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Preliminary considerations regarding the
development of the public procurement standard
documents the organization of the training structure
and methodology

Procurement Process Contracts vs Framework agreements

Gheorghe Cazan, Romania

Beirut

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 OECD



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Procurement Process

The procurement process is frequently seen as a sequence of stages and steps

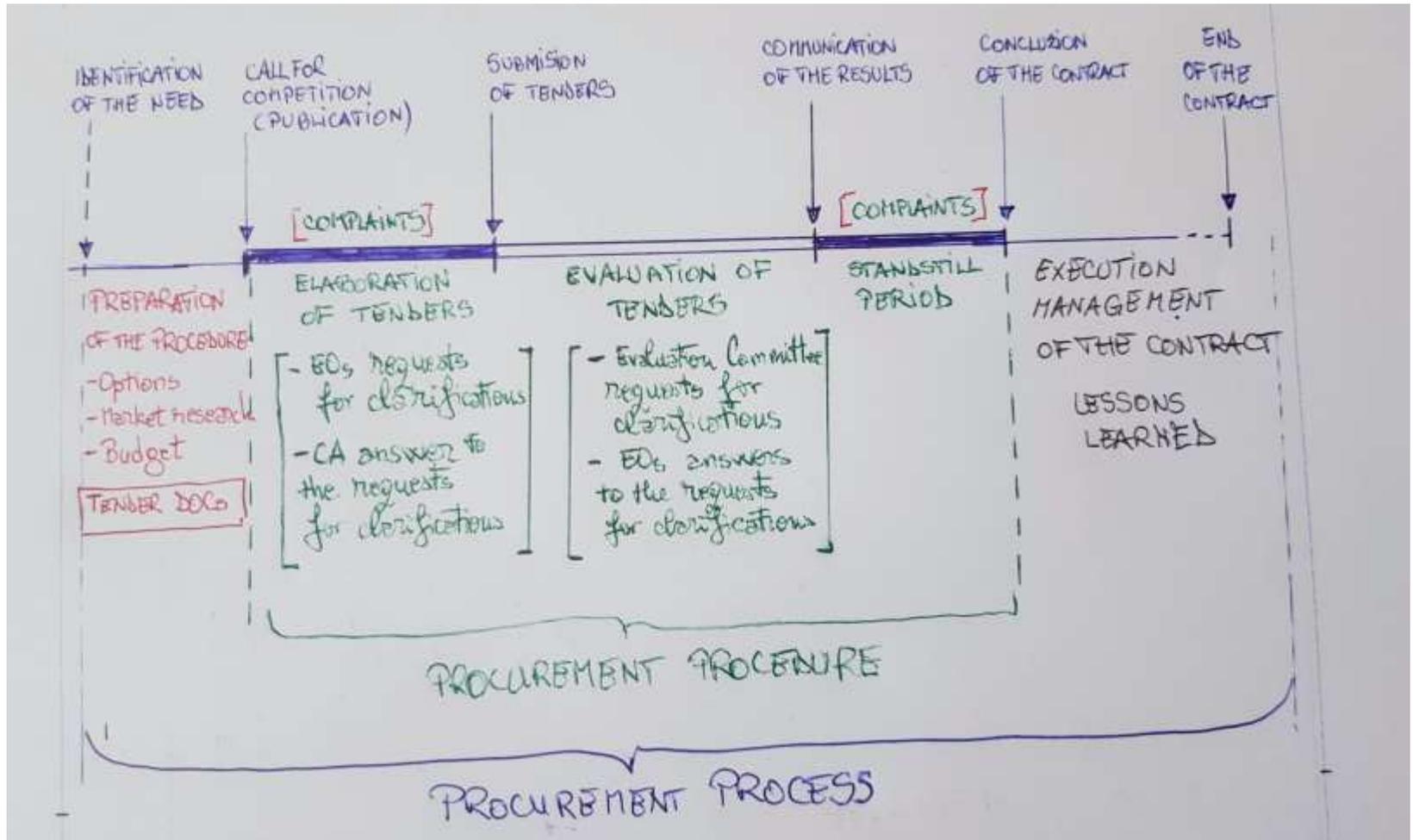
Three stages:

- I. Preparation of the procurement
- II. Run the procurement exercise – Procurement Procedure
- III. Management of the contract





Procurement Process





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Preparation of the procurement

- **Preparation of the procurement** - steps that procurement officers and other stakeholders within the contracting authority have to take in order to arrive at a stage where a given procurement has been **planned**, **approved** and **prepared** in such a way that economic operators may be called to submit tenders.





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Preparation of the procurement

Pre-planning

This process should ideally take place during the year, before the procurement needs to be established.

Procurement staff should discuss with user departments and key stakeholders about:

- procurement requirements
- budgets for the next year
- likely costs based on their market knowledge





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Preparation of the procurement

Defining needs

The basic needs of the stakeholder(s) are explored, options considered, and the requirements briefly described as a basis for planning.

- What to buy?
- Why buy it? What purpose does it serve?/What's the objective of the purchase?
- How and when to buy it?
- How much does it cost?
- How many sources are available?
- What are the risks?

(Based on Market Research)





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Preparation of the procurement

Annual procurement planning

Procurement Plan is a management tool, based on which the procurement activity at the level of CA will be organized in the next year.

Whilst pre-planning is acknowledged as ‘good practice’ everywhere, in some countries the procurement plan that results from the process described above can be:

- The plan that has been, or has to be, adopted by the contracting authority
- A document that has to be published
- A document closely linked to budgets and financial plans





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Tender Documentation

Tender documents should contain important **indications/information for the tenderers**, such as:

- time limits for the preparation and submission of tenders, (which shall respect, in all the cases, the minimum time limits provided by the law);
- rules and procedure for submission and opening of tenders;
- the length of the tender validity period;
- tender and performance securities, if applicable;
- lots, if applicable;
- variants, if applicable;
- procedure and rules for clarification of the tenders submitted
- qualification/selection criteria for participation in the tender procedure and how qualifications shall be evidenced by tenderers (without imposing unnecessary formal conditions that could negatively affect the participation)
- rules regarding minor and major deviations, correction of arithmetical errors, rules for rejection of tenders
- award criteria and their relative weighting + all important aspects of the tender evaluation methodology
- rules for cancellation of the procurement procedure
- procedures for lodging complaints





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Tender Documentation

Development of the technical specifications

- describes, clarifies and defines the technical requirements in detail
- have to be adequate enough to enable potential economic operators to make a clear offer to the contracting authority.

Establishing the Terms and Conditions of the Contract

- the consideration by the contracting authority of the specific terms and conditions that it would prefer to apply to the supply of goods, works, and/or services.
- the consideration by the contracting authority of the way in which it will measure the success of the goods, works, and/or services supplied to it, in response to the specified requirements.





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Preparation of the procurement

(Re-) Estimation of the contract value

Selection of the procurement procedure to be applied for awarding the contract

Contract or framework agreement?





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Framework agreements

- Definition

Agreement between:

- one or more contracting entities; and
- one or more economic operators,

with the purpose to establish **the terms governing contracts to be awarded during a given period**, in particular with regard to price and, where appropriate, the quantity envisaged.

- Phases

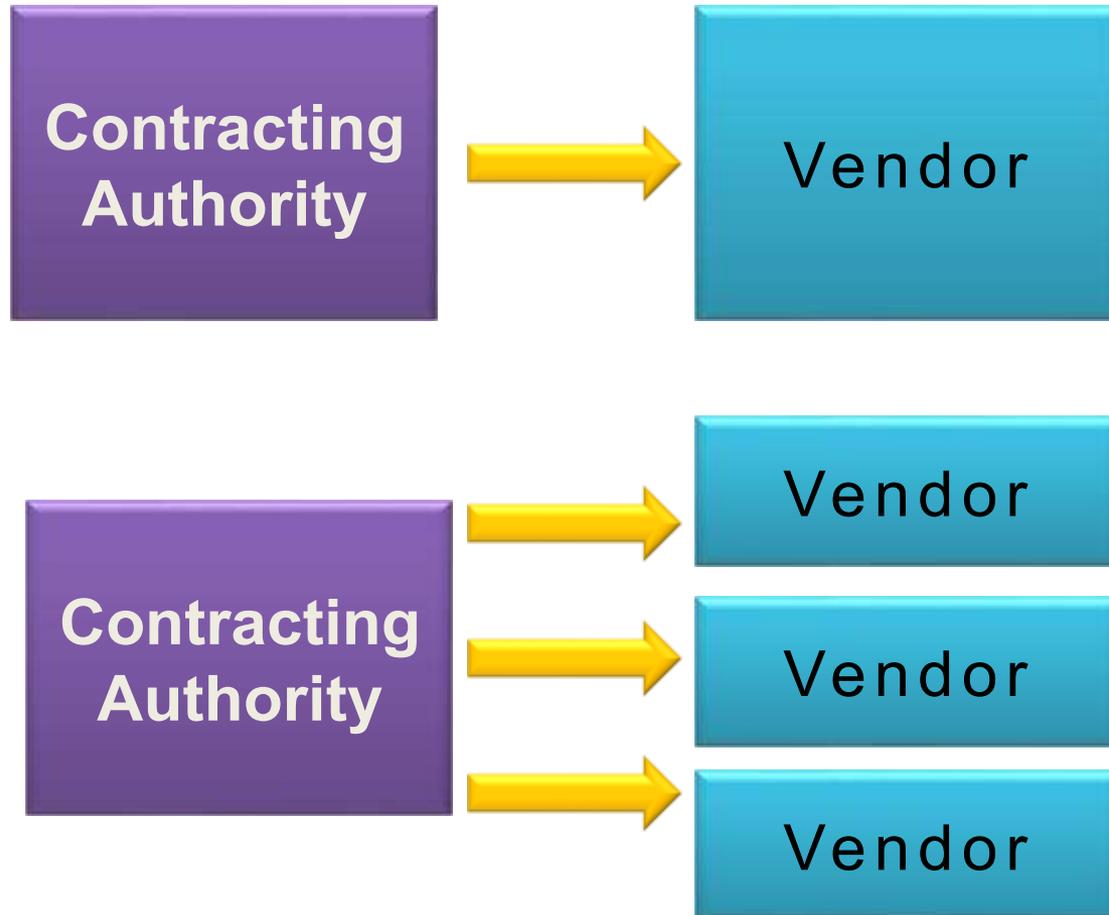
- I. Award of the framework agreement itself
- II. Award of the contracts under the framework agreement already concluded





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One contracting authority



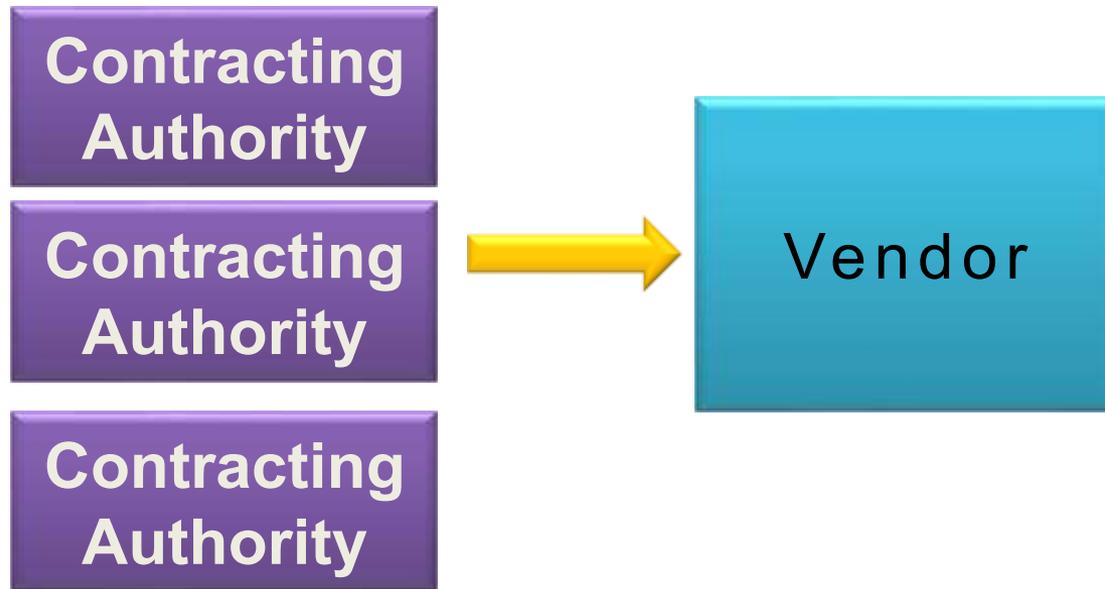
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Several contracting authorities



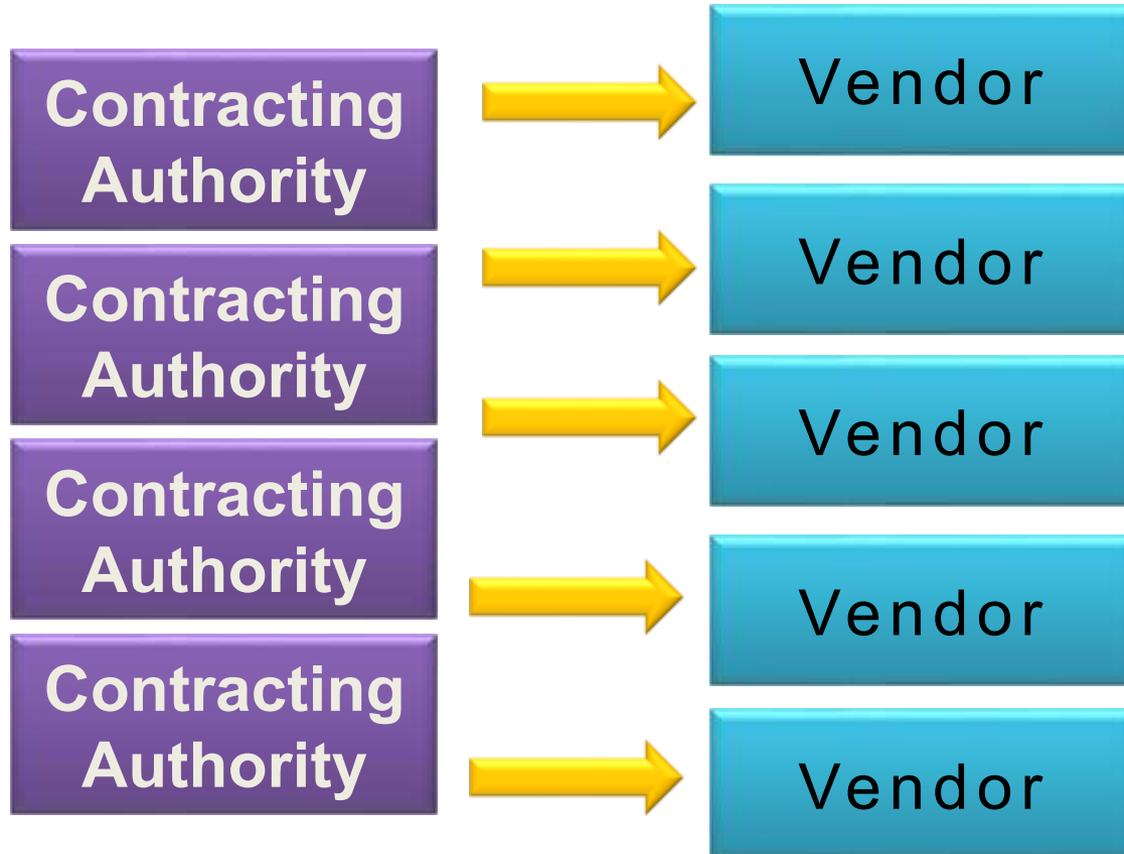
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Several contracting authorities



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Framework agreements

- For concluding a framework agreement the contracting entity (procuring organization) shall apply **the same rules and procedures** as for the award of a traditional contract

The result of a tender procedure may be:

- Contract
- Framework agreement

Procurement procedure ⇔ *Framework agreements* ⇔ *contract 1, contract 2, contract 3*

- ! Frameworks agreements **are not** in themselves a separate, different **procurement procedure** – be careful not to confuse the two concepts
- ! **Framework agreements** do not themselves constitute contracts, because they **do not bind the parties**.



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Framework agreements concluded with several economic operators

- Without reopening competition

Economic operator A: 1.000 euro (C1: 20 computers = 20.000 euro)

Economic operator B: 1.100 euro

Economic operator C: 1.200 euro

Economic operator D: 1.250 euro

Economic operator E: 1.300 euro

- By reopening competition

	Original prices		New prices
Economic operator A:	1.000 euro	⇒	C1: 20 computers: 19800 euro
Economic operator B:	1.100 euro	⇒	C1: 20 computers: 19700 euro
Economic operator C:	1.200 euro	⇒	C1: 20 computers: 19850 euro

Economic operator D: 1.250 euro

Economic operator E: 1.300 euro





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Rules for reopening competition

- For every contract to be awarded, contracting entities shall consult in writing the economic operators;
- Contracting entities shall fix a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject-matter of the contract and the time needed to send in tenders;
- Tenders shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for reply has expired; (E-auctions may be used at this phase)
- Contracting entities shall award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the framework agreement.





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When and why to choose a framework agreement?

- Contracting authority is unable to foresee its needs in enough detailed manner (Uncertainty about total quantities)
- Repeated requirements for standard items
 - Equipment
 - Office supplies
 - Standardised Services
 - IT Technical Consultancy
- Contracting authority wants to protect itself against the risk of contractual partner's insolvency, decreasing level of contractual performance etc.
- Second phase is often faster and easier
- Contracting authority wants to benefit from the market developments during the contractual phase
- Contracting authority wants to benefit from the competition during the contractual phase





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Run the procurement exercise (open procedure)

- **Carrying out the public procurement procedure** - steps necessary to decide which of several economic operators is the most appropriate for delivering the goods, services or works for the contracting authority

Call for competition (Publication of a contract notice)

Providing tender documents to the interested economic operators

Handling questions/requests for clarifications from the economic operators

Receiving tenders

Qualification of economic operators (Criteria for qualitative selection)

This step seeks to confirm whether economic operators are qualified to perform the contract that is to be awarded. This qualification will refer only to the pre-established qualification criteria set out in tender documents.





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Run the procurement exercise (open procedure)

Checking the tenders, whether are compliant with the minimum requirements and technical specifications

Clarifications on the tenders

Clarifications should be undertaken by the purchasing officer and/or evaluation committee in order to understand more precisely the details and implications of the economic operator's tender in relation to a specified requirement.

Tenders evaluation of quality and price/cost (establishing the winner)

This is the process of comparing the tenders, with a view to determining which of them is most likely to meet the needs of the contracting authority. The process uses only the weighting and scoring criteria set out in the notice/tender documents.

[Award approval]





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Run the procurement exercise (open procedure)

Communications of the result to all the participants at the procurement procedure

Standstill period

(Appeal process and contract review)

Awarding/signing the contract

This step includes the completion and signing of contracts - legally binding documents. The successful economic operator might need to provide the contracting authority with a performance security before the contract is signed.

Publishing an award notice





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Contract management

- **Management of the contract** - steps that enable both the contracting authority and the economic operator to fulfil their obligations within the contract in order to meet the contract objectives.

Contract variations/Non-substantial modification of the contract

A contract variation can be defined as a change in the original scope of work, which has been agreed by both parties. Currency fluctuation clauses and cost/price adjustment clauses are common examples of such measures, where the need to make a change can be foreseen and provided within the tender documents and contractual terms.

Quality control

Delivery/Handover (Acceptance)

Payment(s)





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Thank you!

