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REPUBLIKA SRBIJA
MINISTARSTVO ZA EVROPSKE INTEGRACIJE

MINISTARSTVO FINANSIJA
Sektor za ugovaranje i finansiranje programa
iz sredstava Evropske unije

Projekat finansira
Evropska unija

CONTRACT MANAGEMENT: PRAG & DEVCO COMPANION

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PRAG

"Contract Procedures for European Union External Action - A practical guide"

SCOPE

provides **contracting authorities**, on the one hand, **and tenderers, candidates, applicants and contractors**, on the other hand, with practical assistance **in preparing** and **implementing procurement and grant contracts** in the field of **external action**.

LIMITATIONS

Although the PRAG provides **explanations and information** strictly in compliance with the rules and regulations in force, **it is not legally binding**. The **applicable legislation** and take precedence. **any clarification provided by the Court of Justice of the European Union**.

PRAG

LEGAL BACKGROUND

Regulation (EU, Euratom) 2018/1046 – “New Financial regulation”

- Big push towards integration/simplification
- Easing administrative burden & controls, however tougher checks in case of suspected irregularity/fraud
- Universal application of provisions concerning conflict of interest (automatic application by beneficiary/partner country)
- Focus on outputs, easing administrative procedures
- Performance and modifications of the contract (Art. 172)
- Performance guarantees and retention money guarantees (Art. 173)
- External action procurement (Art. 178)

PRAG ANNEXES

- Standard templates accompanied with guidance for completion of **tender documentation/tender dossier & contract.**

- **Standard general conditions - contract backbone**

PRAG ANNEXES

Special conditions

•**amplifying** & **supplementing** the **general conditions** governing the contract
•unless the special conditions provide otherwise (e.g. derogations/exceptions), the **general conditions remain fully applicable**
•the **numbering of the Articles** of the special conditions is not consecutive but **follows the numbering of the general conditions**
•**exceptionally**, and with the approval of the competent European Commission departments, **other clauses can be indicated to cover particular situations**

PRAG ANNEXES

OTHER IMPORTANT PRAG/CONTRACT ANNEXES	
GUARANTEES	IDENTIFICAITON FORMS (LEGAL/FINANCIAL)

PRAG CONTRACT IMPLEMENTATION SURVIVAL KIT FOR CONTRACT BENEFICIARIES

ORDER OF PRECEDENCE

In case of discrepancy between documents constituting contract, order of precedence is always stated (Draft contract).

LANAGUAGE OF THE PROCEDURE = CONTRACT LANGUAGE

Precondition for effective management - technical knowledge + fluent English. Ensure that your staff engaged on project has reasonable command of English language.

UNLIKE IN CASE OF PROCUREMENT PROCEDURE, FULL APPLICABILITY OF THE NATIONAL LEGISLATION

Mapping applicable legislation, not forgetting subsidiary application of some parts of legislation. No provision in tender dossier should contradict national legislation/may be deemed unenforceable. There is a good probability that some of your internal procedures might be in contradiction with PRAG based contractual provisions (e.g. acceptance procedure).

PRAG CONTRACT IMPLEMENTATION SURVIVAL KIT FOR CONTRACT BENEFICIARIES

CENTRAL CONTRACT ADMINISTRATION ROLE ASSIGNED TO PROJECT MANAGER (PM) COMMONLY SEATTED AT THE CONTRACTING AUTHORITY (CA)

Contracts are mostly concluded by CA on behalf of contract beneficiary - consequently, CA assigns PM. Having central contract administrator located in different institution/not present in situ has an impact on time required for execution of required actions. Therefore, keep the communication line with PM open at all time & do not underestimate complexity and time consuming nature of even basic interventions.

REGULATE YOUR RELATIONS WITH CA IN FORMAL MANNER

ERA (End Recipient Agreement) – model developed for CFCU in Serbia with emphasis on investment projects with references to obligations stemming from PRAG and CA internal procedures. Hand shake is a good start but regulate mutual responsibilities in formal manner. Bear in mind also your legal and procedural obligations.

HAVING OWN RESOURCES SET ASIDE IS A MUST FOR SUCCESSFUL EXECUTION OF CONTRACT

It may seem as paradox but investment projects based on PRAG/FIDIC mostly require additional investments of resources from the contract beneficiary side (unforeseen/ineligible costs required for completion of works, bridging services until successful conclusion of procurement procedures, engaging specialists (legal & tech services).

PRAG CONTRACT IMPLEMENTATION SURVIVAL KIT FOR CONTRACT BENEFICIARIES

VISIBILITY & PUBLICITY OBLIGATIONS

Obligation to assure execution of responsibilities set in EU Communication and Visibility Manual.

PROVIDING ASSISTANCE WITH LOCAL REGULATIONS

Obtaining copies of legislation, assisting Contractor with obtaining working visas/permits.

EU PROJECTS ARE FREQUENTLY SUBJECT OF VARIOUS CONTROLS & AUDITS - DUE RECORD KEEPING/SUPPLY OF DOCUMENTS & INFORMATIONS IS AN IMPERATIVE

General obligation under any EU external actions contracts - contractual and financial documents have to be kept for a minimum of 7 years from payment of the balance and up to the prescription date of any dispute about the law governing the contract.

REPORTING, MONITORING & PARTICIPATION ON PROJECT STEERING COMMITEES

Monitoring implementation (possible claims/delay damages), collecting evidences on completion, providing ad-hoc information to CA, commenting reports. Hosting regular and ad-hoc meetings, keeping a minutes.

PRAG CONTRACT IMPLEMENTATION SURVIVAL KIT FOR CONTRACT BENEFICIARIES

CONTRACT MODIFICATIONS

Contract beneficiary has an active role in case of requests for contract modifications (identification of issues triggering modifications, providing ”no objection” to the proposed modifications, assuring additional funding when required etc.).

DISPUTE SETTLMENTS & LITIGATIONS

Active role of contract beneficiary. Inclination towards amicable settlement of any disputes. Third party conciliation/mediation next step in case of absence of amicable settlement. Last resort – adjudication/litigation (competency of national courts).

PRAG + FIDIC

Standard practice in case of EU external action works contracts above agreed threshold: application of PRAG – FIDIC mix.

PRAG
Standard annexes constituting procurement/contractual frame. Procurement procedure fully conducted in line with PRAG.

FIDIC CONDITIONS OF CONTRACT
Substituting PRAG general conditions.

PARTICULAR CONDITIONS
Transposing/conciliating PRAG provisions into FIDIC environment. Equivalent to PRAG Special conditions.

DEVCO COMPANION

European Commission

Directorate General for International Cooperation and Development

DEVCO COMPANION TO FINANCIAL AND CONTRACTUAL PROCEDURES

applicable to development and cooperation financed from the general budget of the EU and from the 11th EDF

Version 7.2 - November 2017

SCOPE

Covers contract implementation/contract management issues

Covers service, supply, works and grant contracts

Handful interpretations of PRAG general conditions

LIMITATIONS

Envisaged primarily as EC internal tool, assumes previous experience with PRAG based contracts - less experienced users might find it hard to follow

Version complementing PRAG 2018 is still under revision

PODRŠKA EU U PRIPREMI PROJEKATA

Sva dokumenta, informacije, materijale i fotografije možete preuzeti na zvaničnoj internet prezentaciji EU PPF projekta @www.ppf.rs /veb-stranica DOKUMENTA

Pitanja i pomoć

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Hvala Vam na pažnji!