



EIB Global Guidelines to procurement under EIB financed projects

Athens, 15 February 2024



HELLENIC REPUBLIC
MINISTRY OF FOREIGN AFFAIRS

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Procurement Policy Rationale & Main Principles

What is public procurement (and why the rules matter)?



Public authorities buying works, goods or services with public money



On the critical path of most investment project's implementation



Despite many controls, public procurement remains a significant source of errors and is vulnerable to fraud & corruption



Public procurement rules are a key instrument for rational use of public money (adequate added value, economical and rational expenditure).

Why the rules matter? – investment project perspective

Economy



Stakeholders

- Project owner
- Public financier
- Banker
- Designer
- Contractor
- Consultant...

Equal Treatment

duration, economic viability... Rules, environment, disturbs



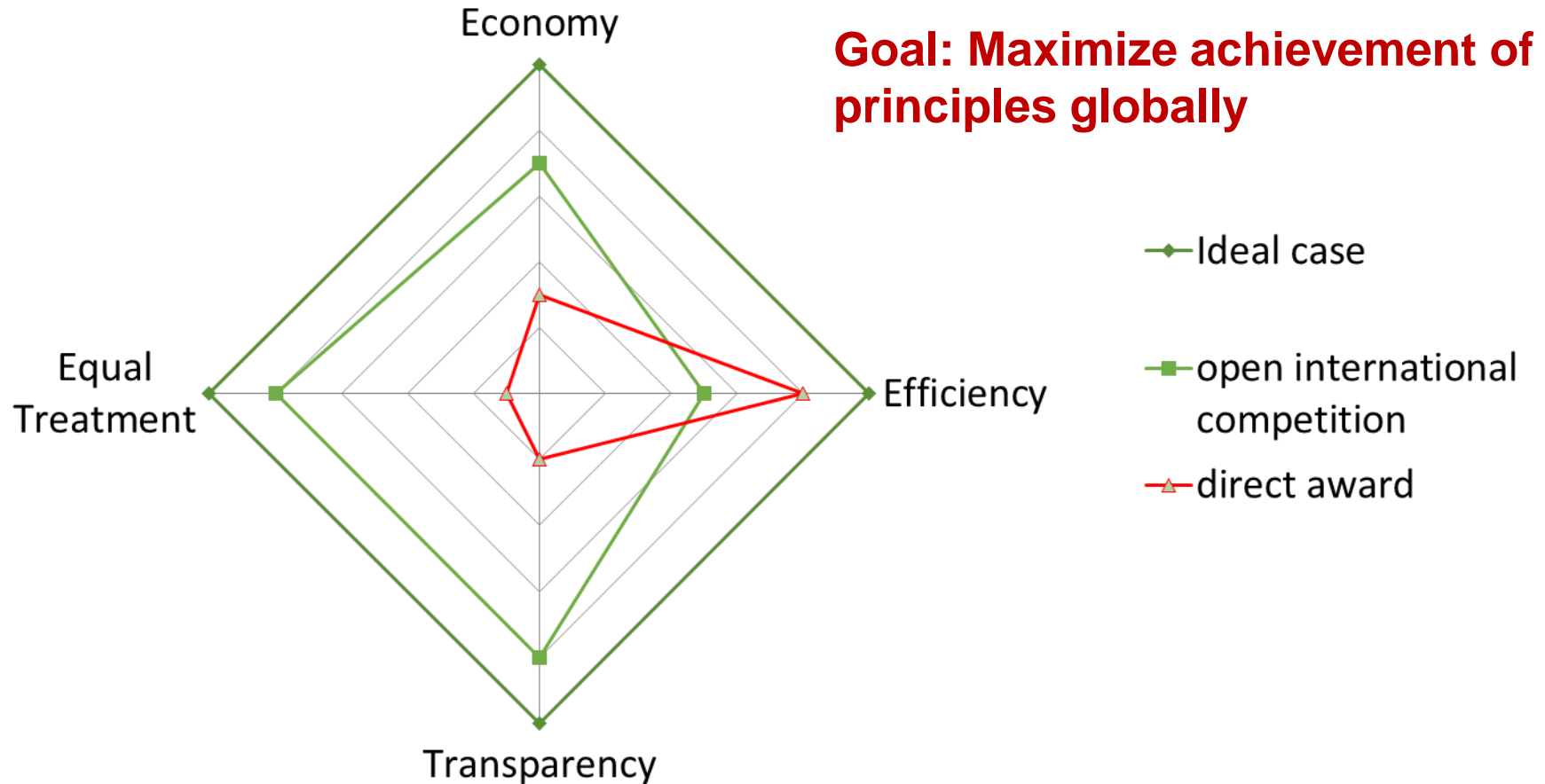
Efficiency

Other interested parties

- Government, including local and regional
- NGOs
- Potential bidders
- End-users
- Surrounding public...

Transparency

Core (Public) Procurement principles' inherent tension





EIB: Procurement in Investment Project Cycle

EIB: Procurement in Investment Project Cycle





EIB: Governance

EIB: Integrated in the EU accountability system



The EIB is accountable in front of:

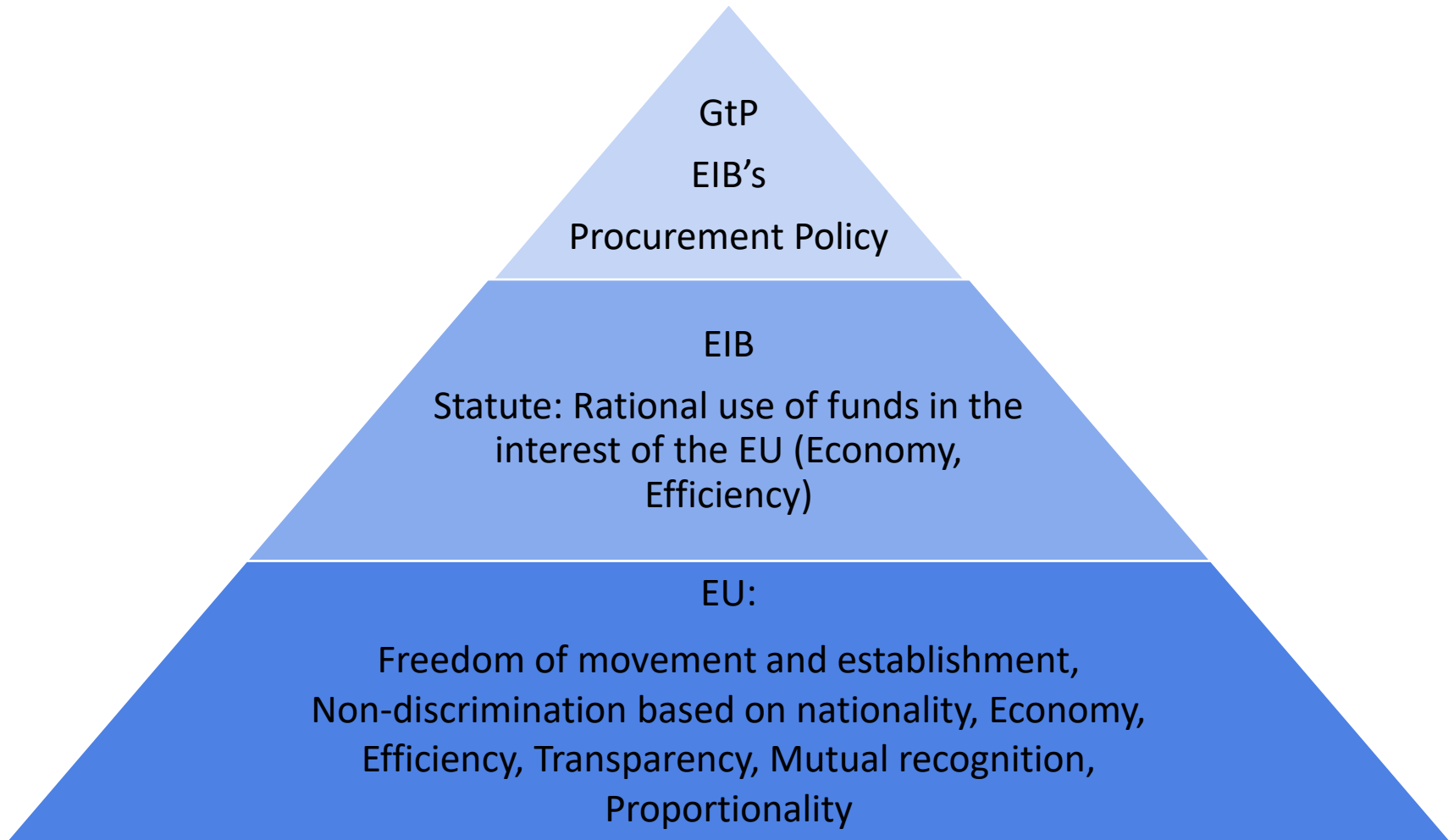


European Ombudsmen

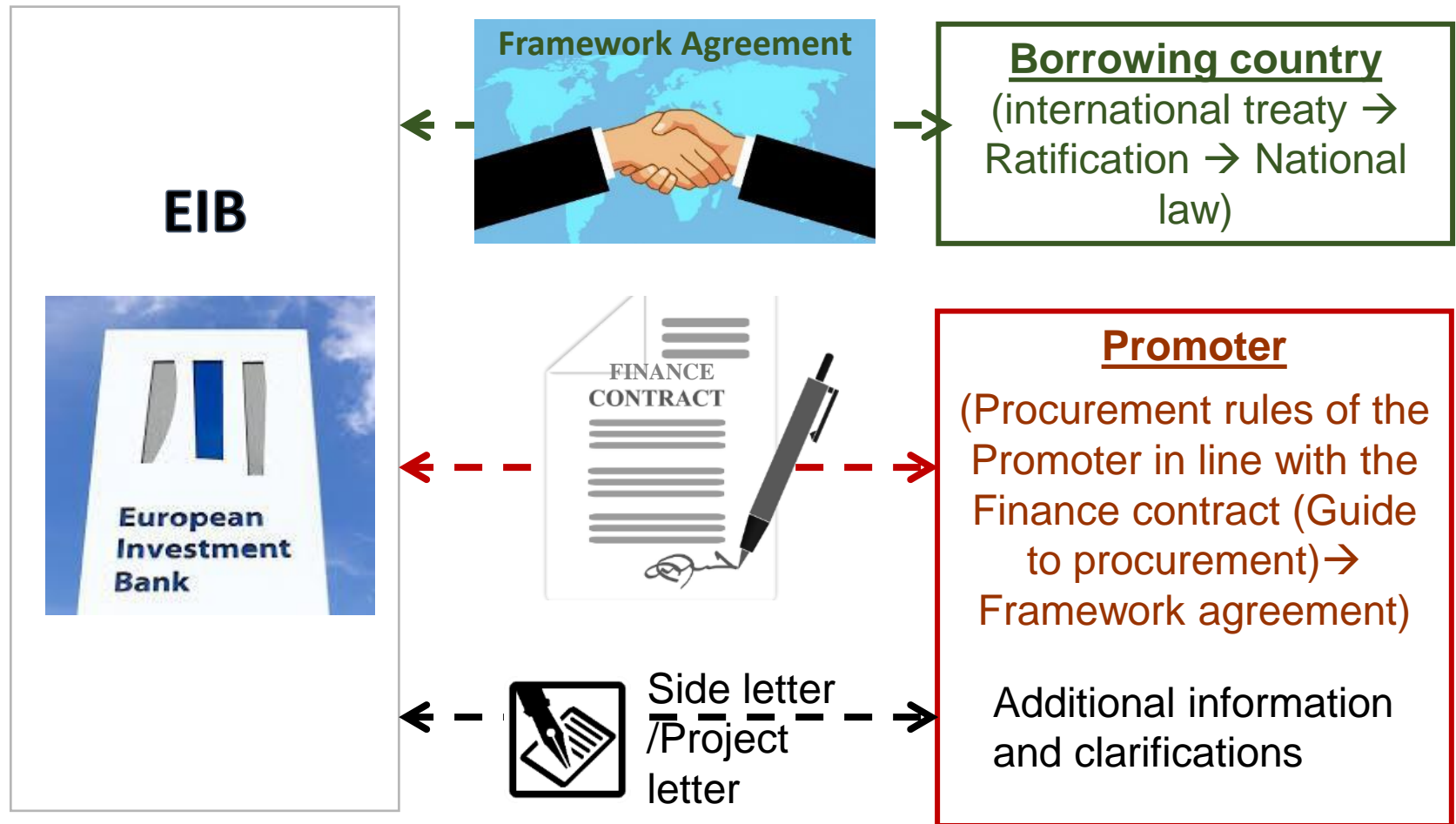


European Court of Justice

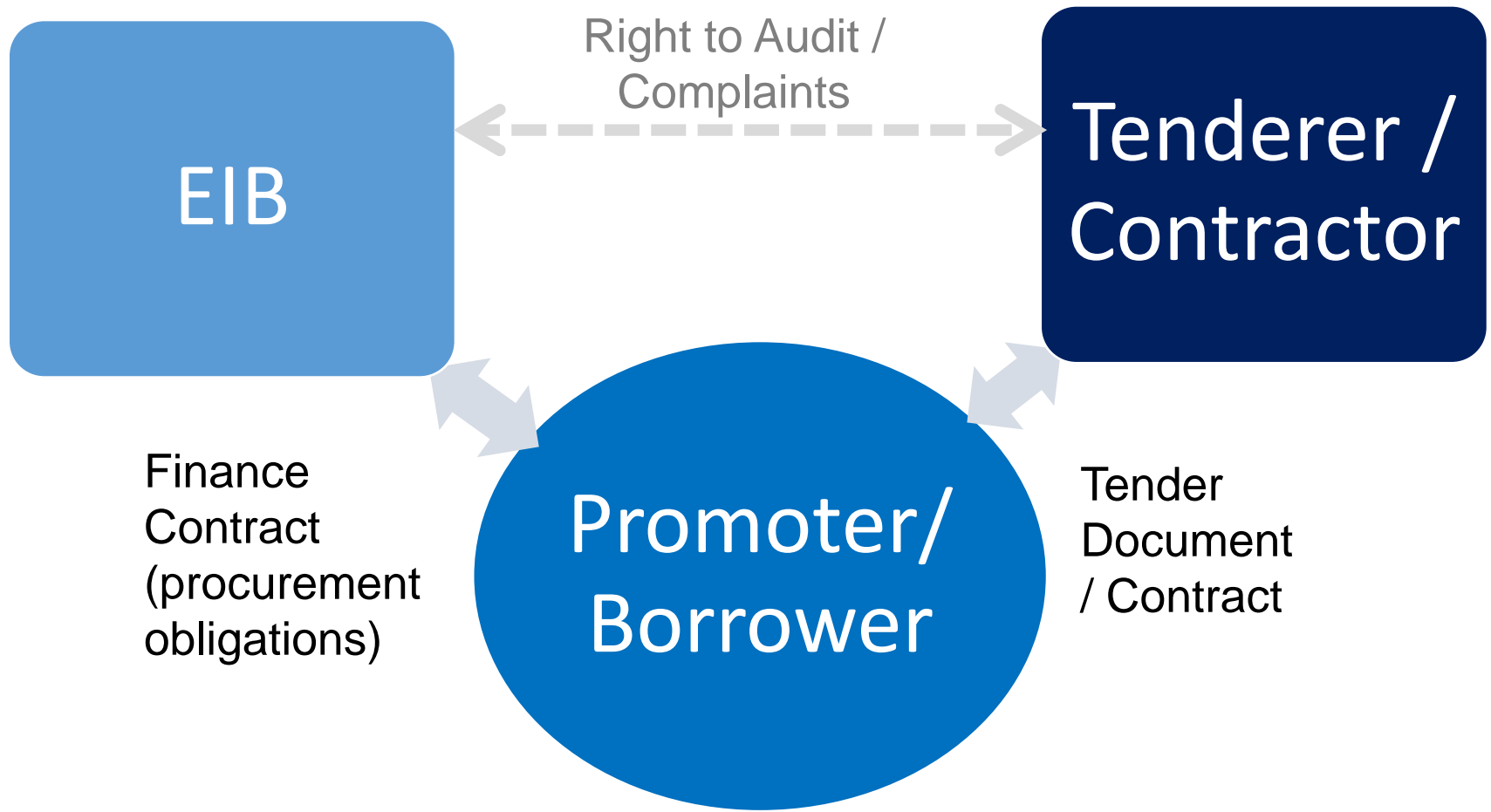
EIB: Foundations Project Procurement Policy



EIB: Legal framework for project financing **outside the EU**



Legal Relationship between parties



EIB'S AND PROMOTER'S RESPECTIVE RESPONSIBILITIES



The Promoter applies the national legislation **(aligned with the GtP where needed)**.



The principles laid down in the GtP prevail over conflicting national provisions.



Promoters are fully responsible for all aspects of the procurement process.



The EIB's involvement is confined solely to verifying whether or not the conditions attached to its financing are met.



The EIB may advise or assist promoters, but is not a party to the procurement process or the resulting contracts.

Guide to Procurement
for projects financed
by the EIB



The EIB: Guide to Procurement

EIB: Guide to Procurement (GtP)



Table of Content

1. General Aspects
2. Operations within the EU
3. Operations outside the EU
4. Consultancy Services financed by the Bank

EIB procurement model: a dual approach

Inside EU

**National Law implementing
EU Directives**

Outside EU

**GtP §3
principle based**

Following the **Treaty principles** (equal treatment, non-discrimination, mutual recognition, proportionality and transparency)

EIB Statute: ensure that the Bank's funds are **employed as rationally as possible** in the interest of the Union.

Procure works, goods and services to implement a project in the **economically most advantageous way**.

No standard templates and tender documents like most of other MDB's have

EIB: Open eligibility / no local preference

UNIVERSAL ELIGIBILITY

- Open to nationals of all countries, except:
 - Conflict of interest
 - Within EU: tenderers excluded in accordance with the EU Law
 - Outside EU: EIB exclusions due to prohibited conduct, EU and UN Sanctions Lists
- Jointly co-financed with other MDB: open as much as possible, at least EU and beneficiary country.

LOCAL CONTENT/PREFERENCE

- TFEU: No discrimination based on nationality!
- Except: 15% margin of preference (if duly justified, not automatic) for **equipment/goods/supply** contracts outside EU.
- **NOT accepted: mandatory local component!**



Hidden barriers to international competition:

- Mandatory local shareholders of concessionaire.
- Mandatory minimum share of local labour.
- Restriction to local providers of certain specific activities.
- Application of national sanctions.
- Local company mandatory lead.
- Indirect financial incentives (through tariff regulations, grants, higher advance payments, etc.).

Any barrier to participation?
procurementcomplaints@eib.org

EIB: Access to remedy (outside EU)

- **Promoters** are required to review & take necessary actions and respond in a timely manner to complaints from (potential) tenderers.
- EIB requires review procedures for remedies acceptable to the Bank are available (normally **national remedy mechanism**) to (potential) tenderers on contracts financed by EIB

Independent from procuring entity

Members free from conflict of interest

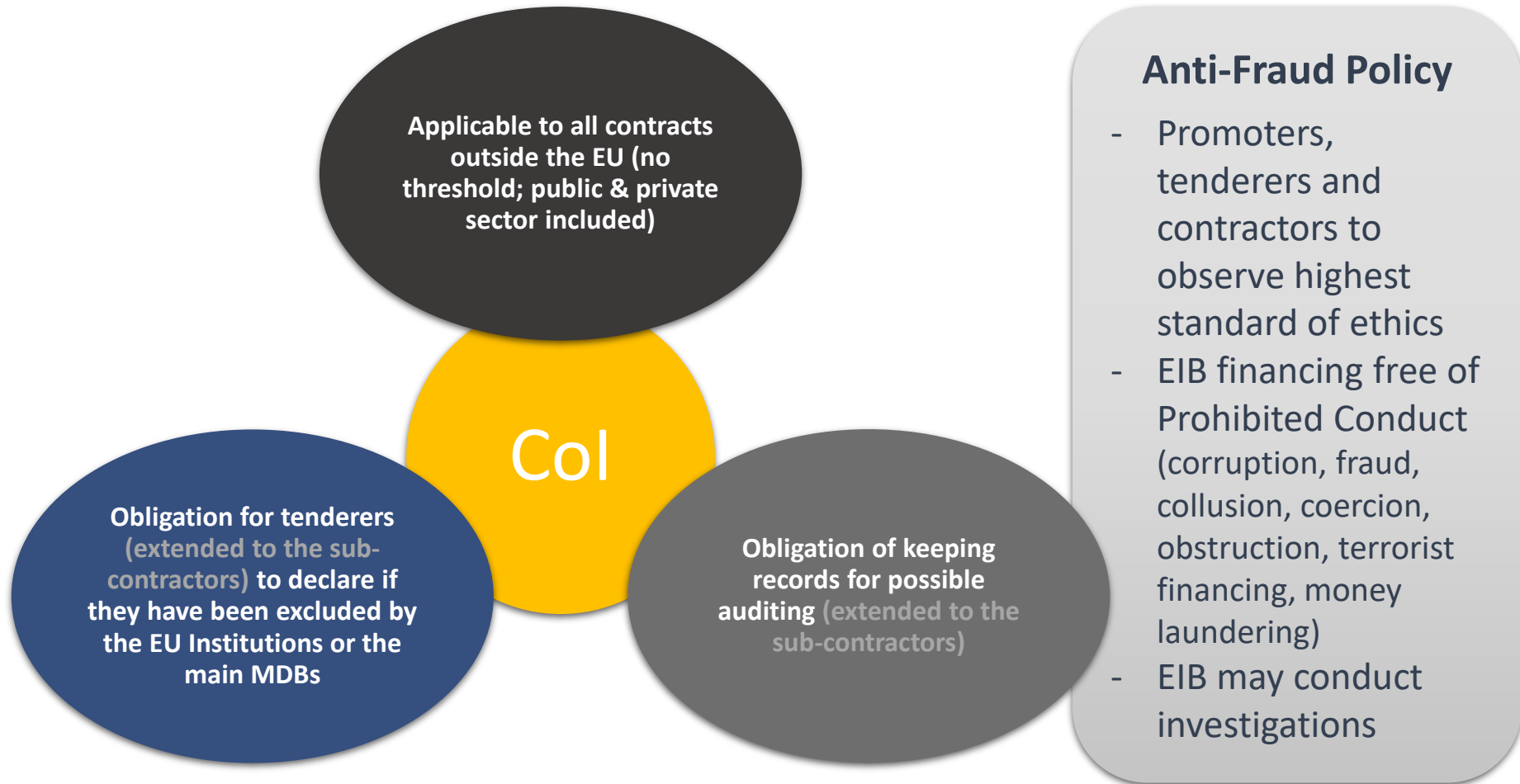
Clear rules for submission, treatment and substantiated response in line w. principles of transparency, confidentiality, equal treatment, efficiency

Deadlines for submission and review of complaints defined and allow to timely review to redress

Rules foresee annulment/suspension of procurement decisions for reasonable time

Remedy mechanism's decisions are distinct from EIB's review & financing decision and are not binding on EIB.

EIB: Covenant of Integrity (GtP, Annex 3)



Col template to be attached to tender documents & be filled in all tenders & provided to EIB with signed contract!

EIB: Environmental and social covenant (GtP, Annex 7)

To be filled by tenderers/contractors declaring the company & its subcontractors comply with labour laws + laws on environment in the country of contract implementation

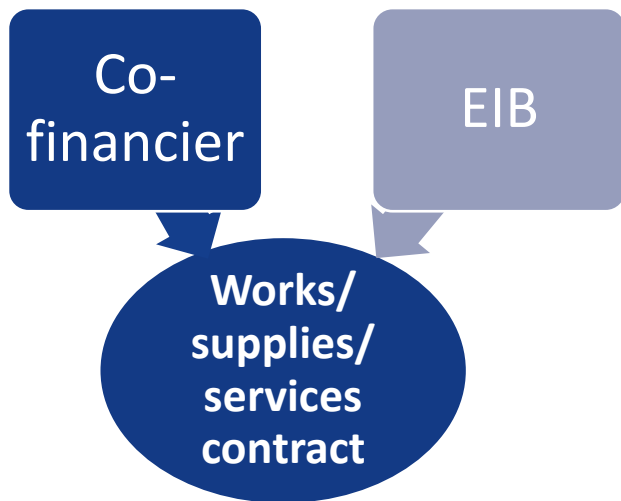




EIB co-financing with other MDBs

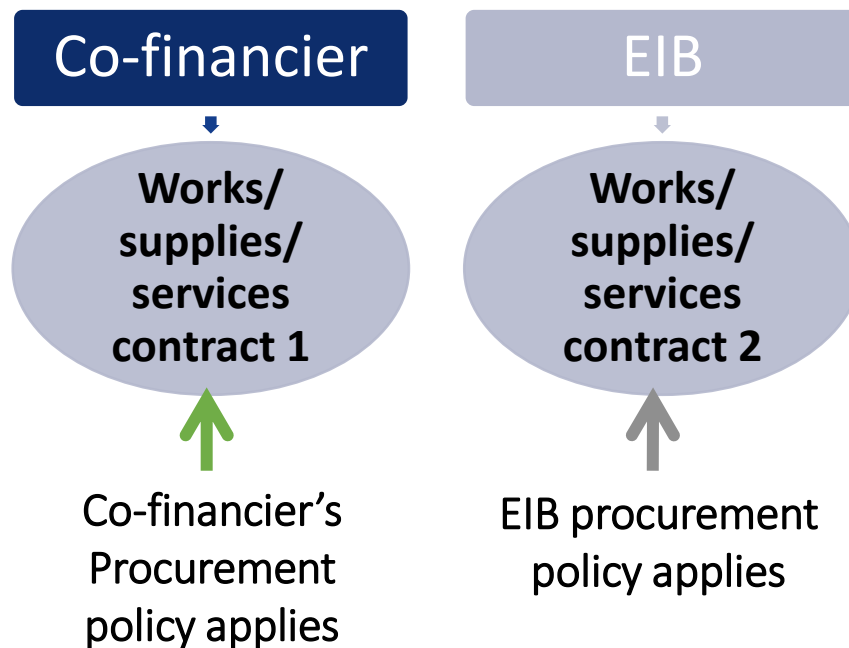
Co-Financing: joint or parallel?

Joint Financing



Whose procurement policy applies?

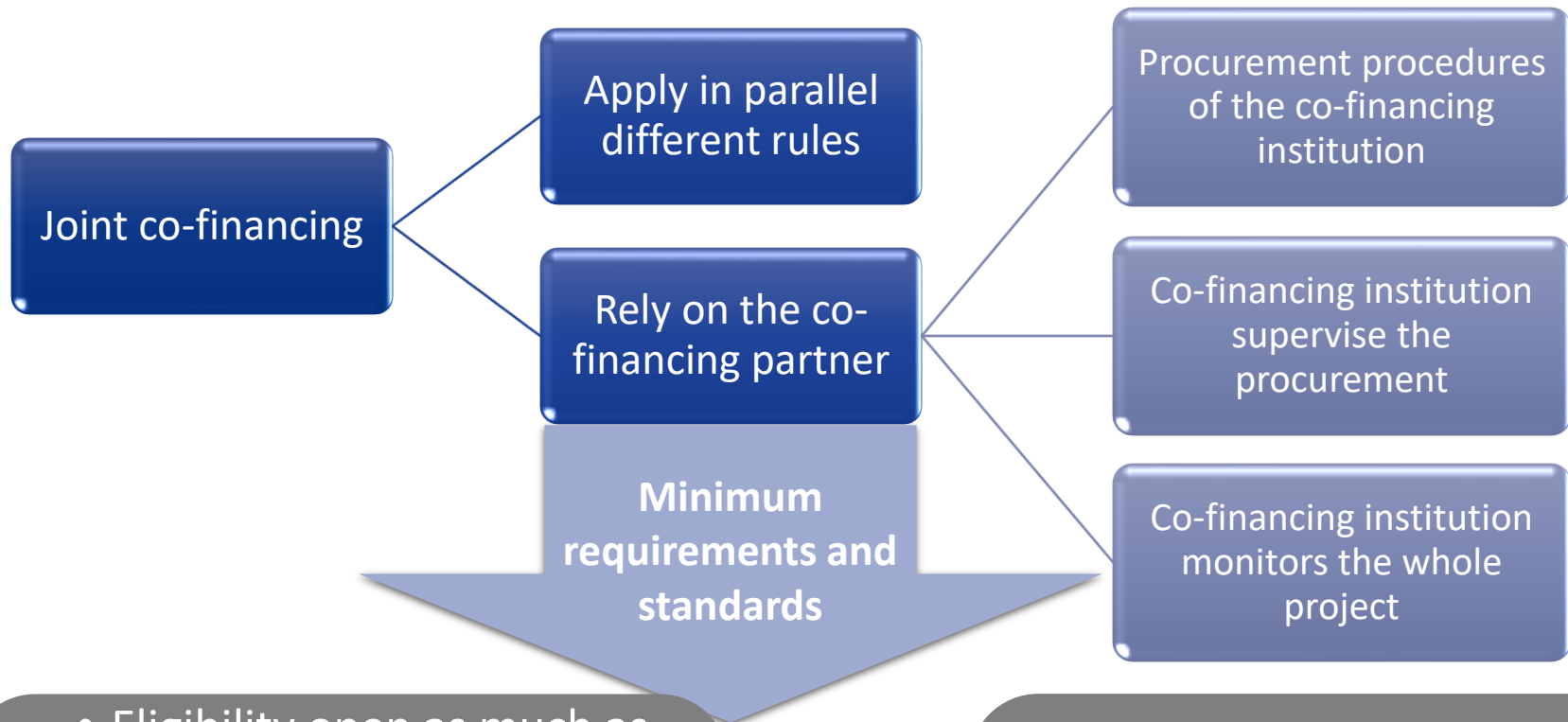
Parallel Financing



The EIB does not finance a project if its procurement (incl. parts financed by other co-financiers)

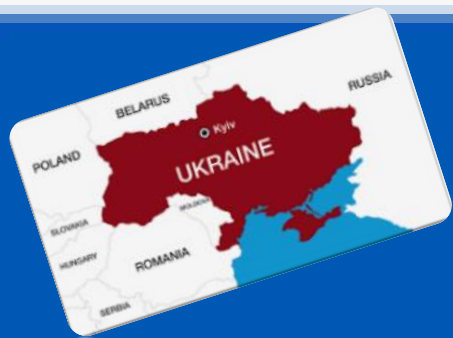
- Is subject to unjustified or unacceptable preferences;
- Compromises project's technical, economic & financial viability.

Joint Co-financing Options



- Eligibility open as much as possible (i.e. at least EU Member States and the beneficiary country).
- Adequate publicity (OJEU) to ensure wide international competition.

- Basic EU principles are respected:
- Non discrimination of tenderers.
 - Fairness and transparency of the process.
 - Contract award to most economically advantageous offer.



Ukraine:

EIB's approach to Project Procurement

Ukraine Recovery plan



Priorities related to procurement:

- **Transparency and accountability** to ensure healthy market environment; continue to **fight corruption** and **implement good procurement practices** to enable change
- Establish **procurement practices** for Reconstruction projects **in line with EIB guidelines**

Memorandum of Intent

signed in October, 2023



- Joining forces in helping the Government of Ukraine to meet the challenges of reconstruction
- Continuing to develop mutual reliance agreements: EIB already signed one with EBRD and other MDBs (not yet with the WB)
- Support in alignment of Prozorro with MDB's requirements



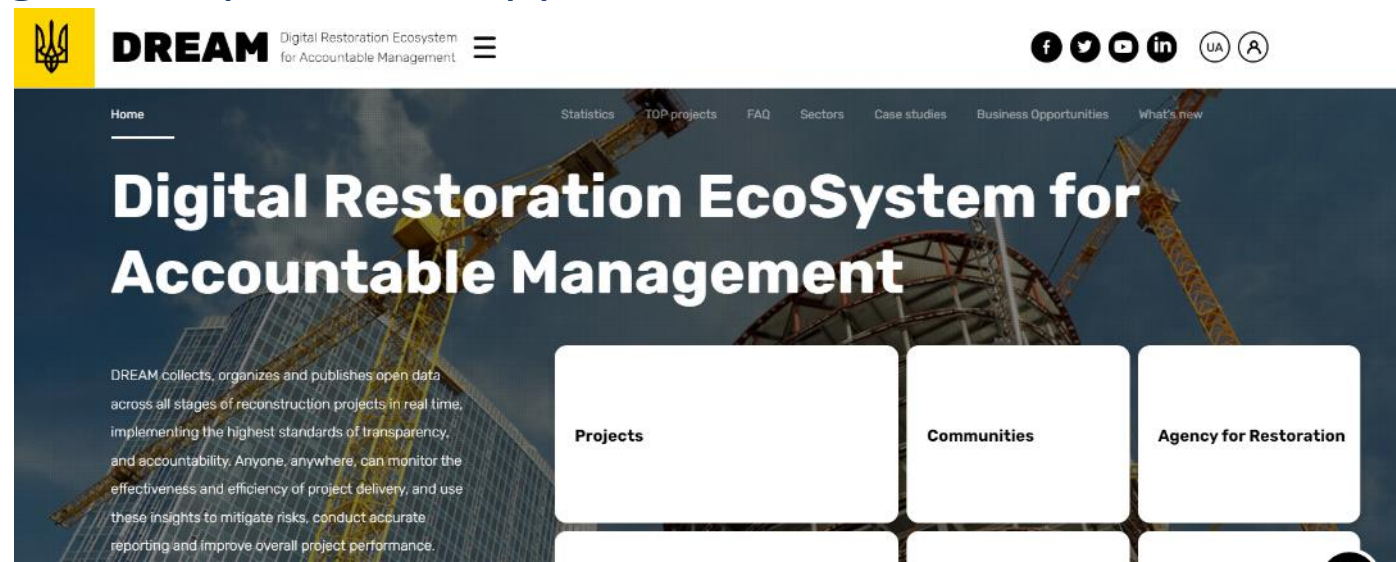
MDB's partnership to harmonise procurement approach in Ukraine for public sector investments

Ukrainian DREAM platform



Digital platform with pipeline of restoration projects

- Identity card of each project (e.g. location, value, status...)
- Tool for monitoring and control of projects, also by the public
- Allows for consultations on recovery plans and projects, project evaluation, initiation, involvement of external expertise, etc.
- Search engine for potential opportunities



Prozorro – e-procurement platform



EIB general policy requirements:

- **Universal eligibility** (e.g. no automatic application of national debarment system, no mandatory and difficult registration/certification of foreign companies to access the system)
- No application of **local content/preference**
- Applicability of **national remedy mechanism**
- Alignment of **thresholds** for national and international procurement procedures with the GtP thresholds
- Use of **EU language** and **internationally recognized currencies**
- Application of **standstill**
- Allowing **clarifications** during evaluation phase
- **Restricted** international procurement procedure
- **Two-envelopes** system

WB assessment of Prozorro, November 2022

- Generally aligned with MDBs (ADB, AfDB, EBRD, IDB, WB) requirements for e-procurement
- Meets the requirements of World Bank-financed operations for procurement under EUR 5 million
- List of enhancements provided to further align with MDBs requirements and possibly be used for international WB-financed procurement
- October, 2023 – Prozorro team submitted the completion report to the WB



EIB: current approach to project procurement in Ukraine

- EIB's procurement policy, **Guide to Procurement (GtP)**
 - principle based
 - gives sufficient flexibility for emergency procurement



GtP, §3.4.:

- Negotiated procedures with the list of candidates directly established by the promoter
- Direct contracting
- Force account

Only in justified circumstances and under the conditions as provided in the GtP!

Flexibility for contractors proposed:

- original administrative certificates from winning bidder,
- increased advance payments (still balanced),
- flexibility in delivery arrangements,
- use of e-procurement tools, etc.

Part II – Implementing the Guide to Procurement **(outside the EU)**



Content

Part II

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Diverse portfolio of projects

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Selection of procurement procedures

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Private

Public

EIB's Guide to Procurement: Diverse portfolio of projects

EIB's Guide to Procurement (GtP): Diverse portfolio of projects

Public Sector

- Public contracts for procurement of supplies, works, services
 - Public authorities /Entities under state control / Private firms with special or exclusive rights selected without competition in non liberalized markets
- ➔ Public Sector Operations

Concession

- Contracts which (a) award the right to exploit works or services; & (b) transfer of operating risk to concessionaire
 - Public authorities /Entities under state control / Private firms with special or exclusive rights selected without competition in non liberalized markets
- ➔ Concession Operations

Private Sector

- Any contract other than public or concession contracts
 - Private entities/ Competitively selected private entities with special or exclusive rights
- ➔ Private Sector Operations

EIB's GtP: Private sector operations

- **Economy and efficiency** - usually satisfied by established commercial practices.
- The Bank encourages private sector operators to publish tender notices in the OJEU.
- **Fair, transparent and non-discriminatory.**
- If possible, at least three qualified companies from at least two different countries.
- A **cost benchmarking exercise** should be carried out to verify that costs are in line with current market prices.



EIB's Guide to Procurement: Selection of procurement procedure

EIB's GtP: Selection of procurement procedures for public sector operations

International procurement procedures (GtP, §3.3.2)

Mandatory publication of the procurement notice in the OJEU

- Competitive tendering
- Competitive dialogue
- Competitive negotiated procedure
- Negotiated procedure without publication

Ex-Ante

National procurement procedures (GtP, §3.3.3)

- National competitive bidding
- Shopping and direct contracting
- Force account

Ex-Post

Mandatory thresholds

Nature of the Contract	Threshold in Euro
Works	5 million
Goods and Services except Consultancy services:	200,000
In General	400,000
Electricity, Gas, Water and Transport	600,000
Telecommunications	

Note: It is not allowed to artificially split contracts, in order to circumvent the rules of international procurement.



Consultancy services: procured by promoters vs procured by EIB

GtP: Consultancy services procured by promoters (GtP, §4.)

Contract Amount in EUR	Type of procedure
Above or equal to 200 000	Open or Restricted Procedure, with OJEU publication
Below 200 000	Negotiated Procedure without Publication (3 to 7 candidates of at least 2 nationalities)
Exception below 50 000	Negotiated Procedure without Publication (only 1 candidate allowed)



Other challenges?



TA CONTRACTS FOR CONSULTANCY SERVICES PROCURED BY THE EIB

Two types of assignments depending on the purpose, not on the location (both inside and outside EU):

Purpose	To support the Bank	To support the Promoter
Source of Funds	Own Funds	Third party Mandates

Procurement Procedures and Thresholds for Technical Assistance (TA):

Procurement procedure	Inside EU	Outside EU
Direct Award	≤ € 49,999	≤ € 69,999
Negotiated Procedure with preselected 5 bidders	€ 50,000 to € 213,999	€ 70,000 to € 213,999
Open/Restricted tender published in the OJEU	≥ € 214,000	≥ € 214,000

TWO TYPES OF TA CONTRACTS PROCURED BY THE EIB

Stand Alone Contracts	Framework Agreements
<ul style="list-style-type: none">• For specific needs• Individual terms and conditions adapted to the needs• No maximum duration	<ul style="list-style-type: none">• For repeated needs• General terms and conditions applicable to individual call-off contracts• No financial value in themselves• No budget commitment on frequency or volume of call-offs• Duration of 4 years• Maximum daily rates for experts



EIB's Guide to Procurement: Types of procurement procedures

EIB's GtP: Selection of procurement procedures for public sector operations

International procurement procedures (GtP, §3.3.2)

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Mandatory thresholds

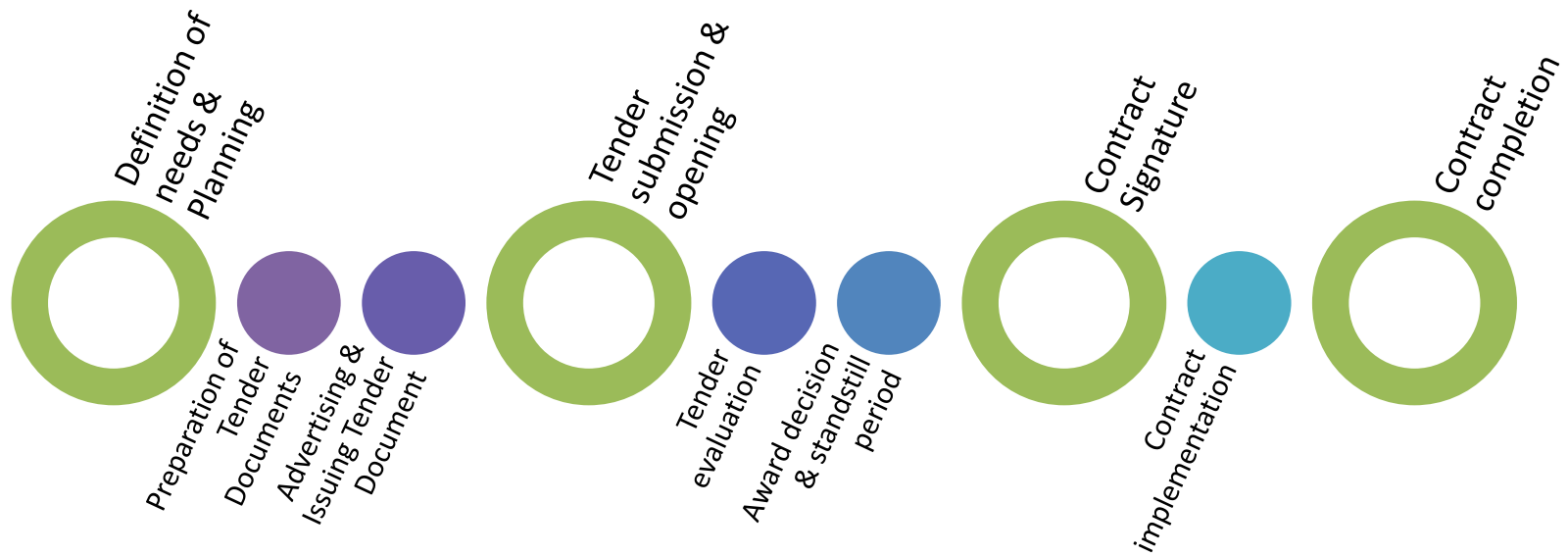
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Electricity, Gas, Water and Transport	600,000
Telecommunications	

Note: It is not allowed to artificially split contracts, in order to circumvent the rules of international procurement.

Open Procedure

Most transparent! Preferred method for traditional works, supplies or services (e.g. road construction).

Outside EU

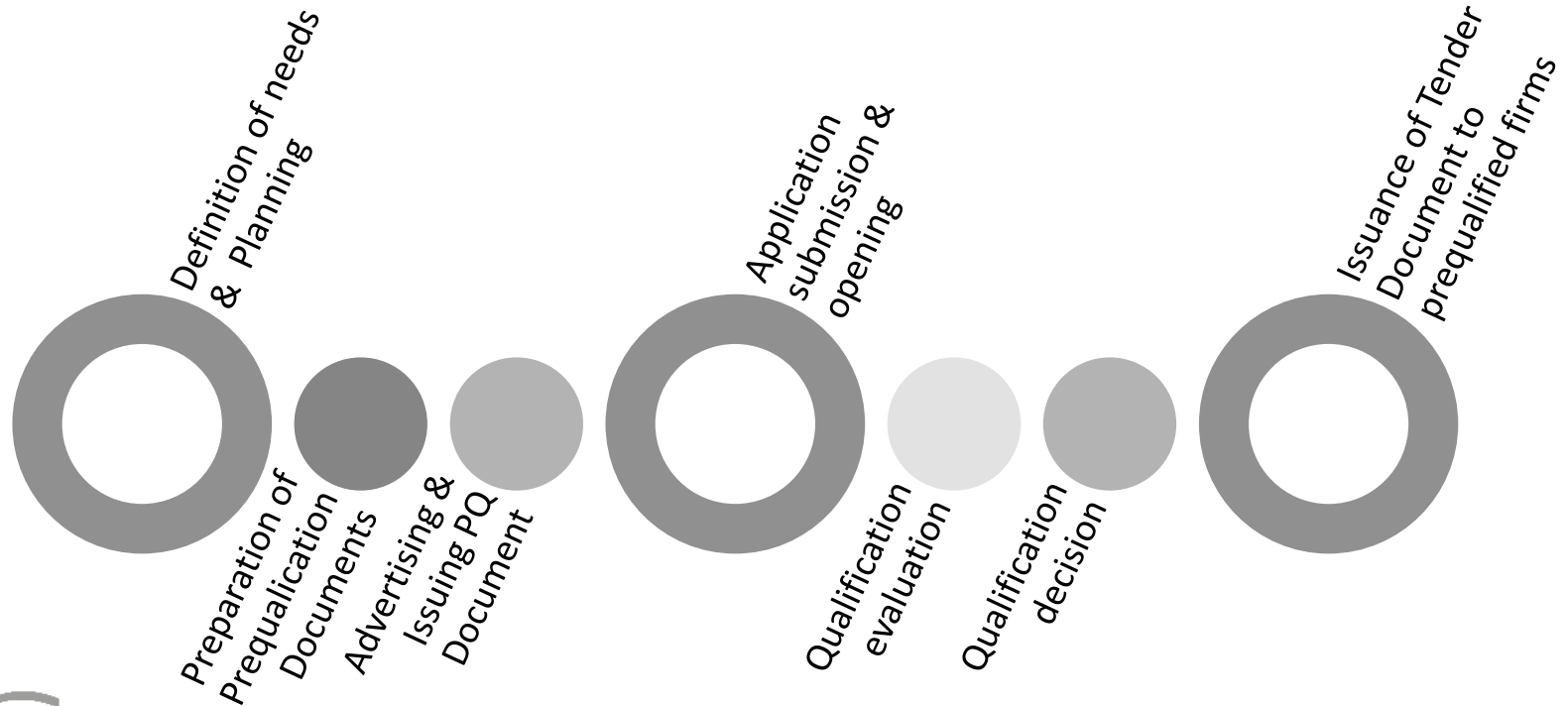


Restricted Procedure with Prequalification

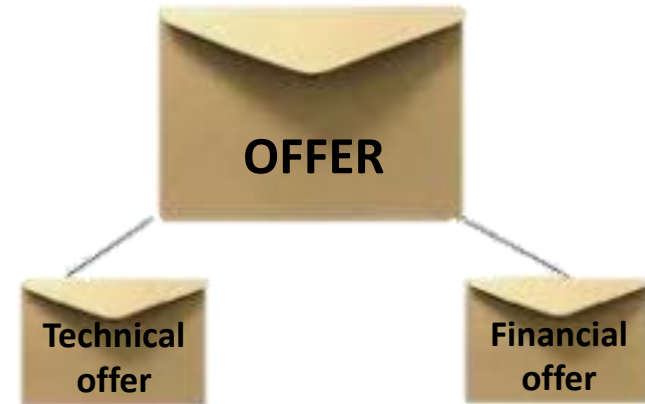
Preferred method for large / complex public contracts and for services contracts where large number of bids are expected

- Purpose: Since tender evaluation and preparation are complex and resource consuming; only those who are qualified are invited to tender → prequalification procedure

Outside EU



Two-envelope system



Technical and financial offers are submitted simultaneously in two separate sealed envelopes

Only the technical offers are publicly opened at the announced date and time

All tenderers are informed of the results of the technical evaluation

Financial offers of non-responsive tenderers are returned unopened

Tenderers passing the technical evaluation are invited to the public opening of their financial offers

The highest combined score or the lowest price of substantially responsive and compliant tender is awarded the contract

Competitive Dialogue

Main features

Used only exceptionally! For particularly complex contracts where the Promoter is objectively unable to define the technical/ legal / financial solution

- Inability to define should not be attributable to the Promoter!
Example: Connection of the 2 shores of a river through either a tunnel or a bridge
- Equal treatment of all candidates, confidentiality of information provided by candidates & protect their intellectual property
- Promoter to provide for payment of cost of participation to tenderers



Any clarifications, specification, optimisation, additional information or negotiations must not involve changes to the essential aspects of the tender as published in the procurement notice!

Competitive Procedure **with** negotiation

Main features

Outside EU

- a. Nature of Works or Services or risks involved do not allow overall pricing
- b. Intellectual / financial nature of services do not allow for more competitive procedures
- c. Works performed for purposes of research, testing, or development

Competitive Procedure **without** negotiation

Main features

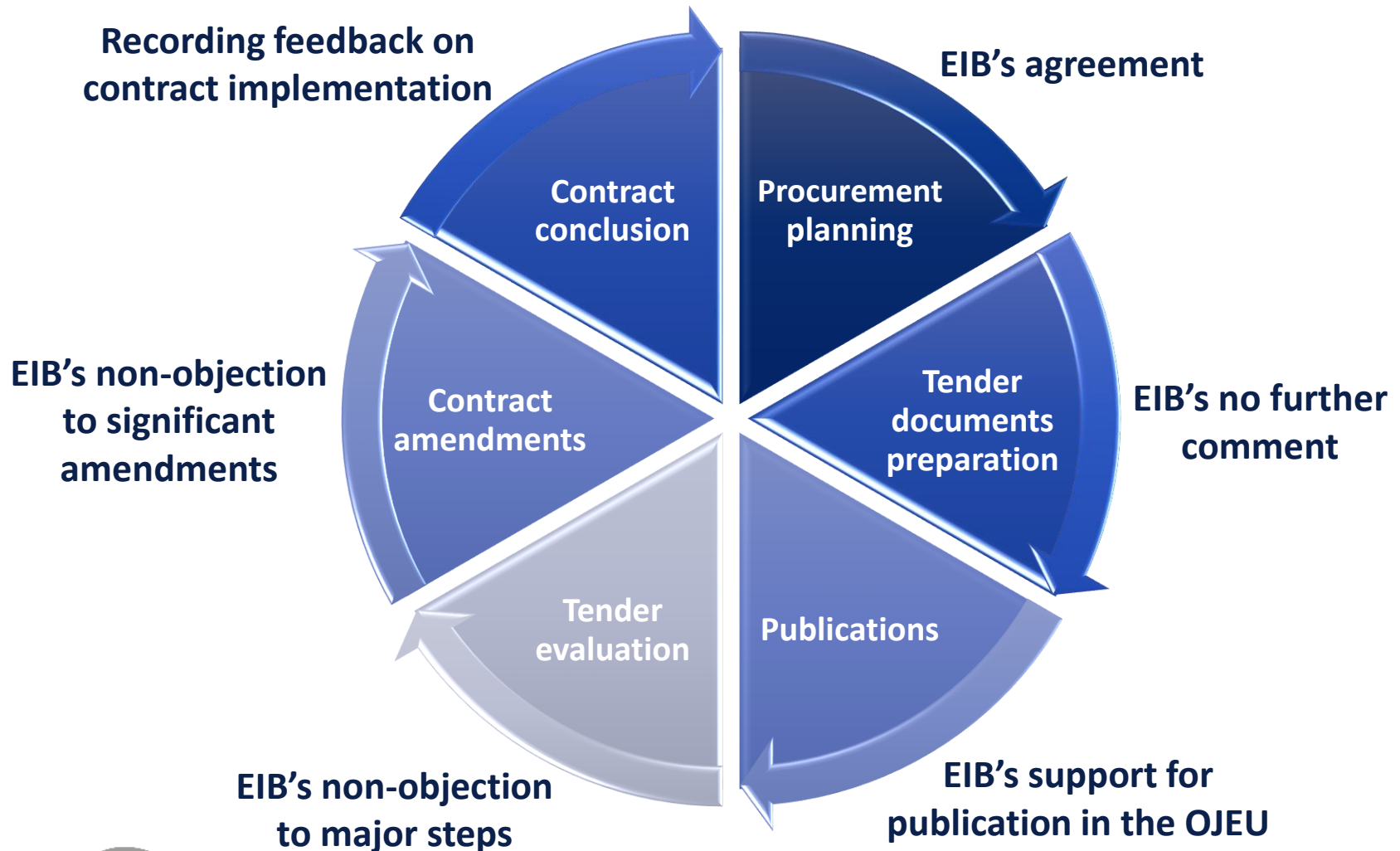
Negotiated Procedure with the list of candidates directly established by the Promoter: in exceptional cases when:

- **No (suitable) tenders** submitted in response to open/restricted procedure provided initial condition of contract are not substantially altered; **OR**
- Goods, works or services can be supplied **only by a particular firm** with no reasonable alternative AND absence of competition is not an artificial narrowing down AND competition absent for technical reasons **OR** Exclusive rights, incl. IP rights
- Time limits for competition cannot be complied with because of **extreme urgency** brought by unforeseeable events not attributable to the Promoter (e.g. COVID-19 purchases)
- **Additional deliveries** by original supplier for partial replacement or extension of existing supplies/installations **where a change of supplier would result in incompatibilities / disproportionate technical difficulties** in O&M.



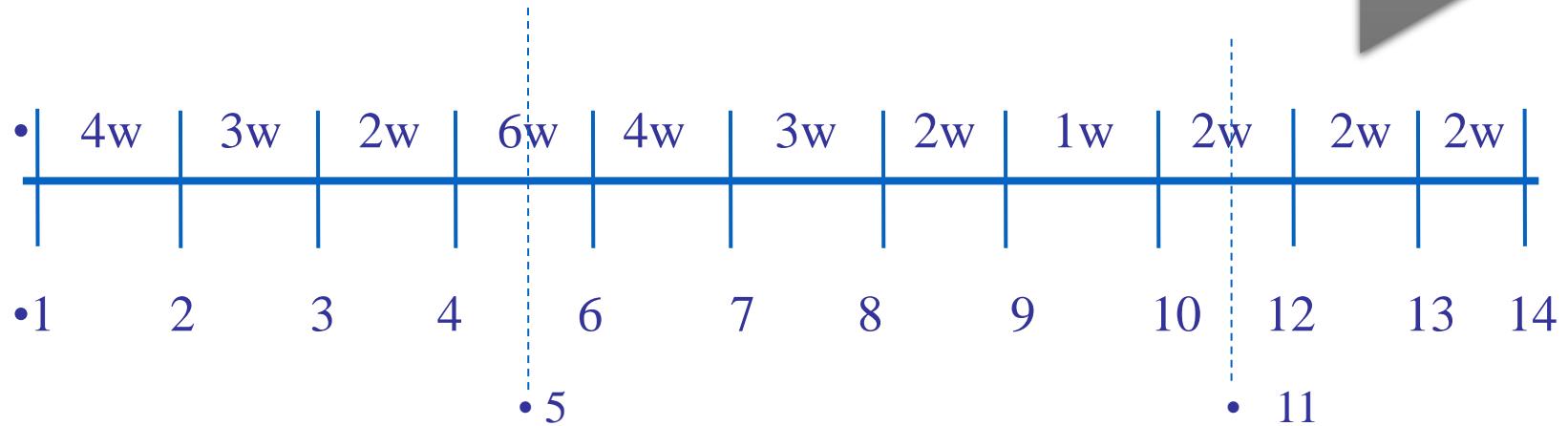
Procurement Cycle

The EIB: Open or restricted procurement cycle



Procurement planning: indicative timing

Procurement
planning



Total 31 weeks

Legend:

- | | | |
|--------------------------------|---|--|
| 1. Publication of PQ notice | 6. Explanatory briefing / on site visit | 10. Contract award |
| 2. PQ applications | 7. Tender submission / opening | 11. Letter of acceptance |
| 3. Promoter's report submitted | | 12. Finalisation of contract with preferred bidder |
| <u>4. EIB non-objection</u> | 8. Promoter evaluation report | 13. Contract signature |
| 5. Issue tender docs | <u>9. EIB non-objection</u> | 14. Publication of award notice |

Procurement complaints (GtP, §1.8.1. & 1.8.2.)

*Complaints against Promoter's action addressed to the Promoter: "The Bank requires that **Promoters review, take the necessary actions and respond in a timely manner to complaints** addressed to them related to the procurement process of an EIB-financed contract and originating from any person or entity having or having had an interest in obtaining the contract."*



*Complaints against Promoter's action addressed to the National Remedy Body: "Moreover, the **EIB generally requires that review procedures for remedies acceptable to the Bank are available** to any person or entity having or having had an interest in obtaining the contract and (at risk of) being harmed by an alleged infringement from applicable procurement rules. In the case of public procurement, such review procedures are **normally provided through the competent national remedy mechanisms.**"*

*Complaints against Bank's action addressed to the Bank: "**Any member of the public may refer a complaint to the EIB** in respect of an instance of maladministration in the Bank's procurement due diligence. The Bank's Procurement Complaints Committee reviews the Bank's position relative to complaints arising from tendering of EIB-financed contracts for goods, works and consultant services in case a complaint against Bank's action has been received."*



"Where do I complain about the person in charge of complaints?"



Tips for winning contracts

TIPS FOR WINNING CONTRACTS – BASICS

- **Do your homework** (see links to projects, sector and country documents on EIB website: www.eib.org)
- For **opportunities in Ukraine**, check [DREAM](#) and [Prozorro](#) platforms
- To be updated on new opportunities, check regularly the [TED – Tenders Electronic Daily website](#)
- Check also the **smaller assignments**
- The **expression of interest (Eoi)/shortlist** matters (starting point)



TIPS FOR WINNING CONTRACTS – BASICS

Check EIB's project pipeline per country and sector:

Projects to be financed

🐦 f in ✉

The list below contains the projects submitted to the EIB for financing purposes. Only projects covered by the EIB's transparency policy are included (see [explanatory notes](#)).

The list will be updated as the identification and appraisal work for each project progresses.

Order by: From: To: Region: Country:
Sector: Status:

25 of 994 results [Export to Excel](#) [Share results](#)

Release date	Title	Country	Sector	Status
23 November 2023	ABB RDI FOR SMART & SUSTAINABLE ELECTRIFICATION	Germany, Italy, Switzerland, EU	Industry	Signed
22 November 2023	OTUA - INNOVATIVE CIRCULAR ECONOMY INVESTMENTS	Spain	Credit lines	Under appraisal

Check EIB's pipeline of upcoming consultancy tenders:

All procurement

🐦 f in ✉

Year: Status: Type:

Rows view 25 of 706 results [Share results](#)

Date	Title	Type	Status
17 November 2023	Recruitment and Administration of Temporary Staff for the EIB Group within a Managed Service Programme (MSP)	Calls for tenders	Closed
13 November 2023	Management and Technical Assistance Support for Completion of the Mykolayiv Water Project	TA operations	Closed
10 November 2023	Assistance in Supporting the Digital Innovation Activities of the EIB Group internal Digital Transformation Programme	Calls for tenders	Closed
3 November 2023	Framework Agreements Concerning Compliance, Due Diligence and Information Security Services	Calls for tenders	On going

TIPS FOR WINNING CONTRACTS – JOIN FORCES

- Be realistic! Can you match the tender requirement? If not, consider:
 - (i) **consortia** or sub-contracting opportunities, identify potential local, regional or international **partner firms** to complement your firm's strengths (know-how, project references, key experts, equipment),
 - (ii) engaging **external experts** to satisfy requirements related to key personnel



TIPS FOR WINNING CONTRACTS



- Consider your application / tender from the perspective of evaluation committee. Are you able to easily assess your company's compliance with tender requirements?
- Ask for clarifications on tender documents
- Submit documents that are:
 - (i) **tailored** (adapt to the tender documents requirements)
 - (ii) **focused** (all key points / evaluation / award criteria addressed one by one?)
 - (iii) **concise** (e.g. table of content, clear structure & headlines, easy to find and assess, short sentences, use tables instead of running text when appropriate, no endless references, etc.)

TIPS FOR WINNING CONTRACTS – AVOID THE BIG DON'TS



- **Do not** submit visible financial offer when selection is based on two-envelopes and do not add financial offer to EoI / application (unless specifically requested),
- **Do not** reveal content of your offer (ensure confidentiality!),
- **Do not** submit late,
- **Do not** liaise with EIB/Promoter after publication of notice (apart from requests for clarifications on tender documents and responses to requests for clarification of your application /offer),
- **Do not** stay silent on conflict of interest, restrictive specifications/requirements or prohibited practices!

Thank you for your attention!



Any questions?