

CONCESSIONS

AWARD CRITERIA

What are the requirements for the award criteria for concessions?

The award criteria must:

- ensure the **equal treatment** of all participants;
- be **non-discriminatory**, meaning that they cannot aim at or result in favouring local or national products or companies;
- be **linked to the subject matter of the concession** (e.g. a criterion related to the percentage of job seekers employed to carry out the concession would be acceptable, but a criterion related to a company's general employment policy or to general training provided to local job seekers without any link with the concession, would be illegal).
- be **objective** and may not confer unrestricted freedom of choice onto the public buyer (e.g. criteria that refer to the 'satisfaction of the contracting authority' or that give preference to tenders 'most acceptable to the contracting authority' are not acceptable).
- be **advertised in advance and listed in descending order of importance**. This is a transparency obligation that enables tenderers to prepare their offers well and prevents buyers from adapting criteria to the offers received. However, if a public buyer receives a tender that proposes an innovative solution with an exceptional level of functional performance that could not have been foreseen by a diligent buyer, it may modify the ranking order of the award criteria to take this into account. In this case, the buyer must ensure equal treatment of all actual or potential tenderers by issuing a new invitation to submit tenders, or, in certain cases, by publishing a new concession notice.