.



New PRAG 2013: Award criteria

GLOBAL PRICES CONTRACTS

- 1. RATIONALE (20)
- 2. STRATEGY (20)
- 3. TIMETABLE OF ACTIVITIES (10)
- 4. LOG FRAME (N/A)
- 5. EXPERTS (50)



- 1. RATIONALE (20)
- 2. STRATEGY (40)
- 3. BACKSTOPPING AND INVOLVEMENT OF ALL MEMBERS OF THE CONSORTIUM (20)
- 4. TIMETABLE OF WORK (20)
- 5 .LOG FRAME (N/A)
- ~~6-EXPERTS~~

If Key experts are not identified in ToR, points allowed for the *Back-up function and the involvement of all members of the consortium and Timetable of activities*, including the number of expert days proposed can be distributed to "Rationale" and "Strategy".



New PRAG 2013: Special Conditions

- **NEW!** The documents or reports shall be deemed to have been approved by the Contracting Authority if it does not expressly inform the Contractor of any comments within 45 days of the receipt of the report,
- **NEW!** Advance payment maintained but limited to 20% in all circumstances for fee-based contracts and to 40% for global price contracts. Bank guarantee to provide if > EUR 300.000 or if no proof submitted for selection criteria or following risk assessment by the CA?
- **NEW!** Interim invoices up to 90% of contract value maintained for fee-based contracts and introduction of yearly interim payments for global price contracts corresponding to outputs. (outputs are not always yearly...)
- **NEW!** Payment terms extended to 60 days instead of 45 for interim and final invoices (90 days for EDF, unchanged), Payment terms reduced to 30 days instead of 45 for prefinancing invoices, Re-payment terms of debit note fixed at 45 days. (why ?)



New PRAG 2013: TORs

- **NEW!** Key experts limited to 4,
- **NEW!** Key experts: *The precise time inputs of the experts shall be left to the discretion of tenderers as part of their technical proposal. However, it may be useful to identify a minimum input for the contribution of key experts → How is this evaluated in the TP/FP? How is comparison possible? No guidance.*
- **NEW!** ANNEX III: Organisation and methodology: *...the involvement of all members of the consortium will be considered added value in the tender evaluation.*



SEMINAR "TRANSPORT AND INFRASTRUCTURE IN EU EXTERNAL AID INSTRUMENTS" – 11/6/2013

THANK YOU FOR YOUR ATTENTION

QUESTIONS?

Contact details: RAZ@cowi.com

