Procurement in Humanitarian Aid Actions Funded by the European Union

An Overview of
The Rules and Procedures for Procurement in Humanitarian Aid Actions and
The Humanitarian Aid Guidelines for Procurement, published by the Directorate General of Humanitarian Aid & Civil Protection of the European Commission ("DG ECHO").
The award of contracts in the implementation of humanitarian aid must comply with humanitarian aid principles (e.g. humanity, neutrality, independence and impartiality) while also taking into consideration the context within which these humanitarian actions are implemented. The European Commission therefore, recognising the specific nature of humanitarian aid procurement, has in place rules imposing supplementary obligations and safeguards in certain cases while allowing for more flexible procedures when justified in other cases.

NGOs that sign a Framework Partnership Agreement ("FPA") with DG ECHO for the implementation of humanitarian aid actions are contractually obliged to observe, when procuring supplies or service, the minimum procurement rules and procedures which are annexed to the FPA in Annex IV ("ECHO’s Rules & Procedures for Procurement").

Since it was necessary to provide guidance on the applicability of ECHO’s Rules & Procedures for Procurement to different situations, contractual values and Partners subject to different control mechanisms, as well as to further explain newer concepts such as Humanitarian Procurement Centres, ECHO’s Rules & Procedures for Procurement are complemented by the Humanitarian Aid Guidelines for Procurement. These Procurement Guidelines facilitate compliance with the legal requirements in EU legislation and also hope to serve as a reference for the development of common terminology and standards among humanitarian organisation in receipt of EU Funds and to contribute to spreading good practices in the award of procurement contracts. Due to, however, the variety of operational needs and requirements, specific questions are bound to arise that cannot all be covered by general guidelines. Specific procurement questions may be addressed to ECHO-FPA-PARTNERS@ec.europa.eu for a written reply.

Below is a brief presentation of ECHO’s Rules & Procedures for Procurement and an outline of the related guidance which may be found in ECHO’s Humanitarian Aid guidelines for Procurement:

**Chapter 1. When Do DG ECHO’s Procurement Rules & Guidelines Apply?**

DG ECHO recognises that, in certain cases, alternative approaches to achieving the same procurement requirements may be justified or necessary. Consequently, although some aspects of ECHO’s Rules & Procedures for Procurement are clearly obligatory in certain cases, ECHO’s Humanitarian Aid Guidelines for Procurement do not substitute the humanitarian organisations’ own procurement rules and procedures and should not be considered as an overarching procurement manual. Where humanitarian actors already have well-developed and detailed internal procurement manuals and guidelines which respect the requirements established by EU humanitarian aid law, including Partners operating under the “P” Control mechanism, United Nations agencies or other International Organisations, the Guidelines do not attempt to override their procedures.

The first Chapter of ECHO’s Humanitarian Aid Guidelines for Procurement focuses on explaining when they apply or are relevant to a given procurement situation. Chapter 1 therefore offers explanations on the several legal sources behind ECHO’s Rules & Procedures for Procurement and tries to differentiate between cases where these are optional or obligatory by explaining the Scope and Applicability of the Guidelines and the underlying Rules & Procedures. In order to facilitate this exercise, the Guidelines explain basic but important distinctions between Employment Contracts and Service Contracts as well as Implementing Partners and other Contractors (since contracts with Employees & Implementing Partners are not considered ‘procurement contracts’).

The schematic table below offers an overview of the applicability of ECHO’s Rules, Procedures and Guidelines:
Chapter 2. Mandatory Principles of Procurement

The Mandatory Principles are, as their name suggests, obligatory for procurement in all Humanitarian Aid Actions. In practical terms this means that the Mandatory Principles apply both to actions falling under the "A" and "P" Control mechanisms, regardless of the estimated value of the contract.

There is a strong interdependence between the different Mandatory Principles. The compliance with one principle reinforces or is a condition for compliance with another. For instance, in order to maintain equal treatment and non-discrimination of potential contractors it is necessary to ensure open competition through the publication of pre-established and announced criteria for exclusion, selection and award (Principle of Transparency) and these procedures should be as simple and accessible as possible (Principle of Proportionality) for all to be able to participate and compete equally. Furthermore by offering equal chances to all potential contractors a level playing field is ensured which helps exclude any fraud, corruption or conflict of interests (Principle of Ethical procurement).

Chapter 2 of ECHO’s Rules & Procedures for Procurement is entirely dedicated to describing and detailing these Mandatory Principles and ECHO’s Humanitarian Aid Guidelines for Procurement have grouped and, where necessary, explained all these provisions under the 4 following principles:

i) The Principle of Ethical Procurement

All actors involved, whether those procuring (Contracting Authorities) or those hoping to have their Tender or Offer accepted ('Tenderers' or 'Candidates', respectively or generally referred to as 'Bidders') must observe the highest ethical standards during the procurement and execution of contracts.

The maintenance of high ethical standards in humanitarian aid naturally also includes respect of the consuetudinary principles of International Humanitarian Law. In the context of procurement particular reference

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1 In Practical terms this means that the Special Rules on the procurement of pharmaceutical products and medical devices derogate from the General Rules & Procurement Procedures usually applicable to Partners subject to an A Control Mechanism adopting instead a Negotiated Procedure regardless of the value of the contract.
may be made here to the principle of impartiality, meaning that the implementation of Actions must solely respond to identified needs, without discrimination of any kind; the principle of independence, which implies the autonomy of the humanitarian Action with regard to economic or other motivations as well as the principle of neutrality which means that, in order to continue to enjoy the confidence of all, humanitarian agencies may not take or appear to take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Rules defining and limiting conflict of interests situations are necessary to ensure that staff members of the Contracting Authority cannot use their functions or information obtained for professional reasons for private gain, financial or otherwise, or for private gain of any third party. As a general rule, significant gifts and hospitality from suppliers cannot be accepted in order to maintain an atmosphere of honesty and integrity in affairs and to avoid unfair competition.

The following behaviour is indicative of irregular activity which is never tolerated:

- **Corruption** - the practice of offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the activities of the Contracting Authority in the competitive selection process or in contract execution.
- **Fraud** - any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Contracting Authority to obtain a financial or other benefit or to avoid an obligation.
- **Collusion** - the undisclosed arrangement between two or more Tenderers or Candidates designed to artificially alter the results of the tender procedure to obtain a financial or other benefit.
- **Coercion** - impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities.

In the event of being confronted by any the above irregular activity, the Partner must inform ECHO immediately in writing providing all the relevant information. If the irregular activity is engaged in by a Candidate or Tenderer then the Contracting Authority shall also reject the Offer or Tender submitted by that offending party. Where the irregularity is detected after a contract has been signed then the Contracting Authority shall terminate that contract.

The Contracting Authority must also ensure that Candidates and Tenderers respect:

- **Basic social rights and working conditions** (i.e. no child labour or other exploitative practices);
- **Social Rights** (e.g. commitment to poverty eradication, human rights, Fair-trade, sustainable development);
- **Environmental aspects;** ("green procurement");
- **Humanitarian Principle of Neutrality:** (i.e. no dealing with contractors having known links to one of the parties to a conflict, such as a company that supplies or transports arms or other supplies to a military actor or other combatant); and,
- **Ethical Transport & Cargo:** (e.g. avoiding transport companies which are known to also transport arms, drugs or deal in people smuggling).
Since all contractors should adhere to the highest ethical standards, both during the procurement process and throughout the execution of a contract it is recommended that the Contracting Authority ask Candidates and Tenderers to submit a formal declaration (sample annexed to the Guidelines) accompanying their Offer or Tender.

(ii) The Principle of Transparency in the Procurement process.

A transparent system increases the possibility of detecting any deviations from fair and equal treatment thus protecting the regularity of the procurement process.

For procurement procedures to be fair and offer equal treatment to potential contractors they need to be conducted in the spirit of transparency and open competition. In the framework of humanitarian procurement, the principle of competition is fulfilled by fair and transparent procurement procedures in the context of the wider objective of the humanitarian Action - rather than just by broadening the number of potential Candidates or Tenderers.

In practical terms Partners subject to an "A" Control mechanism fulfil their obligation towards transparent and open procurement by following the procedures established in Chapter 3 (below) of ECHO’s Rules & Procedures for Procurement.

The principle of Transparency requires the establishment in advance of clear Exclusion, Selection and Award criteria. The announcement of this criteria offers equal treatment end ensures the regularity of the procurement procedure. Candidates or Tenderers shall be excluded from participation in a procurement procedure if they fall under one of the situations described in Articles 93 and 94 of the EU’s Financial Regulation. Tender documents shall define clear pre-established and non-discriminatory selection criteria to be applied in every procurement procedure for the purpose of assessing the financial, economic, technical and professional capacity of the Candidate or Tenderer. In humanitarian aid actions the award criteria published shall serve to identify the Tender or Offer offering best-value-for-money - meaning the best price-quality ratio resulting in the selection of the Offer or Tender which presents the optimum combination of factors (e.g. appropriate quality, life-cycle costs) and other parameters which best meet the pre-defined needs and objectives of the Action.

Details on pricing, proprietary data belonging to a supplier or trade secrets may be held confidential while still respecting the principle of Transparency. The duty of confidentiality pertains to all those involved in the procurement procedure including the Contracting Authority, members of any Evaluation Committee and also the Tenderers or Candidates. Consequently this duty is referred to in both the sample declarations contained in Annexes 2 and 4 to the ECHO's Humanitarian Aid Guidelines for Procurement.

ECHO’s Rules & Procedures for Procurement, establish the right of access of the European Commission, or persons mandated by it, including the European Anti-Fraud Office (OLAF), and the European Court of Auditors to documents held by any Contracting Authorities or contractors who have received EU funds.

ECHO's Humanitarian Aid Guidelines for Procurement provide detailed recommendations, depending on the procedure followed, the value of the contracts and the nature of the products or services supplied, on what documentation a procurement file should include.
(iii) The Principle of Proportionality between the procedures followed for awarding contracts and the value of the contracts.

The principle of Proportionality requires that procedures followed for awarding a contract must be proportionate to the value of the contracts; this generally means that the higher the value the higher or the more demanding the procedures. Internal rules and procedures, including the proper implementation of the principles of economy, efficiency and effectiveness, must be established having due regard to the amount of the contract and taking into account the overall costs and the difficulty and risk associated with the contract. Clearly some lower-value contracts may still involve great risk hence adopting more stringent measures may be prudent and justified. Generally speaking, however, the procurement rules should develop a system of segregation of procurement functions with clear demarcations of authority and responsibility. Procurement rules should provide for the procedure for waiving standard practices when the best interest of the Action so requires. Waiving procedures should take into account the value of the contract when identifying the appropriate level of authority for granting the derogation. In case of actions subject to an “A” Control mechanism, such an exception should be agreed upon beforehand and included in the derogation clause in Article 8.2 of the Grant Agreement.

(iv) The Principle of Equal treatment and non-discrimination of potential contractors and donors.

The principles of equal treatment and non-discrimination guarantee the fairness of the procurement process ensuring impartial and independent decisions, treating all Candidates or Tenderers and donors in the same way and applying the rules consistently to all.

Contracts shall be awarded to the Tender or Offer offering the best-value-for-money while taking care to avoid any conflict of interests. As a general rule, in the framework of humanitarian procurement no restrictions should be placed on the procurement process limiting the pool of potential Tenderers and Candidates on the basis of their nationality or the country of origin of the supplies. The only exceptional case when it is necessary to expressly request an exemption from the applicable rules of Nationality & Origin arises in the context of Actions financed by the European Development Fund within the framework of the Partnership Agreement between the EU and African Caribbean & Pacific States signed in Cotonou in 2000. The principles of equal treatment and non-discrimination also apply in the relations of the Contracting Authority with its donors. In co-financed or Multi-donor Actions, the Partner shall ensure equal treatment to all financial contributions.

Just as the Mandatory Principles are interdependent, they may sometimes overlap and result in an apparent conflict. There is no hierarchy between the Mandatory Principles of procurement and an integrated and coherent application of all the Mandatory Principles is necessary to overcome the potential conflicts among them. For instance, the principle of Transparency requires open tendering, where possible, involving broad advertisement, increasing costs and resulting in higher administrative effort, which could contradict the principle of Proportionality or reduce the effectiveness of the process. Therefore, a certain degree of flexibility should be built into the system to overcome any conflict between procedures and priorities. It is essential that steps taken and reasons for taking them are well

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documented and that this documentation is kept on file in case the process is later audited or reviewed or some dispute arises on the procurement procedures followed.

Chapter 3. General Rules and Procedures

ECHO’s Rules & Procedures for Procurement, in paragraph 3.1, state that their General Rules and Procedures “…shall govern the award of procurement contracts by Contracting Authorities for Agreements of more than EUR 60,000 with an A-control mechanism … The provisions of this Chapter must be applied in conjunction with the "Humanitarian Aid Guidelines for Procurement".

These rules in Chapter 3, therefore govern the award of procurement contracts for Agreements of more than EUR 60,000 in actions governed by an "A" Control mechanism and the corresponding Chapter of ECHO's Humanitarian Aid Guidelines for Procurement is likewise applicable in these instances. As well as explaining and contextualising these obligatory rules and procedures, Chapter 3 of ECHO's Humanitarian Aid Guidelines for Procurement also tries to provide sound advice of a more general nature which may also be useful when procuring for a value under EUR 60,000 and regardless of the control-mechanism.

In line with the principle of Proportionality one will note that the procedures required for procurement increase with the value of the award as do the levels of Transparency and hence the form of publication required. This means that the complexity of the procedure followed has to be in relation with the size of the contract.

- Guidance on procedures for the award of all procurement contracts (including those below € 60.000)

In this section ECHO's Humanitarian Aid Guidelines for Procurement offers practical and general information and advice on topics such as the main elements of a contract. Contracting Authorities considering launching a procurement procedure have to determine in the first place the object of the contract, i.e. its subject, duration and value. These characteristics will determine the type of contract and procurement procedure to be chosen.

The identification of which procurement procedure to apply may also be affected by whether or not it has been decided to split the procurement into lots. ECHO’s Rules & Procedures for Procurement say, in paragraph 3.4, that "Where the subject of a contract is subdivided into several lots, even if each one will be subject of an individual contract, the value of all lots together must be taken into account for the overall evaluation of the applicable threshold". ECHO's Humanitarian Aid Guidelines for Procurement explain in more detail situations where dividing into lots may be appropriate and even preferable.

Also, recognising that a valid contract may take several different forms, ECHO's Humanitarian Aid Guidelines for Procurement offer an introduction on Different parts of the contract document which identifies the vital and optional clauses while advising on the use of particular terms and clauses, such as reference to Incoterms; Transport and Insurance and Force Majeure.

The Commission does not request Contracting Authorities to follow a given procedure for the award of procurement contracts worth less than €60.000. This applies to Actions subject to either "A" or "P" Control mechanism. However, the procedure applied by the Contracting Authority has to comply in any case with the principles of Transparency; Proportionality and Equal treatment and the criterion of Best Value for Money in the award of procurement contracts.

Without introducing new rules or thresholds, ECHO's Humanitarian Aid Guidelines for Procurement seek to contextualise these principles in practice and offer advice on what safeguards are appropriate for contracts valued under €60,000.
In accordance with paragraph 3.6 of ECHO's Rules & Procedures for Procurement, Contracting Authorities awarding procurement contracts with a value of more than €60,000 in the framework of Actions under the "A" Control Mechanism, shall apply the following procurement procedures:

### Procurement in Contracts over €60,000

<table>
<thead>
<tr>
<th></th>
<th>Supply Contracts &amp; Service Contracts</th>
<th>Works Contracts</th>
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<tbody>
<tr>
<td></td>
<td>Estimated value of the contract</td>
<td>Estimated value of contract</td>
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<tr>
<td>Negotiated procedure</td>
<td>€60,000 - €150,000</td>
<td>€60,000 - €300,000</td>
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<tr>
<td>(minimum of 3 Candidates)</td>
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<tr>
<td>Open Tender with Local Publication</td>
<td>€150,000 - €300,000</td>
<td>€300,000 - €3,000,000</td>
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<tr>
<td>(minimum of 21 days publication)</td>
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<tr>
<td>Open Tender with International Publication</td>
<td>€300,000 or more</td>
<td>€3,000,000 or more</td>
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<td>(minimum of 30 days publication)</td>
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In order to identify which procedure to apply, it is first necessary to understand the difference between Property contracts; Supply contracts; Works contracts and Service contracts (which comprise study and technical assistance contracts) and an explanation of all these terms is available in ECHO's Humanitarian Aid Guidelines for Procurement.

ECHO's Rules & Procedures for Procurement identify 2 main procurement procedures: the Negotiated and the Open:

- **the Single Bid Negotiated Procedure** where in certain listed cases exceptionally, orders may be placed on the basis of a sole Candidate being invited to negotiate the terms of the contract; and
- **the Negotiated Procedure based on Pre-Qualification** which is used for pharmaceutical products and medical devices (see Special Rules).

An Open Tender Procedure, international or local, is a procedure in which all the interested economic operators get all the information they need for preparing a tender by means of international or local publication and then the Contracting Authority evaluates all the tenders in one go and chooses the best one.

ECHO's Humanitarian Aid Guidelines for Procurement provides detailed, step-by-step explanations of the information to be supplied when launching each procurement procedure, whether standard or exceptional, and the steps to be followed throughout the procedure and after conclusion of the procurement contract.
### Overview of the different procurement procedures

<table>
<thead>
<tr>
<th>Procurement by an Open Tender Procedure</th>
<th>Where the estimated value of the contract to be awarded is above €150,000 for supply &amp; service contracts (or above €300,000 for works) the procurement should be made through an Open Tender procedure in which all interested economic operators may participate and submit a Tender. In certain defined cases (e.g. procurement in Urgent Actions or through HPCs) the Single Bid Negotiated Procedure may be used instead (see below). The Open Tender procedure is launched by the publication of an advertisement called a Contract Notice (indicating the rules governing the submission &amp; presentation of tenders; the Exclusion, Selection &amp; Award Criteria &amp; the Technical specifications or Terms of Reference). An evaluation committee evaluates the tenders received on the basis of the published Exclusion, Selection and Award criteria. Once the outcome of the procedure has been determined all Tenderers shall be informed by means of an Award Notice.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ECHO’s Rules &amp; Procedures for Procurement para 3.5 (a)</strong></td>
<td><strong>Estimated Value of the contract to be awarded determines the level of publication required:</strong></td>
</tr>
<tr>
<td><strong>With Local Publication</strong></td>
<td><strong>Supply &amp; service contracts</strong></td>
</tr>
<tr>
<td><strong>ECHO’s Rules &amp; Procedures for Procurement para 3.3</strong></td>
<td><strong>Between €150,000 &amp; €300,000</strong></td>
</tr>
<tr>
<td>When the estimated value of the contract requires local publication, the Contract Notice must be issued in a periodical published in the country of operation or, if this is not possible, by any other relevant means available.</td>
<td><strong>Time limit for receipt of Tenders = minimum 21 calendar days from the publication of the Contract Notice.</strong></td>
</tr>
<tr>
<td><strong>With International Publication</strong></td>
<td><strong>€300,000 or more</strong></td>
</tr>
<tr>
<td><strong>ECHO’s Rules &amp; Procedures for Procurement para 3.2</strong></td>
<td>When the estimated value of the contract requires international publication, the Contract Notice must be published on a specialised website on the Internet or on the Contracting Authority’s website and simultaneously in a periodical published at least in the country of operation or, if this is not possible, by any other relevant means available.</td>
</tr>
<tr>
<td>Procurement by the Negotiated Procedure</td>
<td>The negotiated procedure requires the Contracting Authority to invite simultaneously and in writing Candidates to negotiate the terms of the procurement contract. The number of Candidates to be invited depends on the estimated value of the contract or on the type of product being procured (e.g. Pharmaceuticals &amp; Medical devices are subject to Special Rules). In any event, the number of Candidates invited should be sufficient to ensure genuine competition in the given circumstances. This procedure starts with a written communication or Invitation to Negotiate (containing the same information as a Contract Notice) is sent to Candidates to inform them of the Contracting Authority’s intention to launch procurement procedures. Once it has received the necessary amount of offers from the Candidates invited, which satisfy the selection criteria, the Contracting Authority may then negotiate the terms with one or more of the Candidates in order to obtain the best value for money possible.</td>
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<tr>
<td><strong>Based on 3 or more bids</strong></td>
<td>When, based on the estimated value of the contract, ECHO's Rules &amp; Procedures for Procurement require the use of the Negotiated Procedure, the number of Candidates invited to negotiate should not be less than 3. If a sufficient number of Candidates to satisfy the selection criteria cannot be found an exception may be made, however, in any event, the number of Candidates invited shall be sufficient to ensure genuine competition.</td>
</tr>
<tr>
<td><strong>ECHO’s Rules &amp; Procedures for Procurement para 3.5 (b)</strong></td>
<td><strong>Between €60,000 &amp; €150,000</strong></td>
</tr>
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</table>
**Based on 2 or more bids**  
Recommended

When the estimated value of the contract is under €60,000, ECHO’s Rules & Procedures for Procurement do not require the use of any particular procedure, however where the value is still substantial (e.g. over €10,000) it is still recommended to use the Negotiated Procedure with at least 2 Candidates in order to try and obtain the best value for money. The aim is to retain some competition while, based on the principle of proportionality, checks on the Exclusion criteria may be relaxed; the documentation used may be simplified and there is no need for a formal evaluation committee.

**Based on 1 bid**  
ECHO’s Rules & Procedures for Procurement para 3.5 (c); 4.2; 4.6 & 4.7

“Single Bid Negotiated Procedure” – In the exceptional cases³ listed below it is possible to award contracts based upon negotiation with a single candidate:

- Urgent Actions (ECHO’s Rules & Procedures for Procurement, para 4.2);
- Use of a Framework Contract (ECHO’s Rules & Procedures for Procurement, para 4.6);
- Purchases from an HPC (ECHO’s Rules & Procedures for Procurement, para 4.7);
- Contracts valued below €10,000 (Based on proportionality principle it would be disproportionate to have more burdensome procurement procedure);
- No suitable tenders/offers in response to an Open Tender or Negotiated Procedure (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 1);
- For technical or operational reasons or for the protection of exclusive rights (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 2);
- For the repetition of services, works or supplies linked to an earlier contract awarded not longer than one year ago (can only be renewed twice on these grounds) (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 3);
- For additional supplies, works and services not included in the initial contract not exceeding 50% of the value of the initial contract (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 4);
- For Property contracts after prospection of the local market (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 5); or
- For particularly advantageous contractual terms (e.g. from supplier winding up business or from the receivers or liquidators of a bankruptcy, an arrangement with creditors etc.) (ECHO’s Rules & Procedures for Procurement, para 3.5 (c), 6).

**Based on Pre-Qualification**  
ECHO’s Rules & Procedures for Procurement para 4.3 (g)

When procuring pharmaceutical products or medical devices the Special Rules in Chapter 4 of ECHO’s Rules & Procedures for Procurement provide an automatic exception to the normal procurement procedures irrespective of the value of the contract to be awarded. In this case the Contracting Authority must launch a Negotiated Procedure by inviting simultaneously and in writing only pre-qualified candidates meeting the set international standards. No minimum number of Candidates to invite is prescribed but whenever feasible the number of Candidates invited to negotiate shall be sufficient to ensure genuine competition.

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³The reasons for all procurement decisions should be documented and since these cases are considered exceptional they should be clearly documented together with proof of any internal authorisations or written instructions within the organisation providing a waiver from the general procurement practices.
Chapter 4. Special Rules

The Special Rules identified in ECHO’s Rules & Procedures for Procurement present particular procedures for procurement in the context of Urgent Actions, Framework Contracts and purchases from HPCs which may be applied by all Contracting Authorities, independent of the Control mechanism applied, even when not foreseen in their procurement procedures. Furthermore, this Chapter develops the relevant provisions which must be applied by the Contracting Authority, again regardless of the applicable Control Mechanism, for the procurement of pharmaceutical products, medical devices and food. Finally, the Special Rules provide the possibility of using pre-established stocks in the implementation of ECHO funded actions.

ECHO’s Humanitarian Aid Guidelines for Procurement offer guidance on the Special Rules and the situations in which they apply.

Urgent Actions

In the framework of Urgent Actions, Contracting Authorities may place their orders, whatever the estimated value of the contract, on the basis of a Single Bid Negotiated Procedure. Even though this simplified procurement applies in cases of Urgent Actions, respect of the Mandatory Principles remains obligatory.

Urgent Actions are those which meet immediate and unforeseeable humanitarian requirements generated by sudden natural or man-made disasters. Actions which have to start immediately and where delays in awarding procurement contracts would put the respect of the principles of humanitarian aid at risk can be considered as Urgent. The concept of urgency cannot be based on circumstances that can be attributed to the Contracting Authority. These Actions must be identified in Article 8.3 of the Agreement as urgent. If not, partners using "A" Control mechanism will have to request derogation from ECHO and Partners falling under the "P" Control mechanism will have to use appropriate derogation mechanisms in their own procurement procedures.

Pharmaceutical products and medical devices

Irrespectively of the value of the contract to be awarded, the procurement of pharmaceutical products shall be made through a Negotiated Procedure with Pre-qualified potential Candidates. This means that the Contracting Authority shall launch a negotiated procedure by inviting simultaneously and in writing only pre-qualified candidates. Whenever feasible, the number of candidates invited shall be sufficient to ensure genuine competition.

In practice this means that if no HPC is used, the Partner must itself ensure that both pre-qualification of the supplier (including the manufacturing site) and of the pharmaceutical product have been carried out based on the methodology and criteria set in ECHO’s Rules & Procedures for Procurement.

When selecting Candidates for Pre-Qualification, Contracting Authorities must: abide by international norms for the procurement of pharmaceutical products; consult the International Drug Prices and ensure that products meet international quality standards, best practice in manufacture (GMP), delivery (GDP) and storage (GSP) as well as patents and national drug regulations. Certain, non-exclusive, product quality standards are also identified which shall give priority to potential Candidates that comply at least with one of them.
**Food Aid**

When the object of the contract is the supply of fresh food and the contract is divided into several lots taking into account the seasonal availability of products, each one of the lots will be considered individually, and not aggregated, in order to establish the applicable procurement threshold applicable under Chapter 3 to actions subject by "A" Control Mechanism.

When procuring Food supplies of a value above €300,000, Humanitarian Organisations, regardless of the Control Mechanism, must always (except in Urgent Actions) engage, a Monitoring Agency responsible for verifying and certifying the quantity, quality, packing and marking of supplies.

**Pre-Established Stocks**

**Framework Contracts**

_ECHO’s Rules & Procedures for Procurement_ define a Framework contract as "a contract concluded between a Contracting Authority and one or several economic operators for the purpose of laying down the essential terms governing a series of specific contracts to be awarded during a given period, in particular as regards the duration, subject, prices, conditions of performance and the quantities envisaged".

For the purposes of calculating the estimated amount of a Framework Contract, the value to be taken into account shall be the maximum value of all the contracts envisaged during the total lifetime of the Framework Contract. Framework contracts can greatly improve the efficiency of the supply chain management of Partners but care must be taken that they are not used in a way so as to prevent, restrict or distort competition - therefore the term of a Framework Contract may not exceed five years.

**Humanitarian Procurement Centres**

_ECHO’s Rules & Procedures for Procurement_ introduces the definition and concept of HPCs and _ECHO’s Humanitarian Aid Guidelines for Procurement_ lists in more detail the requirements for recognising an organisation as an HPC.
HPCs are “not for profit organisations specialised in the technical and commercial management of supplies and services necessary for the implementation of humanitarian Actions. They can provide Technical Assistance in procurement to Contracting Authorities or supply pre-established stocks, purchasing or logistics capacity.”

When a Partner wishes to award a contract to an HPC, the Partner does not have to conduct an in-depth analysis of the functioning of an HPC and may place orders with an HPC recognised by DG ECHO on the basis of a **negotiated procedure with a single tender**. DG ECHO conducts an analysis of organisations wishing to be recognised as HPCs prior to their recognition. HPCs undertake to observe certain commitments (e.g. quality, fair pricing and equal treatment) outlined in the **HPC Charter**, however, there is no contractual relation between the European Commission and the HPC, so the validation of an organisation as an HPC does not constitute an assurance with respect to the quality of products and services.

A **Register of recognised HPCs** is available on [DG ECHO’s website](https://www.echo.europa.eu) which includes those HPCs recognised by DG ECHO together with a brief overview of the supplies or services which they stock or supply. Where appropriate, the Partner shall mention in the final report the award of a contract to an HPC and mention this at planning stage in Annex A of the Single Form ("A" control mechanism only). Expenses incurred by the Partners for purchases of goods and services from HPCs are direct costs of the Action provided that the invoice issued by the HPC refers to the DG ECHO Action involved.

**Chapter 5. Final Provisions – Derogations & Sanctions**

Any departure from the General Rules and Procedures established in Chapter 3 by a Partner subject to an "A" Control mechanism is subject to written approval from DG ECHO and must be founded on one of the grounds set in [ECHO’s Rules & Procedures for Procurement](https://www.echo.europa.eu). In the case of Partners under a "P" Control mechanism or HPCs they should ensure that their own procurement procedures provide clear rules on when an exemption to their normal rules may be justified. For Urgent actions an exemption from the general rules is automatically granted (see Special Rules) so no formal request for derogation need be submitted to DG ECHO.

In the event of breach of the Mandatory Principles, and when applicable, of [ECHO’s Rules & Procedures for Procurement](https://www.echo.europa.eu), the European Commission reserves the right to terminate with immediate effect the Agreement signed with the Contracting Authority and to consider any expenditure incurred by the Contracting Authority related to the contracts in question not eligible for EU financing. This is without prejudice to the adoption of financial and administrative sanctions in accordance with the relevant provisions of the [EU’s Financial Regulation](https://ec.europa.eu) and its [Implementing Rules](https://ec.europa.eu).

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