

OPERATING POLICIES AND PROCEDURES

Chapter 5

Procurement Policy and Guidelines

1 September 2013

1. Background

- 1.1 The PIDG Members provide finance, indirectly, to private entities specially designed and established to implement PIDG's strategies to boost economic growth and combat poverty.
- 1.2 The PIDG Members are accountable for the way they utilise their funds and are therefore responsible for, among other things, ensuring that works, supplies and services that are procured with their funds are done so in a way that is transparent and fair, without discrimination and which seeks to obtain best value for money.
- 1.3 Because the funding made available by PIDG Members is channelled through a separate entity (the PIDG Trust), set up under private law, and deployed by private entities their activities are not covered by any public or administrative law or the rules of any treaty based organisation.
- 1.4 Mindful of their accountability and obligations to obtain best value for money in a transparent and fair way the PIDG Members require that those entities that the PIDG has established or funds (for example AgDevCo) comply substantially and in the spirit of laws and procedures which are generally recognised and accepted for the purposes of regulating public procurement activities.
- 1.5 The PIDG Procurement Policy and Guidelines reflects the PIDG's commitment to fair practices through an open and competitive process that is fair and transparent.

2. Policy

- 2.1 The PIDG Procurement Policy is for PIDG Participants to comply with EU law (principally the Directive 2004/18/EC on the coordination of procedures for the award of public works contracts public supply contracts and public service contracts (the "Directive")) regarding public procurement as though they are 'contracting authorities' as referred to in the Directive, but to permit some limited and exceptional flexibility in the application of these laws to avoid prejudicing the commercial operation of the businesses, but always in a way which complies with the core principles of best practice as recorded in the Treaty for the Functioning of European Union ("Permitted Deviation").

3. Guidelines

3.1 Ethics - PIDG Participants shall conduct their procurement activities in accordance with the Code which in summary means in a manner that is above reproach with complete impartiality and with no bias or preferential treatment.

3.2 Competition – advertising the opportunity - In general, in most cases, PIDG Participants are required to hold a competitive exercise in order to achieve best value for money in a transparent way. In order to do so (and depending on the value of the procurement) the procurement must be advertised in appropriate media (at EU level in the [Official Journal of the European Union](#) (OJEU)) and follow specified procedures for selecting candidates and awarding contracts. Even where under EU law particular procurements fall outside its application or are subject to less rigorous procedural requirements, the core principles of EU law should be applied to ensure that the award process is suitably transparent and conforms to the principles of equal treatment and non-discrimination.

3.3 Contract Thresholds

3.3.1 EU thresholds

Depending on the value of the contract to be awarded to a provider of services (or goods or works) different rules apply to the way in which they are procured.

The applicable thresholds of value above which the EU Directives apply are changed from time to time accordingly PIDG Participants are responsible for keeping up to-date.

PIDG Participants shall apply the thresholds prescribed pursuant to the Directive applicable to non-central government authorities (the higher thresholds) as prevailing from time to time.

3.3.2 Below EU thresholds

< USD 75,000

For services and/or supplies where the value, exclusive of VAT, is below USD75,000 a competitive exercise should be carried out where it is sensible in terms of proportionality of time, cost and benefit. Such an exercise may be advertised in any appropriate media or may be by inviting specific candidates to submit proposals/bids. Where a competition is carried out at least three candidates should be invited to take part in the exercise if possible and providing the PIDG Participant is reasonably confident the candidates are capable performing the required services.

> USD 75,000

For Services where the value, exclusive of VAT, is above USD75,000, but below the EU threshold, a competitive exercise must be carried out. Such an exercise must be advertised on the PIDG and PIDG Facility websites and in appropriate media.

3.4 Permitted Deviations

- 3.4.1 *Time Limits*- EU law (see in particular Article 38 of the Directive) on public procurement provides for certain minimum time limits for advertising and the receipt of requests to participate in a procurement exercise and to submit tenders. In certain cases it may be appropriate for PIDG Participants to shorten the time limits provided that after due consideration the deviation is considered appropriate in terms of achieving best value for money and still complies with the core principles of fairness, equal treatment, non-discrimination and transparency. This shall be at the discretion of the PIDG Facility's Board.
- 3.4.2 *Extension of Contracts* - In exceptional circumstances, the PIDG Members funding a Facility may consent to the extension of a management contract or that Facility where such extension has not been provided for in the original contract.
- 3.4.3 *Reports* - The Directive requires certain reports to be submitted to the EU Commission (see Article 35 of the Directive). PIDG Participants do not have to submit such reports.