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Director-General

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**NOTE FOR THE ATTENTION OF
AIDCO MANAGEMENT AND HEADS OF UNIT
HEADS OF DELEGATIONS**

**Subject: “Practical Guide to contract procedures for EC external actions” –
updated version 2008**

Instruction note to be distributed to all staff

This note replaces the note D(2007)10305 of 24.05.2007

It is with satisfaction that I announce you today the publication of the new Practical Guide to contract procedures for EC external actions in English, French and Spanish, immediately after the approval of the revised Annex IV of the Cotonou Agreement in December 2008.

The updated Guide is characterised by a unified legal base (apart from some exceptions) and constitutes, within the limits of the legal framework, an additional step forward in the process of simplification of the procedures. The Guide and its annexes display, with due consideration to the latest legal changes, the whole collection of contracting procedures applying to all EC external aid contracts financed from the EC general budget and the European Development Fund.

On this occasion, AIDCO G7 has carried out a modernisation of the procedures webpage: more explicit headings, more rapid access and rewriting/updating of more than 100 frequently asked questions – FAQ – has been completed.

1) Reasons for updating the Practical Guide

More specifically, the revised PRAG incorporates the following elements:

- the entry into force of the 10th EDF last 1 July 2008 and the agreement on article 19c of Annex IV of Cotonou, 17 November 2008, following the agreement with ACP countries during the Council of Ministers held in Addis Ababa earlier this year. Pursuant to this agreement, the long awaited harmonisation of the procedures for the award of contracts and the merger into a single set of documents of EDF and EC

Budget procedures and templates has now been accomplished. The new Annex IV has just been signed by the parties and will be applicable to all procedures launched after its entry into force, unless the applicable financing agreement concluded before that date refers to the General Regulations (i.e. financing agreements concluded under 9th or earlier EDFs). Some of these agreements are been reviewed so the new Annex IV can applied to them as of 1 March 2009.

- the development of the legal provisions and documents allowing extended possibility of delegated management and co-financing, following the entry into force in 2007/2008 of the revised/new financial regulation for the EC General Budget and EDF and in the new instruments on external cooperation for the period 2007-2013.
- The reform of the methods for technical cooperation and the use of Project Implementation Units, based on the "Backbone strategy on Technical Cooperation" undertaken this year by AIDCO in response to the recent report of the European Court of Auditors on Technical assistance.; This reform aims to improve the effectiveness of EC aid by reinforcing the capacities of the beneficiary countries in conformity with the Paris Declaration.
- Implementation of the recommendations of the "Greener EuropeAid" action plan.
- A number of adaptations/clarifications following observations from other services.

2) Main changes of the 2008 PRAG

- Alignment of the contract award procedures for EDF and Budget by harmonising the annexes as well as the majority of the provisions in the PRAG. These provisions offer a simplified environment for the services as well as for our partners.
- The new models of transfer and delegation agreements, elaborated in the framework of co-financing and delegated co-operation provide you with the appropriate tools for the implementation of the actions at the moment when the Commission intensifies the commitments made in the context of the Paris Declaration. In addition, Chapter 7 of the PRAG, devoted to the relations with International Organisations, Member States and other donors, has been modified and complemented.
- In response to the crisis situations which some of our partner countries are facing, Guidelines have been established which make it clearer and easier for the services to use the appropriate procedures.
- Modifications introduced by the FR last May 2007 that only became applicable in 2008 have been introduced in the new PRAG, such as. the automatic payment of interest in the case of late payment (centralised management).
- The works tender dossier has been redrafted substantially. Clarifications regarding the interpretation and the implementation of works contracts have been introduced following the conclusions of an intra-directorate working group, launched by AIDCO G7. The conclusions of this working group were based on the proposals put forward by the operational services.
- To facilitate the elaboration of technical specifications for commonly purchased goods guidelines have been introduced. For service and supply tenders below the

international threshold simplified tender dossiers are now available to AIDCO services.

- Comments and suggestions from the services and external stakeholders received since the last revision have been taken into account and led to improvements, for example: i) clarification of the selection criteria for natural persons (e.g. procurement notice); ii) clarification and advice regarding the new submission deadline for grants applicable since May 2007; iii) terms of reference for service global price contracts; iv) a summary procurement notice for services; v) clarifications regarding the documentary evidence required for exclusion criteria.
- The "Backbone strategy on Technical Cooperation" is reflected in a number of specific measures. These are, for instance: i) in centralised management, to favour the involvement of the beneficiary country in the approval of tender dossiers and reports and participation as voting members in evaluation committees or ii) favour the use of telephone interviews with key experts;.
- The use of the suspensive clause is clarified, on the basis of the common interpretation agreed between AIDCO, DG BUDG and Legal Service following long discussions with these services.
- The expenditure verification template introduced in 2006 has been improved and clarified following an evaluation by AIDCO G2.
- Lessons learnt this year from the latest conclusions of courtesies and the recommendations from the Ombudsman have been fed back to the Guide. These are basically technical/practical clarifications, for example a general termination clause in all contracts, which aim at improving our relations with our contractors.
- Recommendations following remarks from IAC, IAS and the Court of Auditors and other audit findings during the present year have also been incorporated, for example the need to carry out an assessment of the management of EC/EDF funds by third parties in delegated cooperation (trust funds, etc).
- The action plan towards a greener EuropeAid adopted earlier this year by AIDCO has been incorporated in the annexes for those aspects affecting procedures, e.g the possibility to accept costs for CO2 offsetting in services and grants.
- PADOR has been fully implemented for grants in centralised management and this has been incorporated in the Guide.
- Ex-post publication of beneficiaries of EC funds pursuant to art 30(3) FR has been incorporated in the documents.
- Special attention has been taken to improve the readability of the Guide and its annexes.

The revised Guide will be applicable to actions financed by the EC Budget and the 10th EDF and shall be used for procurement and grant procedures as from **1 January 2009**. All the procedures started from this date (i.e. the date of publication of the guidelines for

the calls for proposals and the date of publication of the procurement notice for calls for tenders) are subject to these new rules.

The on-going procedures will remain governed by the rules and documents applicable at the time of their publication. To this end, the previous versions of the Guide remain available on the EuropeAid website¹. If new templates are to be used in these on-going procedures, a corrigendum must be published.

The version of the Guide in Portuguese and in German, to be translated by the DG Translation, will be published in the shortest delay.

I do not doubt that this new version of the Guide will significantly contribute to simplifying the procedures and their implementation, for the benefit of greater effectiveness of our actions in the area of external aid.



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Annexes: Practical Guide to contract procedures for EC external actions (electronic copy)

¹ http://ec.europa.eu/europeaid/work/procedures/index_en.htm