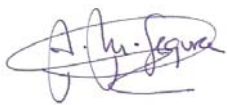
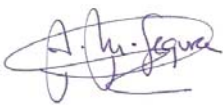



Internal Contracting Instructions

REV. No.	DATE	DESCRIPTION OF MODIFICATION
01	21-04-2008	Creation of procedure
02	29-10-2008	Expansion of items 5.9.1, 5.9.2 and 5.9.3
03	10-08-2009	Modification of preamble and of items 1.3, 1.5-1.7, 2.1-2.4, 2.5.1, 2.5.5, 3.2.2, 4.1-4.3, 5.1, 5.3, 5.4.1, 5.4.2, 5.5, 5.6.1-5.6.4, 5.8, 5.9, 5.9.1-5.9.7 and 5.10 and modification of the procedure nomenclature

	CREATION	REVISION	APPROVAL
NAME:	Dr. Margot Segura	Dr. Margot Segura	Dr. Miquel À. Pericàs
FUNCTION:	Administrative Director	Administrative Director	Director
DATE:	10-08-2009	10-08-2009	12-08-2009
SIGNATURE:			

Internal Contracting Instructions

PREAMBLE

I. PUBLIC SECTOR CONTRACTS ACT (LAW 30/2007, OF 31 OCTOBER 2007)

On 31 October 2007, the Public Sector Contracts Act (Law 30/2007, hereinafter referred to in these Instructions as the 'LCSP') was published in the Official State Gazette of Spain. The main aim of the Act is to regulate public sector contracting procedures, in order to guarantee the fulfilment of principles of free access to tenders, publicity, transparency in procedures and non-discrimination and equality of treatment among bidders.

The Act serves to transpose Directive 2004/18/EC, of the European Parliament and of the Council, of 31 March 2004, on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

The Act sets out different levels of applicability depending on the type of public sector body involved: public administrations, public sector bodies not covered by public administration but subject to the aforementioned Directive and, lastly, public sector bodies not considered as awarding authorities, and which are thus not subject to the Directive.

Alongside the aforementioned categories, the LCSP establishes two types of contract depending on the regulations to be applied in accordance with the applicability or otherwise of the Community Directives on public procurement, either by type or through fulfilment of the pre-established financial limits. The contracts subject to Directive 2004/18/EC are those covered by harmonised regulations, and where awarded by bodies considered as awarding authorities not within the public administration, the principles of the LCSP must be applied in the processes of preparation and award, subject to the sole conditions set forth in Article 173 of the LCSP.

Meanwhile, in terms of contracts not subject to harmonised regulation, pursuant to Article 175 of the LCSP, awarding powers not considered to be within the public administration must approve instructions, to be applied on a mandatory basis within such bodies, governing the tender procedures so as to guarantee the effectiveness of the principles of publicity, competition, transparency, confidentiality, equality and non-discrimination, and to guarantee that the contract is awarded to the party submitting the financially most beneficial bid.

II. APPLICATION OF THE LCSP TO THE INSTITUTE OF CHEMICAL RESEARCH OF CATALONIA (ICIQ) FOUNDATION

The Institute of Chemical Research of Catalonia (ICIQ) is a Private Foundation subject to the laws of the Regional Government of Catalonia and, where applicable, State legislation, with fully independent legal and operational status within the limits established in its bylaws and the law.

However, upon the entry into force of Law 4/2008, of 24 April 2008, of Book 3 of the Civil Code of Catalonia, regarding legal persons, pursuant to Article 331-2, sub-section 2, with reference to the first final provision of the same Law, its status changed to that of a Public Foundation, notwithstanding the obligation for it to adapt its bylaws to the new legal

Internal Contracting Instructions

provisions, in order to comply with which the first transitory provision of Law 4/2008 sets a period of three years from the entry into force of the Law.

The purpose of the ICIQ Foundation is research of excellence in the field of the chemical sciences, with the aim of establishing itself as a first-division international flagship centre within its field of operations. In general terms, the mission of the Foundation is to achieve scientific and technological excellence at the highest level within the aforementioned field, with the aim of promoting a qualitative step forward in the scientific level of chemical research in Catalonia, progressively placing greater emphasis on target-oriented research, and underpinning, through innovation and technological improvement, the competitiveness of Catalonia's chemical and pharmaceutical industry.

The Board of Trustees, as the supreme body responsible for the governance, decision-making and representation of the Foundation, is currently made up of the following members:

- As ex officio trustees:

- The official heading the Department of the Regional Government of Catalonia responsible for research.
- The General Director of Research.
- The Vice-Chancellor of Rovira i Virgili University.

- The following trustees appointed by the founding institutions:

- Up to 7 trustees appointed by the Regional Government of Catalonia, nominated by the head of the Department responsible for research.
- Up to 2 trustees appointed by Rovira i Virgili University.
- Up to 5 trustees appointed by the Business Advisory Board.

Thus far, the contractual activity of the aforementioned Foundation was subject to Article 2.1 and the Sixth Additional Provision of Royal Legislative Decree 2/2000, of 16 June 2000, approving the Revised Text of the Public Authorities Contracting Act.

Following the entry into force of the LCSP, on 30 April 2008, and pursuant to Article 3 thereof, the Institute of Chemical Research of Catalonia now belongs to the public sector (rather than the Public Administration), and is considered an awarding authority, subject to the Act on an intermediate basis.

III. TYPES OF CONTRACTS SIGNED BY NON-PUBLIC ADMINISTRATION CONTRACTING AUTHORITIES

In line with the new legal framework and the legal status of the body, the current contracting processes must be adapted in line with the new Act, drawing a distinction between those contracts subject to harmonised regulation and those not subject to harmonised regulation.

Internal Contracting Instructions

The contracts subject to harmonised regulation are those awarded by the body as described in Article 13 of the LCSP where the sums involved are above the following thresholds:

- Works contracts with a value equal to or greater than €5,150,000 (excluding VAT).
- Supplies and services contracts with a value equal to or greater than € 206,000 (excluding VAT).

Contracts below the threshold levels shall be subject to non-harmonised regulation, and consequently must be processed and awarded in accordance with these Internal Contracting Instructions (hereinafter, the 'ICI'), pursuant to the terms of Article 175 of the LCSP.

These Instructions are thus intended to govern procedures for the contracting of works, supplies and services below the aforementioned threshold limit, with the aim of guaranteeing the effectiveness of the principles of publicity, competition, transparency, confidentiality, equality and non-discrimination, and to guarantee that the contract is awarded to the bidder presenting the financially most beneficial bid.

In order to guarantee compliance with these principles, and in particular the principle of publicity, emphasis is placed on the Contracting Party Profile, which must set out information regarding the contract tender processes governed by these Instructions, this process of public disclosure being deemed to discharge all requirements based on the principle of publicity.

These principles are guaranteed by means of the contracting procedures governed by these ICI, which to this end govern the following:

- Open procedure.
- Restricted procedure.
- Procedure negotiated on the basis of sum.
- Procedure negotiated for other reasons.
- Small-scale procedure.
- Procedure derived from a framework agreement.
- Competitive dialogue.

For these purposes, sub-section c) of Article 175 of the LCSP indicates that the demands of the principle of publicity shall be deemed fulfilled by means of inclusion in the Contracting Party Profile of information regarding the procurement of contracts with a value above € 50,000. Furthermore, paragraph two of Article 121 of the LCSP establishes the requirement to draw up sets of conditions to govern contracts with a value above the aforementioned figure. Consequently, the principle of publicity established in the LCSP shall not be required in the case of contracts where the sum involved is below that indicated, and these may be awarded directly.

Internal Contracting Instructions

1. GENERAL PROVISIONS

1.1. LEGAL STATUS OF THE ICIQ FOUNDATION

The Institute of Chemical Research of Catalonia (ICIQ) is a non-profit Foundation belonging, for the purpose of procurement, to the public sector, pursuant to the terms of Article 3.1.f) of the Public Sector Contracting Act (the LCSP, Law 30/2007, of 30 October 2007), funded in the main at present by the Public Administration which, pursuant to Article 3.1.a) of the aforementioned Act, likewise forms part of the Public Sector.

The ICIQ Foundation furthermore fulfils the three legal conditions in order to be considered an awarding authority, as it has legal identity, given its status as a Foundation and as stated in its bylaws, it was created in order to meet general-interest rather than industrial or commercial needs, and lastly receives the majority of its funding from Public Administrations which are all times awarding authorities under the terms of Article 3.3.a) of the aforementioned Act.

1.2. PURPOSE OF THE INTERNAL CONTRACTING INSTRUCTIONS (ICI).

These ICI, in pursuance of the terms of Article 175 of the LCSP, are intended to govern the contracting procedures of awarding authorities (non-Public Administration) with the aim of guaranteeing the effectiveness of the principles of publicity, competition, transparency, confidentiality, equality and non-discrimination, and to ensure that contracts are awarded to the financially most beneficial bid.

These ICI, pursuant to the terms of the LCSP, are not intended to govern the effects and termination of contracts, which shall be governed by private law.

1.3. SCOPE OF APPLICATION

These ICI shall apply to contracting procedures for the award of contracts not subject to harmonised regulation, under the terms of the LCSP.

An exclusion from harmonised regulation applies to contracts with an estimated value of less than € 5,150,000 (excluding VAT), supply contracts with an estimated value of less than € 206,000 (excluding VAT), services contracts as described in Annex II (categories 1 to 16) of the LCSP, with an estimated value of less than € 206,000 (excluding VAT), and all other services contracts covered by the aforementioned Annex II, irrespective of the sum involved.

The scope of application of these instructions likewise applies to those contracts with a purpose other than the above and connected with the purposes, object or sphere of activity covered by the organisation's purpose pursuant to its bylaws.

These sums shall be modified automatically and without the need for approval in the event that any regulation should establish other figures.

Internal Contracting Instructions

The status of contracts subject to harmonised regulation shall likewise not apply to those described in Article 13.2 of the LCSP, including research and development contracts paid for in full by the contracting body, provided that the results obtained are not set aside for the exclusive use of that contracting body in performing its own activities.

1.4. DEFINITION OF CONTRACTS BY OBJECT

a) *Works* are understood as the result of a set of construction or civil engineering tasks intended in themselves to perform an economic or financial function or to create a real estate property. For these purposes, works contracts include those intended to create works or perform the tasks listed in Annex 1 of the LCSP. Works contracts shall also be deemed to cover contracts commissioning the joint execution of the planning and construction of the works.

b) *Supply contracts* are understood as those intended for the acquisition, financial leasing or leasing with or without purchase option of products or movable property.

c) *Service contracts* are understood as those intended for a provision comprising the undertaking of an activity or intended to obtain a result other than that of a works or supply contract. For the purposes of application of these ICI, service contracts are divided into the categories referred to in Annex II of the LCSP.

d) *Mixed contracts* are understood as those containing provisions corresponding to two or more of the types of contracts governed by these ICI. For the purposes of application of the standards set forth in these ICI regarding the publication and awarding of such contracts, the provision involving the greatest economic sum, calculated under the terms set forth under item 3.1, shall be considered the main provision.

1.5. LEGAL SYSTEM FOR CONTRACTS AND COMPETENT JURISDICTION

Contracts signed by the organisation and subject to these ICI shall be considered to be private contracts (understood as contracts executed by public sector bodies not having Public Administration status, pursuant to the terms of Article 20.1 of the LCSP), with civil jurisdiction thus being the legislation covering any such legal disputes as may arise in the preparation, awarding, effects, performance and termination thereof.

Private contracts subject to these ICI and executed by the organisation shall be governed, in accordance with the Community regulations and the LCSP, by these ICI in terms of the preparation and awarding of contracts, with all other private law provisions being applied on a supplementary basis. As for the effects and termination of the contracts governed by these ICI, the said contracts shall be governed solely by private law.

1.6. MINIMUM CONTENT OF CONTRACTS

Those contracts subject to these ICI must at all times be executed in writing, except for those contracts awarded directly on the basis of the sum involved.

Contracts subject to these ICI must at least include the following indications:

Internal Contracting Instructions

- a) Identity of the parties and accreditation of the authority of the signatories to sign the contract.
- b) Definition of the object of the contract.
- c) List of documents making up the contract, necessarily to include the Set of Specific Clauses and of Technical Conditions, where applicable. In the case of works contracts, the project must be listed.
- d) The price of the contract or the manner for establishing this, and the terms of payment.
- e) The duration of the contract or the estimated start and end dates, in addition to the duration of any such extensions as may be provided for.
- f) Conditions for reception, delivery or acceptance of the provisions.
- g) Imposition of penalties, where applicable.
- h) Grounds for termination, and consequences thereof.
- i) Acceptance of jurisdiction or arbitration.
- j) The duty of confidentiality on the part of the contractor.

1.7. FORMAL SIGNATURE OF THE CONTRACT

The contracts are formally signed through their award, whatever the procedure or awarding is used.

The contract must be formally agreed in writing, in a private document, to be signed by the parties within a maximum period of 10 days from the date of notification of the award, and following presentation of the documentation required by the contracting body.

In the event that the awardee should fail to meet the organisation's instructions, be in breach of the requirements to execute the contract or prevent it from being formally arranged within the aforementioned deadline, the organisation may proceed to cancel the award, granting the party concerned a period of 10 calendar days to present its arguments. In such cases the guarantee shall be confiscated and the organisation may demand compensation for any damages caused. In such cases the body may award the contract to the next most financially beneficial tender.

1.8. ACCEPTANCE OF ARBITRATION

The Set of Specific Clauses may include referral by the organisation's contracting body to arbitration, under the terms of the Arbitration Act (Law 60/2003, of 23 December 2003) in order to resolve any such disputes as may arise as to the effects, performance and termination of contracts executed under the terms of these ICI.

Internal Contracting Instructions

2. PARTIES TO THE CONTRACT

2.1. CONTRACTING BODY

The contracting body of the ICIQ Foundation is as established in the organisation's Bylaws in force.

The functions of the organisation's contracting body shall be as assigned in these ICI, including, by way of example but not confined to, the following:

- a) Approval of Sets of Specific Clauses and of Technical Conditions.
- b) Designation of members of the Procurement Board, Technical Unit or other advisory bodies.
- c) Exclusion of abnormal or disproportionate bids.
- d) Award of the contract.

Once the contract has been awarded by the competent contracting body, the Director and/or Administrative Director of the organisation shall automatically be empowered formally to arrange the contract.

2. 2. PROCUREMENT BOARD OR TECHNICAL UNIT

For the award of contracts employing procedures other than negotiated, small-scale or based on a framework agreement, the contracting body shall be assisted by a Procurement Board or Technical Unit for the contract, as set out in the Set of Specific Clauses. The contracting body must establish the members of the Procurement Board or the Technical Unit for the contract, who may be assisted by a committee of experts.

In negotiated procedures, in small-scale procedures and procedures for contracts based on a framework agreement, the contracting body or the Set of Specific Clauses may optionally choose to establish a Procurement Board or Technical Unit for the contract.

The designation of the members of the Board may be made on a permanent basis or specifically for the award of one or more contracts. In all cases, its composition must be published in the organisation's Contracting Party Profile at least 7 days prior to the date of the meeting which is to undertake the functions referred to in sub-sections a) and b) below.

If a Procurement Board is established, it shall comprise a president, a secretary and a minimum of three board members appointed by the contracting body, at least one of the members to be a technician specialising in the subject matter of the contract, one with functions assigned in the field of legal consultancy and another with financial and budgetary functions assigned. The secretary shall be appointed from among the staff working for the contracting body.

Internal Contracting Instructions

Should a Technical Unit for the contract is established, this shall comprise a president, a secretary and a minimum of two technical members.

The Procurement Board or Technical Unit has the following functions:

- a) Classification of the documentation demonstrating the identity and, where relevant, powers of representation and contractual capacity, in addition to documentation regarding grounds for debarment from contracts.
- b) Evaluation of economic and financial, technical or professional solvency.
- c) Notification of any rectifiable defects and the establishment of those business owners accepted within the tender process.
- d) Evaluation of the bids. In those cases where the evaluation of proposals is to take place in accordance with criteria other than price, the Procurement Board or Technical Unit may, prior to presenting its proposal, request such technical reports as it may deem necessary. Such reports may also be requested if there is a need to verify that the bids comply with the Technical Conditions set out in the Set of Technical Conditions.
- e) Public opening of the economic offers and resolution of any incidents occurring in this process.
- f) Consideration of the presence of any abnormal or disproportionate bids, having first followed the procedures set out in these ICI.
- g) Presentation of a contract award proposal to the contracting body.
- h) Any functions required for the classification and evaluation of proposals, along with presentation of an award proposal, and any others attributed to it in these ICI or by the organisation's contracting body.

The members of the Procurement Board or Technical Units are guaranteed their right to issue their opinions if contrary to the majority view, and to have their reasoned stance recorded in the minutes.

2.3. CONTRACTOR PROFILE

The organisation must publish its Contracting Party Profile by means of the Public Procurement Services Platform, as established in Order ECF/313/2008, of 23 June 2008, approving application of the Public Procurement Services Platform.

The minimum content of the Contracting Party Profile shall be as follows:

- a) These ICI.
- b) The following information, with a proper distinction being made between works, supply and service contracts:

Internal Contracting Instructions

- Tender announcements.
- Sets of Specific Clauses and of Technical Conditions, where applicable.
- Standard contracts.
- Phases of the award procedure.
- Table with evaluation of tenders.
- Award of contracts.

2.4. APTITUDE AND CAPACITY OF CONTRACTORS

The contracts governed by these ICI may be agreed with public or private, natural or legal persons, whether Spanish or foreign, with full capacity to operate, subject to no debarment from contracts pursuant to the terms established in these ICI, and able to demonstrate their economic, financial and technical or professional solvency, these requirements necessarily being in place at the point when the deadline for the submission of bids concludes.

Natural or legal persons from states not belonging to the European Union or the European Economic Area must, in addition to demonstrating their capacity to operate in accordance with the legislation of their state of origin, and their economic and financial, technical or professional solvency, demonstrate by means of a report from the corresponding permanent Spanish diplomatic mission, to be enclosed with the documentation submitted, that the state of origin of the foreign company accepts the involvement of Spanish companies in contracts with the Public Administration and public sector bodies, organisations or entities equivalent to those listed in Article 3 of the LCSP, on a substantially analogous basis. One further requirement prior to signature of works contracts is that such companies must have a branch open in Spain, and have appointed attorneys-in-fact or legal representatives for their operations, and be registered with the Company Register.

Companies involved in drawing up the Technical Conditions or preparatory documents for contracts may not present bids under any circumstances where their involvement could lead to restrictions on free competition or constitute privileged treatment in comparison with other bidders. Likewise, contracts for the purpose of the oversight, supervision, control and management of the execution of works and facilities may not be awarded to the same companies as those awarded the corresponding works contracts, nor to companies with ties to them, the latter being understood as those subject to any of the conditions set forth in Article 42 of the Code of Commerce.

Legal persons may be awarded the contracts governed by these ICI only if the provisions involved lie within the purpose, object or sphere of activity which corresponds to them in accordance with their bylaws or foundational regulations.

Non-Spanish companies from Member States of the European Union or the European Economic Area must be equipped, in accordance with the legislation of the State where they are established, to perform the provision in question. If the legislation of the state where such companies are established requires registration in a professional or commercial register, it will be sufficient to provide accreditation of such registration, presentation of a sworn statement or a certificate as listed in Annexes IX A, IX B or IX C of Directive 2004/18, of 31 March 2004, of the European Parliament and of the Council, on

Internal Contracting Instructions

the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, in accordance with the conditions in place in the member state where they are established.

Unions of companies established on a temporary basis must indicate the names and circumstances of their constituent parties and the stake of each, and also undertake a commitment to establish themselves formally as a temporary union if awarded the contract, in which case they must execute the corresponding public deed, and which must have a duration coinciding with that of the contract, up until its termination. Businesses presenting grouped tenders as temporary unions are subject to joint and several obligations and must appoint one single attorney-in-fact or legal representative of the union with sufficient powers to exercise rights and fulfil obligations as derived from the contract up until the extinction thereof, notwithstanding the existence of any joint powers of attorney which may be executed for making and receiving payments of a significant sum.

2.5. ACCREDITATION OF THE CAPACITY AND SOLVENCY OF CONTRACTORS

2.5.1. Capacity to operate

Contractors must demonstrate their capacity to operate and their representation in all award procedures regulated by these ICI. The method of accrediting to this capacity will be as established in Article 61 of the LCSP.

Notwithstanding the above, in direct award procedures based on the sum involved, it shall be understood that the capacity of the business owner or professional has been demonstrated by presentation of the corresponding invoice, provided that this includes and contains the details and requirements established in the regulations governing the duty to issue and present invoices. In all cases the body may at any time require the contractor to demonstrate its capacity.

In those cases where the specific legislation so establishes, contractors may be required to demonstrate their registration, at the time of tendering, in a professional or commercial register entitling them to engage in the activity involved in performance of the contract.

2.5.2. Economic and financial solvency

Bidders must demonstrate their economic and financial solvency for execution of the contract, understood as an appropriate economic and financial situation of the company in order to guarantee proper performance of the contract.

The level of economic and financial solvency will be specific for each contract, with this demand being adequate and appropriate to the characteristics of the contracted service. The contracting body may choose the means employed to demonstrate economic and financial solvency as provided in the LCSP or any others it may consider appropriate. In all cases the means employed to demonstrate economic and financial solvency must be included in the corresponding Set of Specific Clauses governing the contract.

Internal Contracting Instructions

2.5.3. Technical or professional solvency

Bidders must demonstrate their technical or professional solvency to perform the contract, understood as the technical or professional skills required in order properly to perform this, either through prior experience on similar contracts or through access to adequate technical resources and staff.

The level of technical or professional solvency will be specific for each contract, with this demand being adequate and appropriate to the characteristics of the contracted service. The contracting body may choose the means employed to demonstrate technical or professional solvency as provided in the LCSP or any others it may consider appropriate. In all cases the means employed to demonstrate technical or professional solvency must be included in the corresponding Set of Specific Clauses governing the contract.

The organisation may require the classification of contractors in accordance with the terms established in the public procurement regulations, including this condition in the Set of Specific Clauses and in the tender announcement, where applicable.

In order to demonstrate their solvency, bidders may base this on the solvency of other companies, irrespective of the legal nature of the ties which they may have with them. In the case of legal persons which are the dominant parties in a group of companies, the companies belonging to the group may be taken into consideration, provided that the former can demonstrate that they effectively have at their disposal the means, belonging to these latter companies, required in order to perform the contract. In the event of solvency demonstrated by means of sub-contracting, the bidder must provide a document demonstrating the existence of a formal commitment with the sub-contractors to perform the contract, in which case the solvency of all parties will be considered jointly. They must also demonstrate, in the manner and under the conditions established in these ICI, that the sub-contractors have access to the means required in order to perform the contract.

2.5.4. Tied company

For the purposes of these ICI, a tied company is understood as any over which the contractor directly or indirectly exercises dominant influence on the basis of its ownership, financial stake or regulatory provisions, or over of the company which in turn exercises dominant influence over the contractor. It will be presumed that dominant influence exists if a company directly or indirectly holds the majority of the subscribed capital stock of another, the majority of the votes corresponding to the shares issued by the company, or is otherwise entitled to appoint more than one half of the members of the body of governance, management or supervision thereof.

2.5.5. Quality assurance certificates

Should the organisation's contracting body require presentation of a certificate issued by independent bodies demonstrating that the bidder fulfils certain quality assurance standards, reference must be made to quality assurance systems based on the series of European standards in this field, certified by bodies complying with the European standards for certification.

Internal Contracting Instructions

Equivalent certificates issued by authorised bodies established in other Member States of the European Union shall likewise be recognised. Other proof of equivalent quality assurance methods presented by those bidders with no access to such certificates or unable to obtain them within the specified deadline shall likewise be accepted.

2.6. DEBARMENT FROM CONTRACTS

Under no circumstances may any parties subject to any of the grounds for debarment from contracts set out in Article 49.1 of the LCSP execute contracts with the organisation, with such parties being excluded from involvement in tender procedures.

3. PRICE AND SUM OF THE CONTRACT AND GUARANTEES TO BE REQUIRED

3.1. ESTIMATED VALUE OF CONTRACTS

In all cases where these ICI make reference to the sum or value of contracts this shall be understood to exclude VAT, unless expressly stated otherwise.

Calculation of the estimated value of a contract will be based on the sum total, excluding VAT. For the purpose of this calculation consideration will be given to the estimated sum total, bearing in mind any possible option, potential extensions to the contract and, where applicable, the value of the premiums or payments made to candidates or bidders.

The time when the estimated value is to be calculated will be at the point of publication of the tender announcement, or if this is not required, the time when the procurement dossier is opened.

If a works project or service or supply contract could give rise to the simultaneous award of contracts by separate batches, consideration will be given to the estimated overall total of all batches.

On supply contracts, if the provision of products takes the form of a financial lease, lease or sale by instalments, the value taken as the base sum in calculating the estimated value of the contract will be as follows: if the duration of the contract is equal to or less than 12 months, the total estimated value for the duration of the contract; if the duration of the contract is greater than 12 months, the total value will include the sum of the residual value.

For contracts of unspecified duration, the estimated total value of the contract will be the monthly value multiplied by 48 months.

In the case of supply or service contracts of a periodic nature, or those which are to be renewed within a specific period of time, the base sum employed in calculating the estimated value of the contract will be one of the following sums: (i) the actual value of similar successive contracts awarded during the preceding financial year or during the prior 12 months; or (ii) the total estimated value of successive contracts awarded during the 12 months following the first delivery or over the course of the financial year, if more than 12 months.

Internal Contracting Instructions

3.2. GUARANTEES

3.2.1. Provisional guarantees

The organisation may require in the Set of Specific Clauses that guarantees be established for the sums specified therein, which may under no circumstances be greater than 5% of the sum of the tender, in order to give credence to applications and offers, and which will be made available to the parties concerned for withdrawal within a period of 30 days from the date of publication of Contracting Party Profile award, with the corresponding sums being withheld from the chosen bidder up until presentation of the definitive guarantee, where applicable.

The guarantees may be established in any of the manners set out in the Set, including in cash.

3.2.2. Definitive guarantees

The Set of Specific Clauses may establish the constitution of definitive guarantees prior to formalisation of the contract. The sum and manner thereof shall be as established in the Set, and they may under no circumstances be greater than 10% of the value awarded, and in the case of unitary prices, 10% of the value of the tender, excluding VAT.

Guarantees shall be subject to performance of the contract by the contractor up until conclusion of the warranty period specified in the contract, and in particular payment of any penalties imposed, in addition to the restitution of any possible damages occasioned by the contractor during execution of the contract.

Guarantees may be established in any of the manners set out in the Set of Specific Clauses, including in cash or by means of sums withheld from prices.

4. PREPARATION OF CONTRACTS

4.1. PROCUREMENT DOSSIER

All contracts covered by these ICI will be preceded by the corresponding procurement dossier, comprising the documents referred to in the sections corresponding to each of the procedures, explaining the need or desirability of the provisions covered by the contract in order to satisfy the stated purposes.

Except for contracts awarded by means of the small-scale procedure, those where the dossier is to be processed in accordance with section 5.9.5 of these ICI, or those contracts derived from a framework agreement, which shall be subject to the terms thereof, for all other contracts awarded under the terms of these ICI the procurement dossier will begin by containing the following:

- a) Reasoned request, stating the need, specifications and estimated value of the provisions covered by the contract.

Internal Contracting Instructions

- b) The Set of Specific Clauses approved by the contracting body.
- c) The standard contract.
- d) The Set of Technical Conditions.
- e) Where applicable, designation of the bodies to assist the contracting body.
- f) Certification of the existence of credit.

4.2. SET OF SPECIFIC CLAUSES

For all tender procedures, except for the small-scale procedure, the terms and conditions defining the rights and obligations of the parties regarding legal and economic issues will be established on a prior basis, and known as the Set of Specific Clauses.

The Set of Specific Clauses will establish the criteria on which the contract is to be awarded, and may establish whether these are essential or whether any of them requires a minimum score below which the offer will be disregarded.

The Set of Specific Clauses must establish the weighting given to each of the established award criteria.

The Set of Specific Clauses will be approved by the contracting body.

The Set of Specific Clauses will be made available to the parties concerned, published by means of the organisation's Contracting Party Profile.

The clauses of the Set of Specific Clauses will in all cases be considered to form an integral part of the contract, and the content thereof must be respected.

The Set of Specific Clauses must at least contain the following:

- a) Definition of the object of the contract.
- b) Basic characteristics of the contract.
- c) Specific rights and obligations of the parties to the contract.
- d) The essential conditions of a technical, legal and economic nature to govern the tender and the contract.
- e) Procedure and form of award.
- f) Documents to be presented by the bidders, in addition to the form and content of proposals.
- g) Systems for receipt of offers.

Internal Contracting Instructions

- h) Award criteria and their weighting.
- i) Economic and technical aspects subject to negotiation in negotiated procedures.
- j) System for acceptance of variants or alternatives.
- k) Guarantees to be established, where applicable.
- l) Information on subrogation conditions of employment contracts, where applicable.
- m) Price review system, where applicable.

The Set of Specific Clauses may include detailed requirements of a social or environmental nature regarding the manner in which the contract is to be executed, such as the recovery or reuse of containers or packaging or used products, the energy efficiency of products or services, the supply of products in reusable containers, the collection and recycling of waste or used products at the expense of the contractor, the obligation to give employment to the long-term unemployed, the organisation at the expense of the contractor of training activities for young people and the unemployed, the adoption of measures to promote gender equality or measures for the integration of immigrants and the obligation to hire for the execution of the contract a certain number of disabled individuals and other analogous conditions.

In the event of a breach of these requirements, the organisation may choose to terminate the contract on the basis of a culpable breach by the contractor, or may continue to execute the contract, imposing the penalties established in the conditions or the contract.

4.3. SET OF TECHNICAL CONDITIONS

The Set of Technical Conditions is to be produced by the technical staff of the organisation responsible for supervision of execution of the contract, and must contain the technical conditions required in order to execute the contract.

The technical conditions should be understood as the technical demands defining the characteristics required of the works, materials, product, supply or service, allowing these to be characterised in an objective manner in order to ensure that they correspond to the organisation's specific usage. These technical demands may include the quality, performance, the safety or the dimensions, in addition to the requirements applicable to the materials, product, supply or service in terms of quality guarantees, terminology, symbols, testing and testing methods, packaging, marketing and labelling.

For contracts covering services included in categories 17 to 27 of Annex II of the LCSP and involving a sum equal to or greater than € 206,000, the rules for establishment of technical conditions set out in Article 101 of the LCSP must be complied with, the terms of Articles 102 to 104 of the LCSP likewise applying.

With regards to works contracts, the technical conditions may likewise include criteria as to the definition and calculation costs, testing, supervision and sign-off of works and

Internal Contracting Instructions

techniques or methods of construction, in addition to all other conditions of a technical nature which the contracting organisation may wish to establish, in accordance with general or specific regulations, regarding the completed works or their constituent materials or elements.

The technical conditions may include demands of an environmental nature. In order to establish such demands, detailed specifications may be employed, as defined in the multi-national or national European ecological labels or any other ecological label, provided that these are appropriate in order to define the provisions covered by the contract and the labelling demands are based on scientific information and are accessible to all parties concerned. The products and services covered by an ecological label meeting the above conditions will be deemed to comply with the environmental demands established in the technical conditions.

The technical conditions of the contracts must allow for access on an equal basis to all bidders, and may not be intended to create unreasonable obstacles to free competition among companies.

No technical conditions making mention of products of a specific manufacturer or source or special procedures intended to favour or eliminate certain companies or products may be included in the technical conditions, unless the said conditions are indispensable in order to define the object of the contract. Reference to brands, patterns or types or to specific sources or provenance are in particular prohibited. Nonetheless, such references may be accepted, accompanied by the designation "or equivalent", if there is no way of defining the object of the contract by means of sufficiently precise and intelligible technical conditions.

5. SELECTION OF THE CONTRACTOR AND AWARD OF THE CONTRACT

5.1. PRINCIPLES OF EQUALITY AND NON-DISCRIMINATION

The contracting procedures regulated by these ICI must guarantee equality of treatment of all bidders and their non-discrimination, on any grounds, prohibiting any action intended to operate to the benefit of any bidders or to the detriment of others.

The Sets of Specific Clauses and Technical Conditions governing the contracts must guarantee access to bidders on equal terms and may not have the effect of creating unreasonable obstacles to free competition among companies.

No technical conditions making mention of products of a specific manufacturer or source or special procedures intended to favour or eliminate certain companies or products may be included in the technical conditions, unless the said conditions are indispensable in order to define the object of the contract. Reference to brands, patterns or types or to specific sources or provenance are in particular prohibited, with the exceptions established in this procedure for technical or artistic reasons or for any other reason connected with the protection of exclusive rights. Nonetheless, such references may be accepted, accompanied by the designation "or equivalent", if there is no way of defining the object of the contract by means of sufficiently precise and intelligible technical conditions.

Internal Contracting Instructions

Any clarification or specification made regarding the clauses, conditions of the contract, etc must be made known to all bidders by means of the Contracting Party Profile.

5.2. PRINCIPLE OF TRANSPARENCY

For the purposes of these ICI, the principle of transparency shall be understood to apply to all actions undertaken by the organisation in order to publish its procurement processes and guarantee that third parties are familiar with the different processes involved in the procurement procedures covered by these ICI, in addition to familiarity of the unsuccessful bidders with the reasons for their exclusion or failure to be awarded a contract under the terms of the procedure covered by these ICI.

5.3. PRINCIPLE OF CONFIDENTIALITY

For the purposes of these ICI, the principle of confidentiality shall be understood as the obligation on the organisation, its contracting bodies and the various persons involved in procurement procedures, not to disclose information provided by candidates and designated as confidential, in particular technical or commercial secrets and confidential aspects of the offers as expressly stated by the bidder.

The status of confidential information will not apply to any documentation or information which the organisation is required to publish in order to guarantee the principles regulated by these ICI.

Contractors must respect the confidential nature of all information to which they are given access for the purpose of execution of the contract and all information designated as such in the conditions or the contract, or which by its very nature must be treated as such. This duty of confidentiality will remain in force for a period of 5 years from the information being learnt of, unless the Sets or the contract should establish a longer period.

5.4. PRINCIPLE OF PUBLICITY

The principle of publicity should be understood as all actions taken by the organisation to guarantee familiarity of all possible bidders with the procurement procedures and the contracts arranged by the organisation. For these purposes, the terms of Article 175.c) of the LCSP must be fulfilled, indicating that the principle of publicity will be deemed to have been satisfied with inclusion in the Contracting Party Profile of contract tender announcements with a value of more than € 50,000, with the conditions being specified in the Set of Specific Clauses.

For this reason, these ICI will govern the conditions for compliance with publicity in the different procurement procedures, by means of the inclusion of announcements in the Contracting Party Profile or by other means, classified as prior announcements, tender announcements and award announcements.

The term *prior announcement* refers to those made by the organisation in order to publicise potential contracts which it plans at that time to adjudicate over the following 12 months.

Internal Contracting Instructions

This announcement is optional for the organisation, is non-binding, and will permit the reduction of terms for the presentation of bids.

The term *tender announcement* refers to those made by the organisation in order to publicise commencement of a procurement procedure for the award of a contract covered by these ICI. This announcement will be mandatory for the organisation for those procedures governed by these ICI as established herein.

The term *award announcement* refers to those made by the organisation in order to announce the contract awarded under those circumstances indicated in these ICI.

Likewise, and in accordance with the principle of publicity, the organisation must publish and make known these ICI themselves via the Contracting Party Profile, and include notification hereof on a mandatory basis in the various announcements published.

5.4.1. Publicity standards

Tenders will, with the exceptions detailed below, be announced by means of the organisation's Contracting Party Profile, with the announcement being maintained until award of the contract, thereby guaranteeing the principle of publicity. The period of public dissemination of contractual information will be maintained for a minimum of 1 month from the date of award of the contract.

The organisation may likewise publicise by means of the Contracting Party Profile its prior indicative announcement, public dissemination of which will remain in place for the following 12 months. For the purposes of reduction in the terms of competition established in these ICI, the indicative prior announcement must have been published for a minimum of 20 days prior to the corresponding tender announcement.

Tender processes may also be convened by an announcement in the written press. The contracting party may likewise choose to publish an announcement in the Official Journal of the European Union or other official journals. The announcements referred to in this subsection will take place purely for the purpose of information, having no overriding legal significance for the purpose of establishing terms or for the presentation of offers or applications.

Contracts directly awarded on the basis of their sum or for other reasons governed by these ICI will require no type of tender announcement.

Awards of contracts regulated by these ICI, except for those directly awarded on the basis of their sum, will be announced by means of the organisation's Contracting Party Profile within a period of 15 days from the date of award of each contract.

5.4.2. Content of announcements

In those cases so established in these ICI in which the organisation may make an indicative prior announcement, this will be published in accordance with the format established in Annex 1 of these ICI, governing the minimum content of the announcement.

Internal Contracting Instructions

For all procedures regulated by these ICI subject to this condition, the organisation will proceed to publish an announcement of the tender process in accordance with the format established in Annex 2 of the ICI, governing the minimum content of the announcement.

All contracts awarded under the terms of these ICI, except for those awarded directly on the basis of their sum, will be published by means of the organisation's Contracting Party Profile in accordance to the format established in Annex 3 of these ICI, governing the minimum content of the announcement.

5.5. PRINCIPLE OF COMPETITION

For the purposes of these ICI, the principle of competition shall be understood to apply to all actions taken in order to guarantee free access, in all procedures so established, to all candidates capable of properly performing the object of the contract.

For negotiated procedures arranged under the terms of these ICI, the principle of competition shall be understood to have been guaranteed by means of a call for offers presented to a minimum of three candidates, wherever possible, selected by the organisation and fully capable of executing the contract.

On an exceptional basis, the organisation may directly award those contracts which, on the basis of their sum, are so established in these ICI, in accordance with the terms of Article 175.c), in reference to Article 121.2 of the LCSP.

The deadlines indicated in days in these ICI shall be understood to refer to calendar days, unless specific mention is made of working days, which will be calculated in accordance with the administrative regulations.

5.6. PRESENTATION OF PROPOSALS

In open and restricted procedures governed by these ICI, bidders must present their documentation and offers in three envelopes in accordance with the requirements and instructions detailed in the Set of Specific Clauses.

For the remaining procedures governed by these ICI, businesses must present the relevant documentation concerning their capacity and solvency, in addition to the economic and technical offer, where applicable, in one single envelope, except in those cases where another option is established in the corresponding Set of Specific Clauses.

No bidder may present more than one offer, notwithstanding the option of presenting variants, if so provided in the Set of Specific Clauses and in the announcement. Nor may any offer be signed jointly with other bidders if an individual bid has been presented, or any one party may be included in more than one grouping. Any breach of these terms will give rise to the rejection of all offers so signed. Simultaneous presentation by tied companies will likewise lead to the rejection of such bids.

The period of validity for offers will be established in the Set of Special Clauses.

Internal Contracting Instructions

Offers may be presented at the offices of the organisation or sent by mail within the period for acceptance. Under no circumstances will any offers be presented beyond the deadline (date and time) specified in the tender announcement or the call for offers be accepted.

In the case of offers presented by mail within the deadline, the bidders must demonstrate that the date and time when they were presented for processing at the Post Office were, at the latest, as specified in the announcement, and notify the organisation by telegram, fax or e-mail that the organisation is to receive the offer within the stated period. Notification of the organisation by e-mail will be considered valid only if there is confirmation of dispatch and receipt, of the details and complete contents of communications, and if the sender and recipient can be reliably identified. If these conditions are not met, the offer will not be accepted if received by the organisation beyond the deadline specified in the announcement. If 10 calendar days after expiry of the period for presentation of proposals the organisation has not received the proposal sent by mail, it will not in any case be accepted.

All bidders must specify when presenting their proposals, in addition to their postal address, an electronic mail address for communications and relationships in general derived from the tender process or which may in any way affect the bidder.

5.6.1. Documentation in accreditation of capacity and solvency

Envelope number 1, or the single envelope, should contain the documentation demonstrating capacity and solvency, and in specific terms and as a minimum, the following:

- a) Accreditation of the legal status of the contractor and powers of representation.
- b) Accreditation of economic, financial, technical or professional solvency, and exemption from any debarment from contracts.
- c) Accreditation of having no outstanding Tax Authority or Social Security payments.
- d) Any others specified in the Set of Specific Clauses.
- e) Accreditation of the establishment of any guarantees required in the Set of Specific Clauses.
- f) In the case of Temporary Unions of Companies (UTES), the commitment to establish these.

The Set of Specific Clauses may establish that the initial submission of documentation indicated in the conditions may be replaced by a responsible declaration from the bidder stating that it complies with the conditions required for contracts and detailing the existence of the documentation required. In such cases, the chosen bidder must supply the documentation required within the deadline set out in the Set of Specific Clauses, and prior to the award being made.

Internal Contracting Instructions

In the event that the necessary documentation is not presented within the specified deadline for reasons attributable to the contractor, the organisation may cancel award, withholding any guarantees established for the tender process, while demanding any supplementary compensation for damages in excess of the percentage guaranteed.

Likewise, any falsehood or inaccuracy in the details specified by the contractor or by any other bidder will give rise to a demand for liability and compensation based on this circumstance, with the guarantee presented being withheld. In the case of the contractor, the award will likewise be cancelled.

In such cases the body may award the contract to the next most financially beneficial tender.

Capacity and solvency may likewise be demonstrated by means of a certificate of registration in the Electronic Register of Contractor Companies of the Regional Government of Catalonia, subject to the terms of Decree 107/2005, of 31 May 2005, or any such regulations as may replace this. For these purposes the organisation must appoint, and notify the Administrative Procurement Consultation Board of, the individuals authorised to access the aforementioned Register.

5.6.2. Presentation of technical and economic proposals

The proposals of the parties concerned will be kept secret from the remaining bidders until such time as they are opened, having been presented in writing, in accordance with the requirements and conditions established in the Sets of Specific Clauses and the Technical Conditions.

In open and restricted procedures the economic and technical proposals will be subject to public opening.

In a separate envelope (envelope number 2) for open and restricted procedures, and in the single envelope for the remaining procedures, the bidders should present the technical offer, which will not be subject to public opening. If the organisation considers that the offer presented may be deemed obscure and non-specific, it may request clarifications, respecting in all cases the principle of equal treatment and non-discrimination of bidders which, under no circumstances, may make modifications. The deadline for response may be no greater than 10 days.

The proposals of the parties concerned will remain secret up until the time of opening, and must be presented in writing, complying with the requirements and specifications set forth in the Set of Specific Clauses.

The economic proposal will be presented in a separate envelope (envelope number 3) in accordance with the format established in the Set of Specific Clauses for open and restricted procedures, and in the single envelope for other procedures.

If the economic offer contains any discrepancy between the sum indicated in figures and that indicated in words, the sum indicated in words will prevail. Likewise in the event that

Internal Contracting Instructions

the economic offer should not make any specification regarding Value Added Tax, it will be understood that the economic offer does not include VAT.

The economic offer may be subject to clarifications only if the offer price refers to a formula, equation or similar, with respect given at all times to the principle of equality of treatment and non-discrimination of bidders which, under no circumstances, may modify the bid submitted. Should the organisation deem that the bid requires clarification, it may request clarifications, in accordance in all cases with the above principles. The deadline for response may be no greater than 10 days.

5.6.3. Qualification of the documentation

For the purpose of qualification of the documentation presented by the bidders, the following procedure will be followed:

1) The administrative documentation presented by the bidders will be qualified by the Procurement Board or the Technical Unit, or by the parties specified by the organisation's contracting body, at a non-public act, proceeding to open the envelope containing this. Confirmation must be included in the procurement dossier of the list of documents presented by each bidder.

2) If any rectifiable defects or omissions are noted in the documentation presented, the bidders affected will be notified in writing, and granted a period of no more than 3 working days for them to present their corrections or amendments before the Procurement Board itself or the Technical Unit. Likewise, for the purpose of verifying the possible application of debarments from contracts, the bidder may be required to present supplementary documents or certificates in addition to those presented or otherwise clarifications thereof. This requirement must be complied with within a maximum period of 3 working days.

3) Any bidders subject to non-rectifiable defects or having failed to amend the defects within the period granted shall be excluded from the tender process.

4) Following classification of the documentation, and any applicable amendments of defects or omissions, the companies complying with the selection criteria established in the Set of Specific Clauses will then be determined, and an express announcement made of those included in the tender process, those rejected, and the reasons for their rejection.

5) Confirmation of the actions taken must be included in the procurement dossier. Defects comprising the absence of the necessary requirements will be considered non-rectifiable, and those involving a mere lack of accreditation thereof, rectifiable.

The contents of this section applies both to cases where the presentation of envelope number 1 and the relevant documentation is required, and in those cases where the Set of Specific Clauses establish the option of the replacement of this with a responsible declaration from the bidder. In this latter case, classification of the documentation will take place prior to the award being made.

Internal Contracting Instructions

5.6.4. Competition periods

For open procedures, the minimum term for presentation of offers will be 12 days for supply and service contracts and 16 days for works contracts, from the date of publication of the announcement.

For restricted procedures, the minimum term for presentation of applications for consideration will be 10 days from the date of publication of the announcement. For such procedures, the minimum term for presentation of offers by the selected candidates will be 10 days from the date when the invitation is dispatched.

The terms established in the two items above may be halved in case of duly justified urgency, explained in the procurement dossier.

For negotiated procedures, the period of consultation and presentation will be established in each case in the Set of Special Causes and in the letter inviting the selected candidates to present. In all cases a sufficient period must be established in order to guarantee competition, equality of treatment and non-discrimination of bidders.

5.7. AWARD CRITERIA

The criteria on which the award of contracts covered by these ICI is to be based, purely for illustrative purposes, would include the following:

a) Solely the price offered. The highest score will be given to the lowest price. Under no circumstances may the highest score be given to the arithmetical mean of the economic offer, or

b) In other cases, in order to establish the most beneficial offer the price will be employed along with criteria directly connected with the object of the contract, such as quality, deadline for execution or delivery, cost of usage, environmental characteristics or those tied to the satisfaction of social demands corresponding to the needs defined in the contract specifications, profitability, technical value, aesthetic and functional characteristics, availability and cost of spare parts, maintenance, technical support, after-sales service or other similar factors.

Under no circumstances may award criteria be applied which are connected with the economic and technical or professional solvency of the bidder, and in particular no consideration may be given to experience, availability of resources in order to perform the work and the quality systems employed by the bidder in order to guarantee the quality of the service (such as ISO, UNE).

The award criteria and any possible weighting thereof, will be established by the contracting body and will necessarily be detailed in the Set of Specific Clauses, and may also be included in a Contracting Party Profile announcement.

If more than one award criterion is taken into consideration, the Set of Specific Clauses must establish the relative weighting given to each, which may be expressed by

Internal Contracting Instructions

establishing a suitably broad band of values. If for valid reasons it is not possible to weight the chosen criteria, they will be listed in decreasing order of importance.

5.8. EVALUATION OF PROPOSALS

On negotiated procedures with website publication, and open and restricted procedures governed by these ICI, the Procurement Board or Technical Unit will proceed publicly to open the economic offers, guaranteeing the principle of transparency.

For open and restricted procedures governed by these ICI, the Procurement Board or Technical Unit of the organisation will proceed to evaluate the economic and technical offer presented by the bidders, in accordance with the award criteria established in the Set of Specific Causes. For the remaining procedures, this evaluation will be performed by the party designated by the organisation's contracting body.

Should any proposal not correspond to the documentation examined and accepted, be in excess of the baseline budget for the tender, present substantial variations with respect to the established model, or include any clear error in the sum of the proposal, or if there is an admission by the bidder that it contains any error or inconsistency making it unviable, it will be rejected by the Procurement Board in the form of a reasoned resolution. Meanwhile, any change or omission regarding certain words of the standard format, provided that neither should affect the sense thereof, will not be deemed sufficient grounds for rejection of the proposal.

In the event that disproportionate or abnormal offers are deemed to exist, prior to this declaration the organisation will grant the bidder involved a maximum period of 10 days in order to present the reasons for this. Following receipt of the bidder's explanation, the contracting body will issue a report containing its decision as to its acceptance or rejection.

The criteria for the definition of abnormally low offers must be established in the Set of Specific Clauses.

The contracting body will be responsible for accepting or rejecting disproportionate or abnormal offers, following the corresponding technical report.

In order for an offer initially classified as abnormal or disproportionate to be accepted within the tender process, the bidder must necessarily have first presented a report demonstrating that the economic offer does not jeopardise rigorous compliance with the technical and safety requirements of the project. This report must be expressly accepted by the organisation's technical services.

For those award procedures where no Procurement Board or Technical Unit is established, the evaluation of economic and financial, technical or professional solvency, in addition to the offers presented, will be the task of the technical services appointed by the contracting body. In those cases where sufficient technical staff are not available, these reports will be issued by at least two members of staff engaged in activities connected with the issue covered by the contract or who have been directly involved in processing the dossier. The

Internal Contracting Instructions

contract award proposal will likewise be drawn up in accordance with the technical report evaluating the offer, if deemed necessary.

The standards and requirements established in this sub-section will not apply to procedures for direct award based on the sum thereof, as governed by these ICI.

5.9. AWARD PROCEDURES

The contracts governed by these ICI will be awarded in accordance with one of the following procedures as listed below:

- a) Open procedure
- b) Restricted procedure
- c) Negotiated procedure
 - Negotiated procedure on the basis of sum
 - Negotiated procedure for other reasons
- d) Small-scale procedure
- e) Procedure derived from a framework agreement
- f) Competitive dialogue

In general, and provided that award of the contract does not take place by means of another procedure governed by these ICI, the open or restricted procedure must be employed if the estimated value of the contract is greater than € 100,000 for supplies and services, or € 1,000,000 for works contracts.

A contract may be awarded by means of the negotiated procedure based on its sum with publication in the Contracting Party Profile if the estimated value of the contract is greater than € 50,000 and less than € 100,000 for supplies and services, and greater than € 50,000 and less than € 1,000,000 for works contracts. A contract may be awarded by means of the non-publicised negotiated procedure when it meets the reasons that are specified in the present ICI.

A contract may be awarded by means of the small-scale procedure if the estimated value of the contract is equal to or less than € 50,000, and it is of duration of no more than one year.

In short, based on its sum, according to the estimated value of the contract, the following procedures are of application:

Internal Contracting Instructions

Procedures according to the estimated value of the contract (€)

	Works	Supplies/Services
Small-scale	Less than or equal to 50,000	
Negotiated	from 50,000 to 1,000,000	from 50,000 to 100,000
Open/Restricted	from 1,000,000 to 5,150,000	from 100,000 to 206,000
Harmonised	from 5,150,000	from 206,000

5.9.1. Open procedure

Under the open procedure, all interested bidders meeting the requirements of capacity and solvency established in the Set of Specific Clauses may present bids, with all negotiation of the terms, conditions and requirements of the contract with the bidders being excluded.

The open procedure will correspond to the following processes:

- a) Explanatory dossier commencement report.
- b) Drafting of Sets of Specific Clauses and Technical Conditions.
- c) Tender announcement under the terms established in these ICI, specifying that the Sets of Specific Clauses and Technical Certification, where applicable, are fully accessible, in addition to all documentation required in order to execute the contract.
- d) Opening of administrative documentation.
- e) Public opening of tenders.
- f) Evaluation of the tenders.
- g) Award proposal of the Procurement Board or Technical Unit.
- h) Final award justified by the contracting body (in 15 days if the sole criterion is price, and 2 months if there are additional criteria) and publication in the Contracting Party Profile.
- i) Formal signature of contract within 10 days of publication of final award in the Contracting Party Profile.

5.9.2. Restricted procedure

The restricted procedure is an award procedure under which any business or professional may request consideration, and in which only those professionals or businesses selected by the organisation and fulfilling the selection criteria established in the Set of Specific

Internal Contracting Instructions

Candidates are invited to present an offer, under the terms and conditions established in the invitation.

The number of companies selected by the contracting body must be as specified on reasoned grounds in the procurement dossier, and they must be at least three in number.

The procurement dossier must include a technical report explaining the procedure selected and the criteria for selection of candidates, which must also be set out in the Set of Specific Clauses.

The restricted procedure will comprise two separate phases:

The candidate selection phase, or first phase, comprising the selection of the businesses to be invited to present offers. This selection will take place in accordance with the "candidate selection" criteria established in the Set of Specific Clauses, and in strict compliance with the terms set out therein. The minimum deadline for receipt of candidatures will be 10 days from publication of the announcement via the organisation's Contracting Party Profile.

The chosen bidder selection phase, or second phase, will involve invitations being sent simultaneously and in writing to those candidates selected to present an offer. This letter may be sent by fax, mail or e-mail. The invitation will simultaneously also be published in the Contracting Party Profile, specifying the companies selected. The deadline for receipt of offers from the selected companies will be a minimum of 10 days, calculated from the date when the invitation was sent. This phase will take place in accordance with the system established for the open procedure as set out above.

The restricted procedure will correspond to the following processes:

- a) Explanatory dossier commencement report.
- b) Drafting of Sets of Specific Clauses and Technical Conditions.
- c) Selection and tender announcement under the terms established in these ICI, specifying that the Sets of Specific Clauses and Technical Conditions, where applicable, are fully accessible, in addition to all documentation required in order to execute the contract.
- d) Receipt of applications and analysis thereof.
- e) Decision by the contracting body as to the selected businesses.
- f) Invitations sent to the selected candidates, and its publication in the Contracting Party Profile.
- g) Receipt of offers from the candidates.

Internal Contracting Instructions

- h) Opening of the administrative documentation, amendment of defects within a period of 3 days, and acceptance of those presenting bidders meeting the requirements established in the Set of Specific Clauses.
- i) Public opening of tenders.
- j) Evaluation of the tenders.
- k) Award proposal of the Procurement Board or Technical Unit.
- l) Final award justified by the contracting body (in 15 days if the sole criterion is price, and 2 months if there are additional criteria) and publication in the Contracting Party Profile.
- m) Formal signature of contract within 10 days of publication of final award in the Contracting Party Profile.

5.9.3. Negotiated procedure on the basis of sum

Under this award procedure the organisation may consult and negotiate the contract conditions with the businesses selected by it, and make a reasoned choice of offer in accordance with the criteria set out in the Set of Specific Clauses

Under this procedure offers must be called for from a minimum of at least three businesses capable of executing the contract, wherever possible.

By means of this procedure, the organisation will award the contract to the company presenting the most beneficial offer, out of all the offers received, taking into consideration the award criteria set out in the Set of Specific Clauses.

Award of contracts by means of this procedure will comprise the following processes:

- a) Explanatory dossier commencement report.
- b) Drafting of Set of Specific Clauses: This must contain the essential technical, legal and financial terms, specifying those which are to be subject to negotiation, the basic specifications of the contract and the Set of Technical Conditions, where applicable, approved by the procurement body.
- c) Tender announcement: The tender announcement may limit the number of bidders to be invited to present offers. The number of invitations must in any case be at least three.
- d) Presentation of applications: The interested parties must present their applications for involvement in the manner established in the Set of Specific Clauses or the announcement.
- e) Selection of businesses to be invited: In the event that no limit has been placed on the number of bidders, the organisation will invite all bidders to present offers. Nonetheless,

Internal Contracting Instructions

in the event that a limit has been placed on the number of bidders, the organisation will invite only the number of bidders indicated in the announcement, from among all applications for involvement received, without any need to explain its choice and in accordance with the established criteria.

- f) Capacity to operate: Verification by the organisation that the selected businesses have the capacity to operate and professional entitlement required in order to provide the intended service.
- g) Invitations: Invitations should be sent simultaneously, by e-mail or other written channels, to all selected businesses, indicating the deadline and location for presentation of offers, enclosing the Set of Specific Clauses or indicating the location where they are available to the candidates. The invitation will simultaneously also be published in the Contracting Party Profile, specifying the companies selected. The procurement dossier must include confirmation of dispatch and receipt of invitations, the tenders received and the evaluation of these.
- h) Submission of tenders: The selected businesses will present their offers in accordance with the terms and conditions specified in the invitation.
- i) Receipt of tenders: Following receipt of the proposals or tenders, the process of negotiation with the bidders will commence, ensuring that all bidders receive the same treatment. In particular, no information shall be provided in a discriminatory manner which could provide an advantage to certain bidders over others. Notwithstanding the above, if so specified in the tender process announcement the essential terms may be modified by acceptance of the solutions or proposals submitted by the bidders, with a new request for consultation with the said parties then taking place.
- j) Award proposal: Upon conclusion of negotiations, the Procurement Board or Technical Unit will, where applicable, draw up the contract award proposal.
- k) Final award justified by the contracting body (in 15 days if the sole criterion is price, and 2 months if there are additional criteria) and publication in the Contracting Party Profile.
- l) Formal signature of contract within 10 days of publication of final award in the Contracting Party Profile.

5.9.4. Negotiated procedure for other reasons

This procedure may be employed in the following cases, with bids being requested from at least three businesses in a position to perform the contract, wherever possible and applicable:

a) *General grounds applicable to all types of contract:*

a.1.- Whether for technical or artistic reasons or for any other reason connected with the protection of exclusive rights, the contract can only be entrusted to one specific business or professional.

Internal Contracting Instructions

a.2.- Whether as a result of overarching urgency as a result of unforeseeable circumstances not attributable to the organisation, immediate processing is required.

a.3.- Whether the bids received in an open or restricted procedure previously processed have been deemed irregular, unacceptable or inadequate, or whether no bids have been submitted, provided that the original contract conditions are not substantially modified.

b) Grounds applicable to works contracts:

b.1.- In the case of supplementary works not included in the project or in the contract, but which as a result of an unforeseen circumstance become necessary in order to execute the works as described in the project or in the contract without modification, and the execution thereof is entrusted to the contractor of the main works in accordance with the prices governing the original contract or, as applicable, as established counter to this, provided that the following requirements are met: (i) that the works cannot technically or financially be separated from the original contract without leading to considerable inconvenience for the organisation or, even if they could be separated, they are strictly required for its proper conclusion; (ii) that the cumulative sum of the supplementary works is no greater than 50% of the original contract price.

b.2.- Whether the works comprise the repeat of similar works awarded under an open or restricted procedure to the same contractor by the contracting body, provided that they correspond to basic plans covered by the initial contract awarded under the said procedures, and that the possibility of making use of this procedure was indicated in the initial contract procurement announcement and that the sum of the new works was calculated when establishing the overall sum of the contract. This procedure may only be applied over a period of three years from the date of formal signature of the initial contract.

c) Grounds applicable to service contracts:

c.1.- In the case of supplementary services not included in the project or in the contract, but which as a result of an unforeseen circumstance become necessary in order to execute the service as described in the project or in the contract without modification, and the execution thereof is entrusted to the contractor awarded the main contract in accordance with the prices governing the original contract or, as applicable, as established counter to this, provided that the following requirements are met: (i) that the services cannot technically or financially be separated from the original contract without leading to considerable inconvenience for the organisation or, even if they could be separated, they are strictly required for its proper conclusion; (ii) that the cumulative sum of the supplementary services is no greater than 50% of the original contract price.

c.2.- Whether the services comprise the repeat of similar works awarded under an open or restricted procedure to the same contractor by the contracting body, provided that they correspond to basic plans covered by the initial contract awarded under the said procedures, and that the possibility of making use of this procedure was indicated in the initial contract procurement announcement and that the sum of the new services was

Internal Contracting Instructions

calculated when establishing the overall sum of the contract. This procedure may only be applied over a period of three years from the date of formal signature of the initial contract.

d) Grounds applicable to supply contracts:

d.1.- Whether the products are manufactured exclusively for research, experimentation, study or development purposes; this condition does not apply to series production intended to establish the commercial viability of the product or to recover research and development costs.

d.2.- In the case of supplementary deliveries made by the initial supplier representing either a partial replacement of supplies or facilities in normal usage, or otherwise an extension to the existing supplies or facilities, if a change of supplier would force the contracting body to acquire materials with different Technical Conditions, giving rise to incompatibilities or disproportionate technical difficulties in usage and maintenance. The duration of such contracts, and also that of renewable contracts, may not in general be any greater than three years.

d.3.- In the case of a supply arranged under particularly advantageous terms with a supplier which definitively ceases its commercial activities, either with administrators in place in insolvency proceedings, or by means of a court order or equivalent procedure.

The award of contracts under this non-publicised procedure must correspond to the following stages:

- a) Explanatory dossier commencement report, with specific reference to the existence of grounds allowing this procedure to be employed.
- b) Drafting of Set of Specific Clauses: This must contain the essential technical, legal and financial terms, specifying those which are to be subject to negotiation, the basic specifications of the contract and the Set of Technical Conditions, where applicable, approved by the procurement body.
- c) The organisation will invite a minimum of three bidders fulfilling the criteria of capacity, economic and financial, and technical and professional, solvency, as set out in the Set of Specific Clauses.
- d) Invitations: Invitations must be sent simultaneously, by e-mail or other written means, to all selected businesses, indicating the deadline and location for presentation of bids, enclosing the Set of Specific Clauses or indicating the location where they are available to the candidates. The procurement dossier must include confirmation of dispatch and receipt of invitations, the tenders received and the evaluation of these.
- e) Submission of tenders: The selected businesses will present their offers in accordance with the terms and conditions specified in the invitation.

Internal Contracting Instructions

- f) Receipt of tenders: Following receipt of the proposals or tenders, the process of negotiation with the bidders will commence, ensuring that all bidders receive the same treatment. In particular, no information shall be provided in a discriminatory manner which could provide an advantage to certain bidders over others. Notwithstanding the above, if so specified in the tender process announcement the essential terms may be modified by acceptance of the solutions or proposals submitted by the bidders, with a new request for consultation with the said parties then taking place.
- g) Award proposal: Upon conclusion of negotiations, the Procurement Board or Technical Unit will, where applicable, draw up the contract award proposal.
- h) Final award justified by the contracting body (in 15 days if the sole criterion is price, and 2 months if there are additional criteria) and publication in the Contracting Party Profile.
- i) Formal signature of contract within 10 days of publication of final award in the Contracting Party Profile.

Under the grounds enabling the negotiated procedure as set out in item a.3, the invitation referred to in the previous paragraph shall be replaced by publication of the procurement process in the Contracting Party Profile if the aim is to invite more bidders than those which submitted bids in accordance with the formal requirements demanded under the previous procedures. In this case the steps involved in the negotiated procedure on the basis of sum will be followed.

5.9.5. Small-scale procedure

Contracts will be awarded under the small-scale procedure in those cases where the estimated value is no more than € 50,000 and the duration of the contract no greater than one year.

The award of a contract under the small-scale procedure shall require the following stages to be completed:

- a) Commencement of procurement: This will begin with a purchase request or internal request dispatched by the corresponding Department at the organisation, specifying the cost and the selected business or businesses.
- b) Capacity to operate: It shall be understood that the capacity of the business owner or professional has been demonstrated by presentation of the corresponding invoice, provided that this includes and contains the details and requirements established in the regulations governing the duty to issue and present invoices. In all cases the body may at any time require the contractor to demonstrate its capacity.
- c) Award and notification: The management (or delegated individual) of the Foundation will award the contract, approving the cost and then proceeding to serve notice of the award.

Internal Contracting Instructions

- d) Conclusion: The procurement process will conclude with approval of the invoice by the competent body at the organisation, the cost likewise thereby being approved.

5.9.6. Procedure derived from a framework agreement

The contracting body may arrange framework agreements with one or more companies for the purpose of establishing the conditions to apply to a certain type of contract during a given period.

If the framework agreement is reached with a number of businesses, they must be at least three in number, provided that a sufficient number of interested parties exists, in accordance with the criteria of selection or acceptable offers in accordance with the award criteria.

Contracts based on a framework agreement may under no circumstances exceed the sum established for contracts subject to harmonise regulation.

The duration of framework agreements may be no more than 4 years, except in exceptional and duly justified cases. Contracts derived from a framework agreement may exceed the period established for the framework agreement only in accordance with the terms of set out therein.

Those companies signing a framework agreement with the organisation should, where applicable, each year present those aspects of technical and economic solvency requested in the Set of Governing Clauses for the agreement which may have been updated since the submission of the corresponding tender bids.

Contracts derived from the framework agreement shall be awarded in accordance with the conditions established therein, without the need for contractors to be invited to take part in a new procurement process.

Notwithstanding the above, in the case of a framework agreement reached with different companies where not all conditions of the contract derived therefrom are established, a new procurement process will be arranged, in accordance with the following procedure:

- a) All those companies with which a framework agreement has been signed will be invited in writing, or by some confirmed means, to submit the corresponding bids. Notwithstanding the above, the contracting body may, for reasons duly explained in the dossier, decide not to present its query to all those businesses party to the framework agreement, provided that bids are requested from at least three of them.
- b) The companies must submit their bids in writing, in accordance with the terms and deadlines specified in the invitations.
- c) Award proposal based on the evaluation criteria established in the framework agreement, drawn up by the Procurement Board or Technical Unit, should either of these bodies have been established. In default thereof, the aforementioned proposal will be prepared by the technical services.

Internal Contracting Instructions

- d) Final award by the contracting body.
- e) Publication of the award in the Contracting Party Profile.
- f) Formal signature of contract within 10 days of publication of final award in the Contracting Party Profile.

5.9.7. Competitive dialogue

For the procurement of complex contract under the terms defined in the LCSP, the competitive dialogue procedure may be applied, pursuant to the specific rules set out in articles 163 to 167 of the LCSP.

5.10. AWARD

In those award procedures where the criterion is simply the price offered, award should take place within a maximum period of 15 days, unless the Set of Specific Clauses should for some justified reason establish a greater period, calculated from the day following the public opening of the offers, where applicable, or the date for conclusion of receipt of offers in other procedures.

In those procedures where the offer is assessed in accordance with more than one criterion, the contracting body will award the contract within a maximum period of two months, unless the Set of Specific Clauses should for some justified reason establish a greater period, calculated from the day following the public opening of the offers, where applicable, or the date for conclusion of receipt of offers in other procedures.

Upon expiry of the period specified for award, should no award decision have been issued, the bidders will be entitled to withdraw their proposal and have the guarantee lodged refunded or cancelled, without any form of compensation. Notwithstanding the above, the contracting body may request that the bidders maintain their offer for a greater period, following notification of the bidders and publication via the Contracting Party Profile, with the tender process being continued with those bidders accepting this extension.

The organisation's contracting body will rule as to the award on behalf of the bidder presenting the lowest price in award procedures where the sole criterion is the price offered, and on behalf of the bidder presenting the financially most beneficial proposal under other procedures. The contracting body may not declare a procurement process null and void if there is any bid which is acceptable in accordance with the criteria set out in the set of conditions.

The contract award ruling must be based on the award criteria included in the Set of Specific Clauses, and must specify the reasons why a candidature or offer is rejected and the characteristics and benefits of the selected offer, including a specification of the total and partial scores given to all companies accepted, for each of the award criteria, notifying all bidders thereof. Acceptance and adoption by the contracting body of the contents of the technical evaluation report in its award ruling will be deemed sufficient grounds.

Internal Contracting Instructions

In award proposals drawn up under the terms of these ICI, the order of priority of bidders presenting acceptable proposals should be included, with the scores obtained. The award proposals do not give rise to any right until such time as the award ruling has been issued.

If the contracting body deviates from the award proposal, the reasons for its ruling should be justified.

The contracting body may declare the procurement procedure null and void in the event of factual and legal circumstances imposed on a logical and reasonable basis by the public interest in light of the needs which were to be met by means of the contract, and may likewise cancel or abandon the procedure for public interest reasons duly explained in the dossier.

Reasoned notification of the result of the award will be presented within a maximum period of 10 days to the chosen bidder and to the remaining bidders, with Contracting Party Profile publication taking place within said period.

Purely for information purposes, and with no overriding legal significance, awards may also be published in the written press and in the Official Journal of the European Union or other Official Journals, if so decided by the organisation's contracting body.

Unsuccessful bidders are entitled, within a maximum period of 10 days of notification of the award, to present a request in writing before the contracting body for the reasons why their candidature was rejected, not selected or not awarded. For these purposes, the contracting body should, within a maximum period 20 days from receipt of the request, inform the bidder presenting the request of the reasons why its candidature was rejected, not selected or not awarded.

In all cases the organisation will proceed to register all contracts signed in the corresponding Public Registers and with other supervisory bodies, pursuant to the terms of the LCSP.

6. FINAL PROVISIONS

Any modifications made to the LCSP by means of a national or European Community legal provision affecting these ICI will be included herein, following ratification thereof at the first meeting of the organisation's governing body.

In accordance with Final Provision Twelve of the LCSP, these ICI, following approval by the competent body of the organisation, will take effect from 30 April 2008.

Internal Contracting Instructions

ANNEX I. PRIOR ANNOUNCEMENT

Ruling of _____, of _____, making public the announcement of prior information of contracts of _____ of _____, to be arranged during the year _____

TEXT

1) Awarding body and details for obtaining information:

a) Body:

b) Address:

c) Town and postcode:

d) Telephone:

e) Fax:

2) Object of the contract and expected start date of award procedures. General description of the object and expected date:

a) Object:

b) Estimated value of contracts:

c) Expected dates for commencement of award procedures:

d) Other information:

e) Announcement publication date:

Date:

Signed:

Internal Contracting Instructions

ANNEX II. TENDER ANNOUNCEMENT

ANNOUNCEMENT FOR THE PROCUREMENT OF _____

1) Awarding body:

a) Organisation:

b) Office processing the dossier:

c) Dossier number:

2) Object of the contract:

a) Description of the object:

b) Division by batches and number:

c) Place of delivery:

d) Delivery deadline:

3) Administration, procedure and form of award:

a) Process:

b) Procedure:

c) Form of award:

4) Basic procurement budget:

Project co-funded by the European Regional Development Fund (ERDF) of the European Union.

5) Provisional guarantee:

6) Access to documentation and information:

7) Specific bidder requirements:

a) Classification:

Internal Contracting Instructions

b) Accreditation of economic, financial and technical solvency:

8) Submission of tenders:

a) Deadline for submission:

b) Documentation to be submitted:

c) Place of submission:

d) Period during which the bidder will be required to maintain its offer:

e) Acceptance of variants:

9) Opening of tenders:

10) Other information:

11) Advertisement costs:

Date:

Signed:

Internal Contracting Instructions

ANNEX III. AWARD ANNOUNCEMENT

RULING OF _____ REGARDING AWARD OF A CONTRACT FOR

Ruling of _____, making public on the definitive award of
the contract of _____ of _____ of _____

This ruling serves to make public the definitive award ruling in the procurement dossier
specified below:

1) Awarding Body:

a) Organisation:

b) Dossier number:

2) Object of the contract:

a) Description of the object:

b) Issue and date of tender announcement publication:

3) Administration, procedure and form of award:

a) Process:

b) Procedure:

c) Form of award:

4) Basic procurement budget:

Project co-funded by the European Regional Development Fund (ERDF) of the European
Union.

5) Award:

a) Date:

b) Awardee:

Internal Contracting Instructions

c) Nationality:

d) Sum of award:

Date:

Signed: