

1. LEGAL BASIS

Where contracts for services, supplies and works financed by the Community in the course of cooperation with third countries are awarded by a contracting authority of the recipient country or by the Commission for and on behalf of the recipient, award procedures are governed by the following legal framework:

- the Financial Regulation of 21 December 1977 applicable to the General Budget of the European Communities, as last amended by Council Regulation (EC) No 2458/98 of 23 November 1998, and in particular Title IX thereof;
- the General Regulations for works, supply and service contracts financed by the European Development Fund adopted by Decision No 3/90 of 29 March 1990 of the ACP-EEC Council of Ministers;
- the Regulations and other specific instruments relating to the various cooperation programmes.

This Manual sets out simplified contract procedures for the above. The aim is to phase them in as smoothly as possible. The Manual does not cover contracts for which the Commission is acting as contracting authority in its own right.

This Manual contains a series of contract-award instructions to be followed by Commission services when negotiating financing agreements and/or contracts, except where the legal framework (particularly those covering each individual cooperation programme) provide otherwise. The Commission must take the necessary action to ensure that the contracting authorities adhere to the terms of this Manual.

2. ELIGIBILITY FOR CONTRACTS

The provisions governing who may participate in tender procedures and contracts are termed “eligibility criteria”. Hence the rule on the nationality of natural and legal persons and the origin of supplies.

2.1. The rule on nationality and origin

- (a) Contracts are open on equal terms to all natural and legal persons of the Member States and the countries and territories of the regions covered and/or allowed by the Regulation or other instruments governing the aid programme under which a given contract is being financed.

This nationality rule also applies to the experts proposed by service providers taking part in tender procedures or service contracts financed by the Community.

For the purposes of verifying compliance with the nationality rule, the tender dossier requires tenderers to state the country of which they are nationals by presenting the documents usual under that country’s law.

- (b) All supplies purchased under a supply contract must originate in the Community or an “eligible” country as defined in (a). The same goes for supplies and equipment purchased by a contractor for works or service contracts if the supplies and equipment are destined to become the property of the project once the contract is completed.

In his tender, a tenderer must state the origin of supplies. Contractors must present a certificate of origin to the contracting authority when bringing supplies into the recipient