

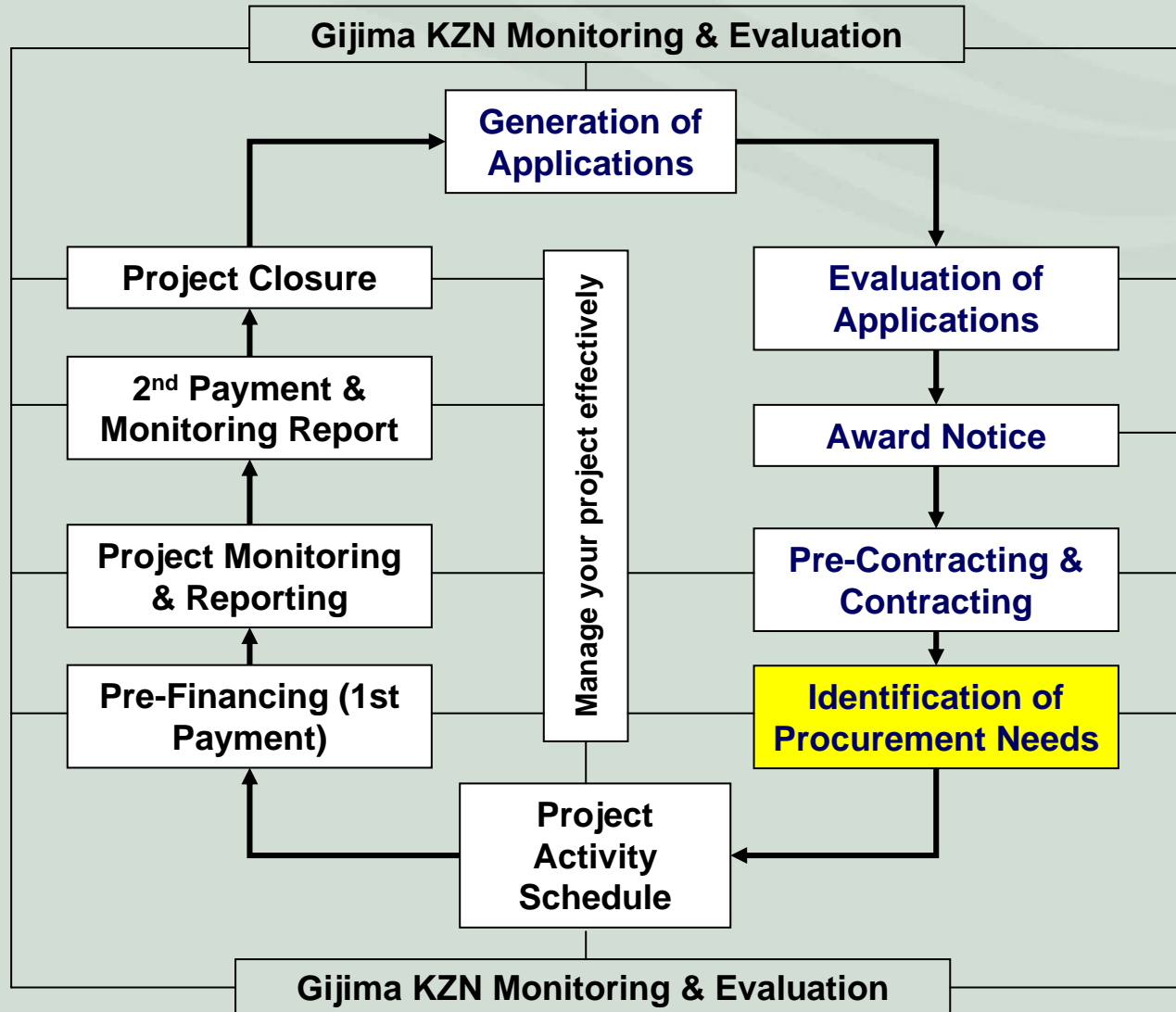


Assisting Grant Beneficiaries with Procurement

21st January 2008



Project Implementation & Monitoring Processes



What is Procurement?



- Full range of activities related to purchasing services, supplies and works:
 - **services** (technical assistance, studies, provision of know-how and training);
 - **supplies** (equipment and materials);
 - **works** (infrastructure and other engineering works).
- Procurement can range from contracting for an entire service to purchasing small assets such as office equipment.



What is PMSU?



- Procurement Monitoring & Support Unit (PMSU) is a virtual unit of Gijima KZN Programme Coordinating Unit (PCU).
- Members: PDMT (AM/DED), FCU, M&E.
- PMSU is managed by Procurement Manager who sits within the Finance & Contracting Unit (FCU).
- Approvals are sought through FCU.



What is PRAG?



- “Practical Guide to Contract Procedures for European Commission’s External Actions” (PRAG May 2007) is a working guide which explains the contracting procedures applying to all EC external aid contracts financed from the EC.



PMSU Framework



- To advise you (grant beneficiaries) of your contractual obligations, and to assist you to interpret and comply with the procurement requirements of your contract (Annex IV of Grant Beneficiaries' contracts);
- PMSU acts as a resource for Grant Beneficiaries to turn to when implementing their projects for guidance on procurement-related activities that utilise Gijima KZN grant funds;
- It is not within the framework of the PMSU to undertake any procurement activity on behalf of Grant Beneficiaries – ultimate contractual obligation lies with GBs.



What is Annex IV?



- Grant Beneficiaries are contractually obliged to procure according to the procedures set out in **Annex IV** of their contracts.
- **Annex IV** (only 6 pages) procedures are derived from PRAG, but are less prescriptive.



EU Procurement Principles



- Principles of PRAG procurement procedures must be maintained:
- procurement of supplies, services or works using EU (Gijima KZN) funds must be **open, fair and competitive** to provide the most **economically advantageous** tender in case of service tenders and the **cheapest compliant** offer in case of supplies or works tenders, all of which must be undertaken through a **process that is transparent**.



EU Procurement Principles cont.



- The basic principle governing the award of contracts is **competitive tendering**. The purpose is twofold:
 - to ensure the transparency of operations; and
 - to obtain the desired quality of services, supplies or works at the best possible price.
- There are several different procurement procedures/modalities, each allowing for a different degree of competition.



Procurement by Grant Beneficiaries (PRAG 6.8)



6.8.1. General principles

- Must be awarded to the most economically advantageous tender (i.e., the tender offering the best price-quality ratio), in accordance with the principles of transparency and fair competition for potential contractors and taking care to avoid any conflicts of interest.
- To this end, the beneficiary respects the rules prescribed in Annex IV to the grant contract, subject to point 6.8.2.
- In the event of failure to comply with the rules referred to above, expenditure relating to the operations in question is not eligible for Community financing.
- The Commission will carry out ex-post checks on the compliance of grant beneficiaries with these rules.



Annex II



- General Conditions applicable to European Community-financed grant contracts for external actions



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Annex II - Article 16.2



- The Beneficiary will allow the European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor carrying out verifications as required per Article 15.6 to verify, by examining the documents or by means of on-the-spot checks, the implementation of the Action and conduct a full audit, if necessary, on the basis of **supporting documents** for the accounts, accounting documents and any other document relevant to the financing of the Action. **These inspections may take place up to 7 years after the payment of the balance.**



Annex II - Article 16.3



- **Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports;**
- Proof of delivery of services such as approved reports, time sheets, transport tickets (including boarding passes), proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates), etc;
- Proof of receipt of goods such as delivery slips from suppliers;
- For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs;
- Staff and payroll records such as contracts, salary statements, time sheets



Annex II - Article 4



Conflict of interests

- The Beneficiary undertakes to take all necessary precautions to avoid conflicts of interests and shall inform the Contracting Authority without delay of any situation constituting or likely to lead to any such conflict.
- There is a conflict of interests where the impartial and objective exercise of the functions of any person under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person.



No retroactive awards

(PRAG 2.3.7.)



- **No retroactive awards:** Contracts are considered to take effect from the date of signature of the last signatory. **Contracts or contract addenda cannot be awarded retroactively** (i.e. after the end of the execution period) under any circumstances. This means that no disbursements can be effected and no goods and services provided prior to the signature of the contract and/or addendum.
- All contracts must show the true dates of signature of the contracting parties.
- cf. Use of Negotiated Procedure, Annex IV, Article 7



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Gijima KZN's Procurement Support to GBs



- Meeting with GB re procurement procedures and intro to Support Pack;
- Assisting with drafting Procurement Schedule;
- Finalise procurement modalities and requirements for the project;
- Provide ongoing procurement advice and support.



Gijima KZN Implementation Support Pack



- Support Pack v4.1
 - CD-ROM (web interface) and Gijima website



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Which procurement procedure to apply?



- Depends on type and value of contract to be awarded
- Types of contracts:
 - **services** (e.g. technical assistance, studies, provision of know-how and training) (Article 4, Annex IV);
 - **supplies** (i.e. equipment and materials) (Article 5, Annex IV);
 - **works** (i.e. infrastructure and other engineering works) (Article 6, Annex IV).



Which procurement procedure to apply?



- **Thresholds of contract values:**
 - Thresholds are based on the maximum budget for the contract in question (including any co-financing);
 - Projects must not be split artificially to circumvent the procurement thresholds;
 - Articles 4, 5 & 6 of Annex IV specified in Euro;
 - Rand values to be calculated using official EU exchange rate - updated monthly at <http://cc.europa.eu> (exact URL in Support Pack);
 - January 2008: €1 = R10.0012



Which procurement procedure to apply?



<http://www.gijima.co.za>



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Rules common to all tender procedures for GBs (Annex IV, 3)



- The tender documents must be drafted in accordance with best international practice...
- 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.
- must be evaluated and ranked by an evaluation committee on the basis of the exclusion, selection and award criteria announced in advance. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.



Evaluation Criteria



- Selection and award criteria announced in advance;
- Evaluation grid;
- Once published, cannot be changed at any stage during the tender process.



Procurement procedures most likely to be encountered by GBs



- Single Tender
- Competitive Negotiated Procedure
- Local Open Tender Procedure



Single Tender (<€10,000)



- For tenders up to the value of €10,000, Annex VI stipulates that orders may be placed on the basis of a **single tender**.
- Definition of 'single tender': EC Delegation has requested that all purchases under €5,000* require at least 3 quotations except where the cost of goods or services are widely known and are generally available in the market place. In such cases an explanation in writing needs to be given.

*PRAG August 2006



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Competitive Negotiated Procedure (CNP)



- Grant Beneficiary invites tenders from **at least 3 candidates of its choice**.
- At the end of the procedure, GB selects the most economically advantageous tender in case of service tenders and the cheapest compliant offer in case of supplies or works tenders.



Local Open Tender



- Procurement notice is published in all appropriate media but only in the country in which the Action is being carried out.



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International Restricted Tender Procedure



- Only a limited number of LCFI projects may fall into this threshold;
- Following publication of a procurement notice, shortlisted tenderers invited to submit proposals;
- Procurement notice to be published in all appropriate media, in particular on the GBs web site, in the international press and the national press of the country in which the Action is being carried out, or in other specialist periodicals.



Negotiated Procedure (Annex IV, 7)



- GBs may use the negotiated procedure on the basis of a single tender* in certain cases.
 - To be used in exceptional cases (PRAG 2.4.8).
 - Recommendation: seek advice from PMSU and motivate in writing to Contracting Authority before applying the negotiated procedure.
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- *cf. definition of single tender <€10,000



Negotiated Procedure (Annex IV, 7)



Possible clauses most likely to be applicable to LCFI GBs:

- c) where contracts extend activities already under way which are not included in the main contract but which, because of unforeseen circumstances, have become necessary to perform the contract, or which consist of the repetition of similar services entrusted to the contractor providing services under the initial contract;
- (d) for additional deliveries by the original supplier...where change would require either incompatibility or disproportionate technical difficulties in operation and maintenance



Negotiated Procedure (Annex IV, 7) cont.



- (f) where the tender procedure has been unsuccessful...
- (h) where, for technical reasons... or exclusive rights, the contract can be awarded only to a particular service provider;
- (i) ...particular characteristics of the supplies...patents or licences to use patents;
- (n) supplies from either from a supplier which is definitively winding up its business activities, or from the receivers or liquidators of a bankruptcy...



Terms of reference and technical specifications

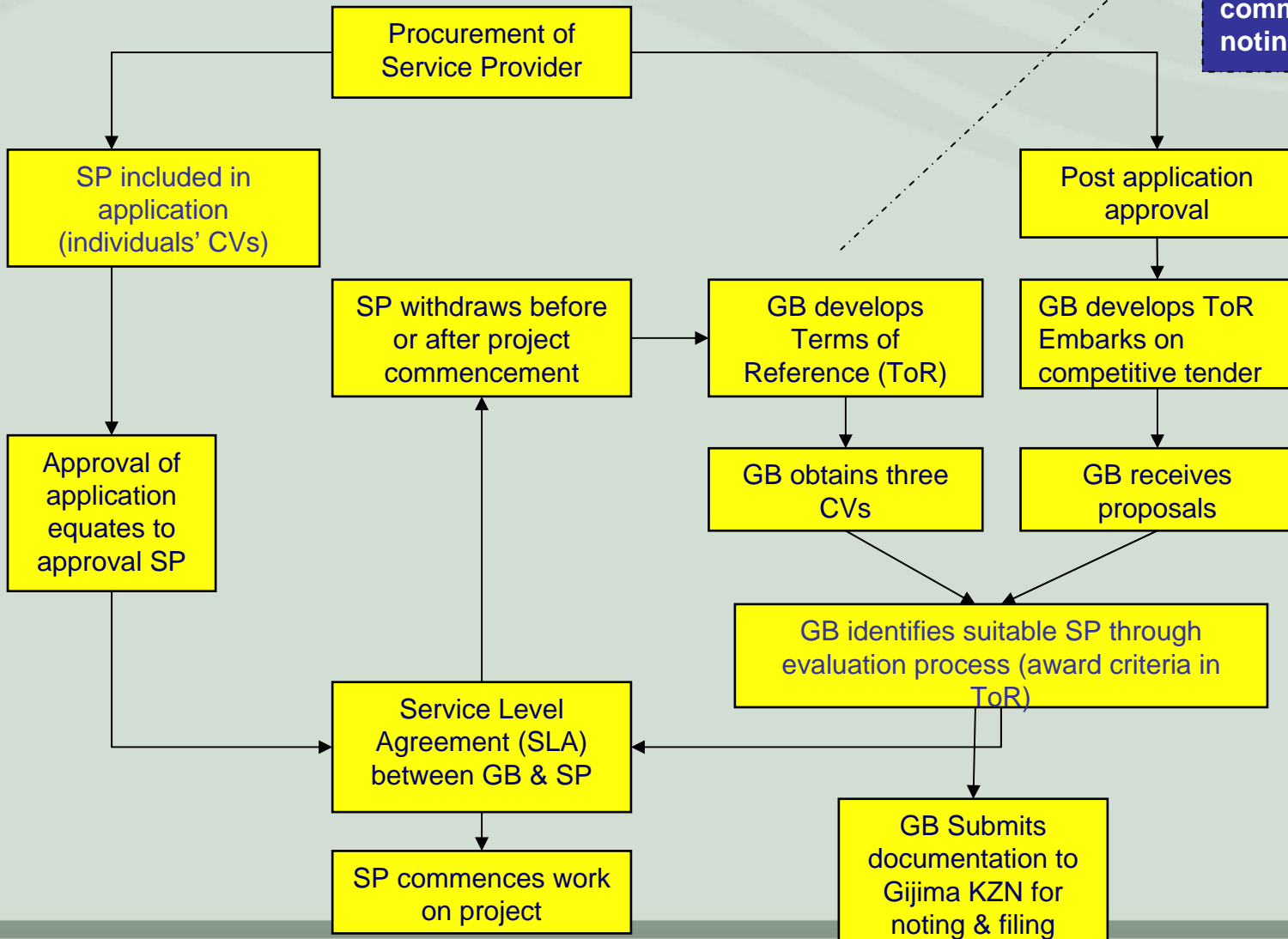


- Purpose of Terms of Reference (for service contracts) and Technical Specifications (for supply and works contracts) is to give instructions and guidance to contractors at the tendering stage about the nature of the tender they will need to submit and to serve as the contractor's mandate during project implementation.
- The Terms of Reference or Technical Specifications will be included in the Tender Dossier and will **become an annex of the eventual contract** awarded as a result of the tender.



Procurement of Individual Service Providers (SP)

GB submits ToR to AM for comment & noting



AM & PMSU advise GB



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Simplified Steps of Procurement Procedure for Grant Beneficiaries (>€10,000)



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Gijima KZN's review of GBs' procurement



- Gijima KZN neither approves or endorses the procurement **process** nor the **award** of contract of the service provider/supplier selected by the GB.
- AM/PMSU merely **advises** GBs of their contractual obligations and how these can best be met.
- PMSU only reviews the procurement **process** to ensure that procurement has been followed in accordance with Annex IV.



Procurement Schedule



- Procurement schedule pro forma has been developed by Gijima KZN to be utilised by Grant Beneficiaries to appropriately plan their procurement activities;
- Identification of procurement needs and completion of procurement schedule to be completed alongside Activity Schedule.



<http://www.gijimakzn.co.za>



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Summary



- Procurement requirements of GBs: Annex IV
- **Open, fair and competitive** to provide the **most economically advantageous** (or cheapest compliant offer in case of supplies or works) through a process that is **transparent**.
- Funds utilised to procure not in accordance with Annex IV are deemed ineligible costs.
- If in doubt, seek guidance from Gijima KZN (AM/PMSU).

