

What's new – PRAG 2021

Ch	Title	Subject matter	Modification	Cross-reference section/ annex
1	Introduction	New MFF 2021-2027	Novelties due to the new Multiannual Financial Framework (MFF) 2021-2027: new paragraphs on coexistence of the rules under both MMFs and on the new legal framework applicable to external actions under both MFFs.	1.1
2	Basic rules	Participation in award procedures. Eligibility, rules on nationality and origin for public procurement, grants and other award procedures.	Distinction made between Multiannual Financial Framework 2014-2020 and 2021-2027. Rules on nationality and origin. For each external financing instrument the countries to which the nationality and origin rules apply are listed in appendix A2a (MFF 20214-2020) and A2a1 (MFF 2021-2027).	1.1, 2.3, 2.3.1, 2.3.4, 2.3.5, 2.3.6, 2.3.7, 2.3.8 Annexes a2a and a2a1
		Negotiated procedure	PRAG section 2.6.8 'Negotiated procedure' has been developed and now differentiates, among negotiated procedures, two different types of negotiations for which different templates should be used: -negotiation with one economic operator to which the contracting authority awarded an initial contract, in order to procure similar services or works, or additional supplies. In this case the amendment of the initial contract is the outcome of the procedure. -negotiation with one or several economic operators, which, if successful, will result in the award of a new contract. The changes in PRAG section 2.6.8 resulted in the following changes related to the annexes: (1) creation of a new annex called invitation to tender for the amendment of a contract through a negotiated procedure (annex a8).	2.6.8, a8, c2, c4b, b8o5, ds4b

		<p>(2) creation of a contract notice for simplified and negotiated procedures in supply contracts (annex c2).</p> <p>(3) Introduction of options for the negotiated procedure within the instructions to tenderers for the supply contract (annex c4b).</p> <p>(4) Introduction of options for the negotiated procedure within the instructions to tenderers for the simplified procedure for service (annex b8o5) and works contracts (annex ds4b).</p>	
	Declaration on honour	Revised to be in line with DG BUDG 2021 version.	Annexes: a14a and a14b
	Anti-fraud strategy	Section fully updated.	2.5.7
	Supporting documents and the original declaration on honour on exclusion and selection criteria	<p>Following the judgement of the General court of 8.07.2020 in case T-661/18 Securitec, it has been clarified that the contracting authority shall verify supporting documents before the award of the contract.</p> <p><i>‘In restricted and open procedures, these supporting documents will be requested from tenderers at evaluation stage and verified by the contracting authority <u>before the award of the contract to the potential successful tenderer(s).</u>’</i></p> <p>In procurement procedures, the timing to request and provide supporting documents for selection criteria has changed:</p> <ul style="list-style-type: none"> - For service award procedures, the documentary evidence of the financial and economic capacity and the technical and professional capacity according to the selection criteria specified in the additional information about the contract notice (annex A5f) has to be provided at evaluation stage, upon request of the contracting authority and before the award of the contract. - For supply procedures, only successful tenderers have to supply documentary evidence supporting the information submitted in the tender before the award of the contract. - For works procedures however, the documentary evidence has to be submitted in accordance with the tender dossier. <p>All economic operators are informed that supporting documents should be prepared and kept available for the contracting authority who might request them at any point in time during the procedure. The evaluation committee will request the best tenderer to submit these supporting documents after the evaluation of the offers and before the award of the contract. If the documentary evidence is not found admissible, the evaluation committee will request the same set of documents from the second best tenderer. The documents concerned are:</p>	<p>2.6.10.1.3, 2.6.11.1, 3.4.12.1, 3.4.10.5, 4.3.9.7, 5.3.9.7 and annexes: B11, B13a, D7, D8a, C7, C8a, A5f, B3, B8n, B8b, B11</p> <p>For Prospect guidelines: see section 2.2.1 for open procedures and 2.2.5 for</p>

		<ul style="list-style-type: none"> ○ Declaration on Honour on exclusion and selection criteria ○ Documentary evidence for exclusion criteria ○ Documentary evidence for selection criteria demonstrating financial and economic capacity and technical and professional capacity. <p>The Declaration on Honour to be submitted by the best ranked tenderer shall be an original. The original can bear a blue ink signature or a Qualified Electronic Signature (QES). Moreover, the original Declaration on Honour shall be submitted for every member of the consortium and any capacity providing entity and/or subcontractor (if applicable).</p> <p>In grants, the originals of the Declaration on Honour and self-declaration on the validity of the accounts should be kept on file for controls.</p>	restricted. For non-prospect guidelines, PRAG annex e3a, see section 2.2.1, 2.2.5 and 2.4.
	Cancellation of a tender procedure	Further guidance provided	2.6.13 and annex 11e
	Period of validity of tender	Clarification regarding a one-off extension of the validity of the offers requested by the contracting authority.	2.9.5
	Pre-award verifications	<p>Further guidance.</p> <p><i>‘At the latest before taking the award decision, the contracting authority ensures:</i></p> <ul style="list-style-type: none"> • <i>the submission of the original signed Declaration on honour on exclusion criteria and selection criteria</i> • <i>the submission and admissibility of the documentary evidence on compliance with exclusion and selection criteria</i> • <i>that the pre-selected tenderer, including all consortium members, subcontractors and capacity providing entities, if any, are not recorded in the EDES Database as an excluded economic operator nor in the lists of entities subject to EU restrictive measures (see Sections 2.6.10.1. and 2.4.).’</i> 	2.10.1
	Qualified electronic signature	<p>Qualified Electronic Signature (QES) is a standard that comes from the e-IDAS Regulation (Regulation (EU) No 910/2014) and is recognised to have equivalent legal effect to a handwritten (also known as ‘blue-ink’) signature in all EU Member States.</p> <p>QES can be used as a solution for signing any document for which a handwritten signature is required, where both the applicable law and the dispute settlement are in an EU Member State. No similar feature is available for indirect management by the partner country.</p> <p>Before applying QES, the Contracting Authority will inform about the use of QES and inquire whether the counterpart can also use it.</p>	2.10.3 and annexes: a9, b13a, c8a, d8a e9c, b8j3, c4i,c4n, d4q, d4r and e3h9.

			Three options are envisaged in PRAG templates for QES: 1. Both parties sign with QES. 2. The Contracting authority signs with QES and the beneficiary signs on paper. 3. The beneficiary signs with QES and the Contracting Authority signs on paper.	
		Privacy statement	Annex updated	Annex a13
		The European Public Prosecutor Office (EPPO)	The EPPO has the same rights as the contracting authority, particularly right of access, for the purpose of checks, audits and investigations (Council Regulation (EU) 2017/1939).	Annexes b8d, c4e, d4p, e3h2, e3h11, b3, b8d, c4l and d4c
		Conflict of interest	Updated guidance on the avoidance and management of conflicts of interest under the FR (2021/C 121/01) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XC0409(01)&from=EN	2.5.4
		Visibility requirements	Alignment of visibility requirements in all types of contracts.	Annexes: b8d, b8e, b8f, c4e, d4p, e3h2
		Publication guidelines	Adjustments based on the one hand on feedback and questions received from users, and on the other hand on the latest developments of the eProcurement tools. In particular publication in case of indirect management and local open procedures.	Annex a11e
		Electronic submission of tenders (applicable after release eSubmission)	eSubmission allows economic operators to respond electronically to procurement procedures by preparing submissions (i.e. requests to participate or tenders) and submitting them electronically in a structured and secured way. eSubmission will be available for the electronic management of international open and restricted procedures and negotiated procedures. eSubmission applies only to the submission of requests to participate/tenders in direct management. For indirect management and simplified award procedures in direct management, the paper submission is still applicable. As a consequence, the annexes in the PRAG will provide options differentiating electronic submission and paper submission. Note, however, that eSubmission will only be launched in the first quarter of 2022. Until then, all contract award procedures in direct management will continue to apply traditional paper	1, 2.6.1, Annexes: b8b_itt, c4b_itt, d4b_itt, a5f, b3, b8a, b10, b11, c4a, c5, c6, c7, d4a, d4c, d4m, d5,

<p>3 4 5</p>	<p>Services Supplies Works</p>		<p>submission. Please note that the instructions on notices continue to apply, as instructed in PRAG 2020.</p>	<p>d6, c4b, d4b.</p>
		<p>Participant Identification Code (applicable after the release of eSubmission)</p>	<p>Instructions on the Participant Identification Code (PIC). In order to submit a request to participate or tender using eSubmission, economic operators will need to register in the European Commission's Participant Register - an online register of organisations participating in EU calls for tenders or proposals (PIC registration). When registered, each organisation obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the above register. PIC is also relevant in the future tool for contract management.</p> <p>It is up to the contracting authority to request the legal and financial validation of the data (PIC validation) of any organisation applying via eSubmission. The EU Validation Services of the Research Executive Agency (REA) are in charge of the PIC validation. The request for supporting documents in no way implies that the organisation has been successful in a procurement procedure. All communications with the EU Validation Services will take place through the F&T portal.</p>	<p>2.6.1 and annexes: a5f, a9, b8b, b8o5, b11, c4b, c7, d4b, d7 and ds4b</p>
		<p>Backstopping facilities</p>	<p>Precision added on backstopping facilities</p>	<p>Annex b8g</p>
		<p>Time limit for receipt (applicable after the release of eSubmission)</p>	<p>The PRAG's term 'submission deadline' is called in eTendering 'time limit for receipt'. Therefore, when encoding through PPMT, the term 'time limit for receipt' will be published in eNotices and eTendering. Both 'submission deadline' and 'time limit for receipt' will appear in parallel in the PRAG 2021. From a legal point of view both terms describe the same moment in time: the cut-off date before which an economic operator has to submit a tender or request to participate.</p>	<p>Annexes: a5f, b8b_itt, b8o5_itt, c4b_itt d4b_itt, ds4b_itt,</p>
		<p>Time zone (applicable after the release of eSubmission)</p>	<p>The standard time zone for receipts of tenders in eTendering or eNotices is Central European Time (CET), which is the standard time in Brussels. PRAG 2021 annexes have therefore been aligned with the Central European Time. In practice it means that even if a Delegation is located in a different time zone, Central European Time will be applied by default in eTendering and in the eSubmission portal. The explicit reference to Central European Time was made in the PRAG</p>	<p>Annexes: a5f, b8b_itt, b8o5_itt, c4b_itt d4b_itt,</p>

		annexes to avoid to discrepancies and misunderstanding about the time limits published electronically and the time limits described in the tender documents.	ds4b_itt,
	Uploading supporting documents and offers (applicable after the release of eSubmission)	In eSubmission offers will need to be uploaded under specific tabs. The instructions to tenderers will provide guidelines indicating under which tabs documents will have to be attached. In order to provide further guidance, the instructions to tenderers for supplies and works is complemented with a table showing the list of documents to be submitted with the tender and during the procedure. The table can be found at the last page of the instruction to tenderers.	Annexes: a5f, b8b_itt, b8o5_itt, c4b_itt, d4b_itt, ds4b_itt
	Precisions on capacity providing entities and subcontractors	Rules applicable to capacity providing entities and subcontractors, and related obligations for the tenderers who rely on such entities, have been further precised.	Annexes : b8o7, c4l, d4c, ds4c
	Change in terminology from ‘staff’ to ‘personnel’	Change in terminology from ‘staff’ to ‘personnel’.	Annexes: c4b, d4b,b8o7, c4l, d4c, ds4c
	New deadlines for Q&A and corrigendum.	Deadlines for requesting clarifications on the contract notice or on the tender dossier have been streamlined. Candidates/tenderers may submit questions no later than 21 days (restricted/open procedures) or 15 days (simplified procedures) before the deadline for submission of requests to participate/tenders. The contracting authority must reply to all questions no later than 8 days before the submission deadline. A corrigendum must always be published no later than 8 days before the <u>original</u> submission deadline.	3.4.1.2, 3.4.5, 4.3.1.2, 4.3.4, 5.3.1.2, 5.3.4 and annexes: a5f, a9, b8b, b8o5, c4b, d4b and ds4b
	Change of terminology from ‘application’ to ‘request to participate’	The term ‘application’ for the first step of restricted procedure is now changed to ‘request to participate’. ‘Request to participate form’ replaces ‘application form’.	Annexes: b3, b7, b4, a1a

		Clarifications on the status of experts	Clarification of experts' status in service contracts. The status of individual experts is clarified: no matter their contractual relationship with the contractor, they are personnel of the contractor. In cases where experts are not directly contracted or employed by the contractor but through a third party, it is clarified that the latter is a subcontractor subject to all the obligations defined in article 4 of the general conditions of the service contract.	Annexes: b8b b8e, b8d, b8o7
		Publication of local open calls	Decision to render optional the publication on the EU Official Journal and F&T portal for local open calls for tenders. Local calls must only be published in the Official Gazette of the partner county or in any other equivalent media. However, where necessary in order to ensure an adequate level of competition, local calls are also published in the Supplement to the Official Journal of the EU (TED) and on the Funding & tender opportunities (F&T Portal).	4.4, 4.2.2.1, 5.5, 5.2.2.1 and annex a11e
		Rule of origin	Supply and works contracts under the MFF 2021-2027 are not anymore subject to rule of origin. However, the rule of origin still applies for the calls launched under previous MFF 2014-2020.	2.3, 2.3.6, 2.3.8, 4.3.9.4., 5.3.9.4, and annexes: a5f, a11b, c4b, c4k, c4c, c4d, d4b, d4c, d4m, d4p, ds4o,
		Change in terminology on technical score	The notion of 'weighed technical score' is introduced in order to avoid errors in the calculation and align with eProcurement notification letters.	3.4.10.3 and annexes: b13a, b13b, b13c
		Adaptation of terminology on objective, purpose, and expected results	Terminology aligned with other PRAG annexes.	Annexes: b8e, b8g

6	Grants	Financing not linked to costs	A box has been inserted explaining if, in direct and indirect management, a prior approval for the use of financing not linked to costs is needed.	6.2
		Simplified cost options	Further guidance regarding simplified cost options (SCOs): - No limitation on the amount of costs that can be declared in the form of SCOs. - Clarifications provided on the two types of SCOs 'Output or result based SCOs' and 'Other SCOs'. Complete revision of Annex K (PRAG annex e3a2)	6.2.1, annexes e3a, e3a2, PROSPECT guidelines
		Retroactive financing	Box inserted on retroactive financing and differences related to direct and indirect management.	6.3.8
		Volunteers' work	Grey box on volunteers work has been re-arranged by inserting the link of Commission Decision on personnel costs and clarifying that in kind contributions in form of volunteers work should be declared in budget line 10.2 of the budget template.	6.3.9, annex e3h2
		Self-evaluation questionnaire on SEA-H	Ethics clauses. New requirement 'SEA-H self-assessment questionnaire': 'In addition, for all grant award procedures (call for proposals or direct award) where the requested grant exceeds EUR 60 000, lead applicants, co-applicants and affiliated entities other than (i) natural persons (ii) pillar-assessed entities and (iii) governments and other public bodies whose application has been provisionally selected or placed in a reserve list, shall assess their internal policy against sexual exploitation, abuse and harassment (SEA-H) through a self-evaluation questionnaire with the aim to inform the contracting authority about the entity's SEA-H policy in place and the measures envisaged in order to improve the SEA-H policy within the relevant organisation.'	2.5.6, 6.3.11, annexes: e3a, e3h2, e3aP1 (PROSPECT guidelines)
		Publication of calls for Twinning Projects	Guidance on publication of calls for proposals in direct and indirect management for Twinning projects. NB: INTPA Twinning calls are currently only possible in direct management but may also be possible in indirect management in the near future.	6.4.1.1
		Direct award	Provisions of Article 27(3) of the NDICI (MFF 2021-2027) specify additional conditions allowing for direct award. New cases (g) and (h) added to PRAG section 6.4.2.	6.4.2
		Deadline for submission of proposals	Further guidance on the deadlines for submission in restricted and open calls. A box explaining how and when to submit a proposal in direct and indirect management has been inserted.	6.5.5

	Submission of the concept note and full application – supporting documents	Sections revised in order to include all supporting documents to be submitted with full application and to provide further guidance on the submission. In section 6.5.6, a box specifying how to upload supporting document in direct management (in PADOR or together with PADOR registration form) and the cases where no supporting documents are requested has been inserted.	6.5.6 and 6.5.8.5
	Non-eligible costs - Negative interests	Point j) added to the list of non-eligible costs in Article 14(11) of the general conditions: ‘Negative interest charged by banks or other financial institutions’.	Annex e3h2
	PROSPECT guidelines	Text of guidelines entirely reviewed. Among the main changes: the threshold for providing a DoH in grants has been lowered from EUR 60 000 to EUR 15 000 as per Art 137(1); further guidance on SCOs; Volunteers' work may comprise up to 50 % of the co-financing.	Annex e3aP1
	Terminology	Terminology on results-oriented approach aligned with OECD-DAC definitions and more user-friendly template for Logframe.	Annexes e3b, e3d
	Calls for proposals are published on the website of DG International Partnerships or Funding & tender opportunities (F&T Portal)	With the next PROSPECT release, the publication of calls for proposals will move from the website of DG International Partnerships (Europeaid) to the Funding & tender opportunities portal (F&T Portal). A warning will appear on INTPA website to redirect users to F&T portal.	6.4.1.1, 6.5.1 Annex a11e