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# **Preliminary considerations on standard documents and training structure and methodology**

## **Standard documentation and the main information it should include for awarding of contracts/FAs**

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# Bidding documents

- Preparation of the bidding documents – the most important phase in a procurement procedure
  - mistakes will reflect to evaluation of tenders and execution of contracts
  - some mistakes cannot be repaired in latter phases
    - may result in cancelation of procedure or even contract





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# Bidding documents (2)

- Taking into account everything that could go wrong up to the end of the contract
  - previous experience of the CA extremely important and needs to be reflected in follow up procedures
    - For example – adding provisions enabling prolongation of the contract if the CA doesn't fulfill some requirements.





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# Standard procurement documents (SPDs)

- model documents
- typically editable document templates used by contracting authorities (CAs)
- purpose:
  - simplifying CAs work and saving time
  - avoiding errors
- ensuring that any procurer can conduct a public procurement procedure





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# Types of SPDs

- contract notices
- tender specifications
- contract award notices
- contracts for all types of procurement procedures
- model contract clauses
- pre-defined technical and evaluation criteria
- declarations





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# Levels of standardization

- national – public procurement agencies
- CA level – options for additional standardization
  - repetitive procedures
    - mistakes from previous procedures and contract executions need to be reflected in follow up tender documents - for example, contract amendments
  - procedures common for many internal units
  - practice of similar CAs

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# What to standardize?

- careful assessment when deciding on:
  - obligatory elements
    - contract notices, contract award notices, declarations
    - basic contract clauses
    - basic content of the tender documents, obligatory provisions from the PPL
  - support, guidance elements
    - examples of selection and evaluation criteria
    - examples of technical specifications

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# Preparation of SPDs

- Template documents
  - editable
  - updated regularly
  - user-friendly
- Audit-proofed – legal soundness
- Supporting material – explanations, examples, FAQs

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# Preparation of SPDs (2)

- Adequate flexibility - taking in mind diversity of PP procedures
  - **!!!** Procedures could be very similar, but they are never fully identical!
  - better not to define some elements mandatory if not sure that it will function in practice
    - change of practice within overall development of PP system





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# Preparation of SPDs (3)

- Pilot tests before publication
  - CAs and economic operators
- Enable feedback from users – take necessary adaptations if needed
- Dissemination to users

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# PPL - contents of the bidding documents

- Article 52 – list of information that bidding documents have to include
  - good framework for defining obligatory elements of the SPDs
    - supported with more details examples and guidance documents





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# Framework agreements

- Procedures for awarding FAs – same as for classical contract
- Procurement documents have to provide same key information (Art 52), with some additional information / requirements

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# Award of FAs

- Art 63 - Award of a framework agreement – info:
  - that the procurement will be conducted as a FA procedure
  - whether FA is to be concluded with one or more than one economic operator
  - if FA with more than one economic operators, any minimum or maximum limit on the number of EOs to be parties;
  - form, terms and conditions of the FA in accordance with Art 64



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# Award of FAs (2)

- if FA with more than one economic operators, any minimum or maximum limit on the number of EOs to be parties
  - Bidding documents have to contain criteria for limiting number of EOs
    - Good to provide examples in SPDs

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# Requirements for FAs

- Art 64
  - duration – from one to four years
    - Templates – option to restrict fill-in options
  - description of the subject matter of the procurement and all other terms and conditions of the procurement
  - estimates of the terms and conditions of the procurement that cannot be established with sufficient precision when the FA is concluded
    - Info on what additional elements will be required in call-offs





# Requirements for FAs (2)

- Art 64 and Art 65
  - methodology for awarding contracts based on the FA (call-offs, mini tenders)
    - Relevant for FAs with more Eos
    - Awarding criteria
      - If there is price criteria, can EOs submit different (higher) prices compared to FA award procedure?
      - Good practice to define this issue in tender documents!
    - Frequency, available info on quantities, additional requirements (delivery place, deadline, etc.)







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# Requirements for FAs (3)

- Art 64
  - all information necessary to allow the **effective operation of the FA**, including information on how the agreement and notifications of forthcoming procurement contracts thereunder can be accessed and appropriate information regarding communication, including, but not limited to, electronic communication





# Additional information on FAs

- Defining maximum quantities
- Timeframe for awarding and duration of individual contracts
  - Croatian example:
    - *Individual contract based on the FA has to be awarded before expiration of the FA, but duration of individual contract cannot be longer than 12 months after expiry of the FA.*





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# Additional information on FAs (2)

- Performance guarantees
  - For entire FA or for individual contracts?
    - Depends on type of service / works / supplies
    - When asked for entire FA, risk of too high burden for economic operators, especially if FA is not fully consumed by the CA or it is FA with more than one EO.

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# Thank you for attention!

