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**MANAGEMENT OF THE LEGAL PROCESS NECESSARY  
FOR CONTRACTING OF PUBLIC WORKS**

**Comparative analysis between Spain and Hungary**

**Diploma Project**

**BSc Construction Management**

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ESCUELA TÉCNICA SUPERIOR  
INGENIERÍA DE  
EDIFICACIÓN



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\*NPWC: Not Public Works Concession / PWC: Public Works Concession





## **I. Abstract**

In this project I pretended to do a detailed analysis of the legal process necessary for contracting of public works, in (Spain) and Budapest (Hungary). Mentioned analysis I used to develop a guideline of legal steps that must be followed in order to hire a building contractor to start a project.

To make the above, I had to study both laws. During this study I have focused particularly on the Spanish Public Sector Contracts Law due to project requirements. As for the Hungarian law I have read and have extracted some differences, although due to the two was under European directives, are more similarities than differences between the two.

Contracts with public administrations in both countries are basically divided into those that are subject to directives of the European Union and those who are not, these differ essentially budget thresholds.

The processes outlined in the first paragraph that are schematized in Annex, are the procedures to be followed for the award of a public contract. In Spain there are four procedures, two regular and two extraordinary, and depending on the type of contract, the terms of this or the budget allocated to it, one procedure or another will be chosen.

### **1. Motivation**

The theme of the project was motivated by the tutor of the host university. With this project he intended that the author of the project to learn and develop recruitment procedures of the public sector, both in Spain and in Hungary.

### **2. Objectives**

The objectives to achieve with the project are set out below:

- Know the protocol for contracting at the Local Public Administration for a new public building in Budapest (Hungary).
- Know the protocol for contracting at the Local Public Administration for a new public building in Valencia (Spain).
- Understanding the steps required to manage the contracting of a building contractor for a public works.
- Analyze both protocols for contracting of different Public Administrations.



## **II. Protocol of contracting in Spanish public administration**

Contractor selection and award process of contracts in the Spanish public administration is developed according to Royal Legislative Decree 3/2011, of 14 November, approving the Codified Text of the Public Sector Contracts Law.

This law provides two main groups of contracts, those who are subject to the specific standard of the European Union called Community Contracts Directive (Directive 2004/18/CE), dedicated to regulate this area, and those not. Public contracts subject to this rule called "Contracts subject to harmonised regulation". However, not all contracts concluded by public sector are subject to the same standard. There are subjective requirements, of amount and objectives.

### **Subjective requirements**

Only contracts concluded by contracting authorities can be Contracts subject to harmonised regulation. No matter whether or not the public administration or are they private, or are administrative contracts. The important thing is that they are contracting authorities.

### **Objectives requirements**

They can only be Contracts subject to harmonised regulation the following contracts covered in the Revised Text of the Public Sector Contracts Law:

- Building contracts.
- Public works concession contracts.
- Supply contracts.
- Service contracts.
- Contracts for collaboration between the public sector and the private sector.

### **Requirements amount**

To be Contracts subject to harmonised regulation:

- Building contracts and Public works concession contracts should be of an estimated value equal or superior to 5.186.000 euros.





- Supply contracts and Service contracts should be of an estimated value equal or superior to 134.000 euros if it is the State Public Sector or 207.000 euros if it is of the Regional or Local Public Sector.
- Contracts for collaboration between the public sector and the private sector are always contracts subject to harmonised regulation irrespective of their amount.

### **The Contracting Authorities**

- a) The public administration
- b) Bodies or entities with legal personality which meet the following requirements:
  - Have been created to meet needs in the general interest that have not an industrial or commercial character.
  - A contracting authority financed by more than 50 percent activity or checked their management or assigned to more than half of the members of its board, supervision or control.
- c) Associations, private law, established by the authorities, agencies or entities that are contracting authorities.

## **1. General rules**

### **1.1. Directives provisions**

The award shall be made, ordinarily, using the open procedure or the restricted procedure, and extraordinarily, using the negotiated procedure and the competitive dialogue. Small contracts amounting to less than 50.000 euros may be directly awarded to any entrepreneur with legal capacity and professional qualifications required.

Tenderers and candidates have equal treatment and non-discriminatory and will adjust their actions to the principle of transparency.

Contracting authorities may not divulge the information provided by entrepreneurs. The contractor shall respect the confidential nature of the information to which it has access during contract performance. This must be maintained for a period of five years from the knowledge of such information, unless the specifications or contract establish a longer term.

### **1.2. Advertising**

The prior notification shall be affected in building contracts which they intend to award over the following twelve months, whose estimated value is equal to or greater than 5.186 million



euros. Notices shall be published in the « Official Journal of the European Union » or in the contractor profile of the contracting authority. These will be sent as soon as possible, once taken the decision by authorizing the program in which is contemplated the conclusion of the relevant contracts.

The procedures for the award of public administrations should be announced in the «Official State Bulletin». However, in the case of contracts of the Autonomous Communities may be replaced advertising in the «Official State Bulletin» by which is carried in newspapers or regional or provincial gazettes. The contracts are subject to harmonized regulation must be published in the « Official Journal of the European Union ». When the contracting authority considers appropriate, procedures for the award of works contracts not subject to harmonized regulation will be announced in the « Official Journal of the European Union ». The dispatch of the notice to « Official Journal of the European Union » must precede any other advertising. Invitations to tender will be posted on the contractor profile of the contracting authority. In negotiated procedures this advertising may replace to the « Official State Bulletin » or in the regional or provincial official gazettes.

### **1.3. Tender**

#### Deadlines for submission of requests to participate and proposals

Contracting authorities shall set limits for receipt of tenders or requests to participate taking into account the time reasonably necessary to prepare those, and respecting, the time limits set out in this Law.

#### Reduction of time in case of urgent processing

If the contract dossier was declared urgent processing, the terms stated above will be reduced.

#### Propositions stakeholders

1. The proposals of the interested parties shall comply with the provisions of specific administrative clauses, and presentation implies the unconditional acceptance by the entrepreneur the contents of all such clauses, without exception or reservation.
2. Proposals shall be secret without prejudice as to the information to be provided to participants in an electronic auction or a competitive dialogue.



3. Tenderers may not submit more than one proposal, without prejudice on admissibility of variants or improvements and on presentation of new prices or values within an electronic auction. There can be a proposal in temporary union with others if you got it individually or included in more than one temporary union. Violation of these rules will result in the dismissal of all proposals by him subscribed.

4. In contracts for public works concession, the presentation of different propositions for related companies lead to the exclusion from the award procedure. However, if linking supervenes before the closing date for submission of tenders, or the deadline for submitting nominations under the restricted procedure, may subsist the offer that determine by mutual agreement the companies mentioned.

5. The proposition must be indicated as a separate item, the amount of value added tax that must be passed.

#### Submission of documentation of compliance with prerequisites

1. The proposals in the open procedure and requests to participate in restricted and negotiated procedures and the competitive dialogue must be accompanied by the following documents:

- a) Evidencing the legal status of the employer and, where appropriate, their representation.
- b) The certifying the status of the company or justify the requirements of economic, financial and technical or professional ability.
- c) A statement of responsibility has not incurred on prohibition of hiring. This statement will include the demonstration of being up to the fulfilment of tax obligations and with Social Security imposed by existing provisions.
- d) Where appropriate, an e-mail that gives the notices.
- e) For foreign companies, in cases where the contract is to be executed in Spain, statement submitted to the jurisdiction of the courts and tribunals of any order, to the issues that directly or indirectly might arise of the contract, with a waiver, where appropriate, the foreign jurisdiction that may correspond to the bidder.



2. When under this Law with the presentation of necessary documents this will be reflected in the specifications administrative clauses or in the descriptive document and the corresponding procurement notice.

3. When the accreditation of the circumstances referred to in points a) and b) of headland 1 certification is performed by an Official Register of Tenderers and Classified Companies, or by a community classification certificate, must be accompanied by the same a statement by the tenderer in expressing the circumstances reflected in the certificate have remained unchanged.

The certificate of the Official Register of Tenderers and Classified Companies may be issued electronically, unless otherwise provided in the specifications or in the announcement of the contract.

4. The contracting authority may provide in the specific administrative clauses that the initial contribution of the documentation provided for in paragraph 1 is replaced by a declaration by the tenderer stating that meets the conditions set by law for contract with the Administration. In this case, the tenderer that gets the award proposal, must prove to the contracting authority, prior to contract award, the possession and validity of documents required. In any case it will suffice to present declaration in works contracts with estimated value of less than 1,000,000 euros and of supplies and Services with estimated value of less than 90,000 euros.

5. The decisive moment to appreciate the concurrence of capacity requirements and solvency requirements for contract with the Administration be the end of the period for submission of proposals.

#### Admissibility of variants or improvements

1. When the award for criteria other than price must be considered, the contracting authority may take into consideration variants or improvements that provide tenderers.

2. The possibility that tenderers offer variations or improvements be indicated in the invitation to tender of contract specifying on what elements and under what conditions is authorized his presentation.

3. In the procedures for awarding supply or service, contracting authorities that have been authorized to submit variants or improvements cannot reject one of them for the sole reason



that, if successful, would result in a service contract instead of a supply contract or a supply contract instead of a service contract.

#### Electronic auction

1. For the purposes of contract award may hold an electronic auction, articulated as an iterative process, which occurs after an initial full evaluation of offers, for submission of price improvements or new values concerning to certain aspects of the offers that will improve as a whole, involving an electronic device that allows the classification through automatic evaluation methods.
2. The electronic auction may be used in open procedures, in the restricted and negotiated, provided that the contract specifications to be awarded can be determined with precision.
3. The electronic auction shall be based on variations relating to the price or value of the items of the offer that are quantifiable and susceptible to be expressed in figures or percentages.
4. Contracting authorities who choose to access an electronic auction shall indicate it in the invitation to tender and include in the specification the following information:
  - a) The values for which refers electronic auction;
  - b) The limits on the values which may be submitted, as resulting from the specifications the subjects of contracts;
  - c) The information available to tenderers during the electronic auction and the time will be provided;
  - d) The way in which the auction is held;
  - e) The conditions in which tenderers can bid, and in particular the minimum improvements that will be required for each bid;
  - f) The electronic equipment used and the arrangements and technical specifications for connection.
5. Before proceeding with an electronic auction, the contracting authority shall make a full initial evaluation of the offers in accordance with the award criteria and then be invited simultaneously, by electronic, computer or telematics; to all tenderers that have submitted



admissible tenders to submit new prices revised downward or new values to improve the offer.

6. The invitation shall contain all relevant information concerning individual connection to the electronic equipment used and specify the date and time of start of the electronic auction.

Also it is indicated in the mathematical formula to be used for automatic reclassification of the offers based on the new prices or new values submitted. In the event that authorized to submit variants or improvements, different formulas will be provided for each, if this is appropriate.

When awarding the contract to be taken into account a number of criteria, the invitation will include the results of the evaluation of the tender submitted by the tenderer.

7. Between the date of dispatch of invitations and the start of the electronic auction have to pass at least two working days.

8. The electronic auction may take place in several successive phases.

9. During each phase increment will communicate to tenderers the information to enable them to ascertain their relative rankings at any time. In addition, may provide further information relating to prices or values submitted by the other tenderers, always that that is stated in the specifications, and announced the number of people who are participating in the corresponding phase of the auction, in no case be disclosed its identity.

10. The close of the auction is determined by reference to one or more of the following criteria:

a) By marking a specific date and time, which should be indicated in the invitation to participate in the auction.

b) Considering the lack of presentation of new prices or new values which meet the requirements in relation to the formulation of minimum improvements.

c) On finalization of the number of stages set in the invitation to participate in the auction.

11. After closing an electronic auction, the contract will be awarded based on the results.

Succession in the process



If during the pendency of proceedings and prior to award occurred the extinction of the legal personality of tendering company or candidate fusion, cleavage or the transfer of your business patrimony, succeed him in his position in the process of absorbing companies, resulting from the fusion, beneficiary of the split or acquirers of patrimony or the relevant branch of activity, provided that it meets the conditions of capacity and lack of prohibitions against contracting and prove their solvency and ranking in the conditions required in the statement of administrative clauses to participate in the award procedure.

#### **1.4. Selection of the successful tenderer**

##### Criteria for evaluating offers

1. For the evaluation of the proposals and determining the most economically advantageous tender shall be criteria directly related to the subject of the contract, such as quality, price, usable formula for reviewing remuneration linked to the use of the work or to service delivery, the execution time or delivery of the benefit, the cost of using, environmental characteristics or related to the satisfaction of social needs that respond to needs, defined in the specifications of the contract, own categories of population, especially those belonging to disadvantaged users or recipients of benefits to hire, profitability, technical merit, aesthetic characteristics or functional, the availability and cost of spare parts, maintenance, technical assistance, after sales service or similar. When only one award criterion is used, this will be the lowest price.

2. The criteria to form the basis for the award of the contract shall be determined by the contracting authority and will be detailed in the notice, in specific administrative clauses or in the descriptive document.

When in a tender to be followed by an open or restricted procedure attributed to the assessable criteria automatically by applying formulas a lower weighting to the relevant criteria which quantification depends on a value judgment, shall constitute a committee that has a minimum of three members, formed by experts in the non-integrated contract proposing body and with appropriate qualifications, to which shall conduct the evaluation offers under the latter criteria, or entrust this assessment to a specialized technical agency, duly identified in the specifications.

3. The valuation of more than one criterion shall proceed in the award of the following contracts:



- a) Those whose projects and budgets have not been previously established and must be submitted by the tenderers.
- b) When the contracting authority considers that the definition of the benefit is susceptible to be improved by other technical solutions.
- c) Those for whose implementation facilitates authority, contracting agency or entity materials or auxiliaries whose proper use requires special guarantees from contractors.
- d) Those requiring the use of advanced technology or whose implementation is particularly complex.
- e) Contract management utilities.
- f) Supply contracts.
- g) Service contracts.
- h) Contracts whose performance could have a significant impact on the environment, whose award valued measurable environmental conditions.

4. When you take into account more than one criterion, must specify the relative weighting given to each, which can be expressed by providing for a range with appropriate amplitude.

Where it is not possible to weight the criteria chosen, they shall be listed in descending order of importance.

5. The criteria selected and their weighting shall be indicated in the contract notice, if it should be published.

6. The specifications or contract may establish penalties or attributed to the strict observance of these features the character of essential contractual obligation.

#### Ranking offers, contract award and notification of award

1. The contracting authority shall classify, descending order, the proposals submitted and which have not been declared disproportionate or abnormal as stated in the following article. To obtain this classification, will consider the award criteria stated in the specifications or in the notice and may request technical reports for few it deems appropriate. When the only criterion to consider is the price, it is understood that the most economically advantageous tender is the lowest price.





2. The contracting authority may require the tenderer which has submitted the most economically advantageous tender for, within ten working days, counting from the day following that on which he had received the request, present the supporting evidence of being up to in complying with their tax obligations and with the Social Security or authorize the contracting authority to obtain directly the accreditation of this, effectively dispose of the media that had committed to dedicate or ascribe to contract execution and proving that the final guarantee as is appropriate. Relevant certificates may be issued by electronic, computer or telematics means, unless otherwise stated in the specifications.

The regional rules of this Law may provide for a longer term under this paragraph, without exceeding the twenty working days. If not properly completed the requirements within the prescribed period, be deemed that the tenderer has withdrawn its offer, then proceeding to seek the same documents the next tenderer, by the order in which they have been classified Offers.

3. The contracting authority shall award the contract within five working days of receipt of the documentation. In negotiated procedures and competitive dialogue, award shall set the final terms of the contract.

May not be declared void a tender whenever there is an offer that is permissible according to the criteria stated in the specifications.

4. The award must be justified, will notify the candidates or tenderers and be published on the Contractor Profile.

The notification shall contain sufficient information to enable the tenderer excluded or discarded candidate appeal against the decision to award.

In particular expressed the following points:

a) Regarding unsuccessful candidate, the summary statement of the reasons for that rejection of his application.

b) In respect of unsuccessful tenderers of the award procedure, also the reasons why you have not accepted your offer.

c) In any case, the name of the successful, the features and benefits of the proposal of the tenderer determinants that has been selected to supply this. The notification and Contractor's profile the term indicate that it should proceed to the formalization.



Notification will be made by any of the means by which to record its receipt by the addressee. However, the period for notification will be considered rejected five days.

#### Offers with abnormal values or disproportionate

1. When the only objectively assessable criteria is the price, character disproportionate or abnormal of tenders will be appreciated according to objective criteria established by regulation, by reference to the set of valid offers have been submitted.
2. When the award should be considered more of one criterion, may be expressed in the specifications objective parameters on the basis of which it will be appreciated that the proposition cannot be fulfilled due to the inclusion of abnormal values or disproportionate. If the price offered is an objective criterion to provide a basis for the award, may be indicated in the specification limits from which to judge the proposition cannot be fulfilled due to the inclusion of abnormal values or disproportionate.
3. When a proposition that would be considered disproportionate or abnormal is identified, hearing shall be given to the tenderer which has submitted to justify the valuation of the offer and sets out the conditions thereof. In the process must be sought technical advice from the relevant service.
4. If the contracting authority considers that the offer cannot be fulfilled due to the inclusion of abnormal values or disproportionate, excluded from the classification and awarded in favor of the proposition economically advantageous, according to the order in which they have been classified.

### **1.5. Obligation of information on the result of the proceeding**

#### Information not publishable

The contracting authority may withhold certain information relating to the award where it considers that the disclosure of such information may hinder the application of a rule, be contrary to the public interest or prejudice legitimate commercial interests of public or private companies or fair competition between them, or in the case of contracts declared secret or reserved or whose performance must be accompanied by special security measures accordance with current legislation, or when required to protect the essential security interests of the State.



#### Advertising of formalize contracts.

1. The formalization of contracts with a value equal to or greater than the amounts indicated paragraph 1.1. be published on the Contractor Profile of the contracting authority indicating the same data mentioned in the notice of award.

2. When the amount of the contract is equal to or greater than 100,000 euros or when the budget preopening expenses is equal to or greater than this amount or term of more than five years, should be published, in the « Official State Bulletin » or Journals or the respective Official Gazettes of the Autonomous Regions or Provinces, an advertisement in which he realizes such formalization, within a period not exceeding forty-eight days counting from the date thereof.

In the case of contracts subject to harmonized regulation the notice shall be sent, within the period specified in the preceding paragraph, to the « Official Journal of the European Union » and published in the « Official State Bulletin ».

3. In the case of service contracts with a value equal to or greater than 207,000 euros, the contracting authority communicate the award to the European Commission, indicating if estimated appropriate their publication.

4. The contracting authority may not publish certain information on the award and formation of the contract, duly justifying it on the record.

#### Waiver of the contract is concluded and withdrawal of the award procedure for the Administration

1. In the case where the contracting authority to conclude a contract resigns for which he made the corresponding call, or decides to restart the procedure for adjudication, it shall notify candidates or tenderers , also inform the European Commission of this decision when the contract was announced in the « Official Journal of the European Union ».

2. The waiver of the contract is concluded or withdrawal of the award procedure only be agreed by the contracting authority before the award. In both cases the candidates or tenderers will be compensated for the expenses they had incurred, as provided in the notice or in the specifications, or in accordance with the general principles that govern the responsibility of Administration.



3. Can be waived only to the contract is concluded for reasons of public interest duly justified in the record. In this case, a new notice of its object cannot be promoted while persist the reasons given to justify the waiver.

4. The withdrawal of proceedings should be based on an unrectifiable breach of the rules of contract preparation or of regulatory award procedure, must be justified on the record the occurrence of the cause. The withdrawal will not prevent the immediate start of a new tender procedure.

### **1.6. Formalization of the contract**

1. The contracts concluded for public authorities should be formalized in an administrative document that conforms exactly to the conditions of the tender, constituting said document sufficient title to access any public record. However, the contractor may request that the contract be raised to public deed.

2. In the case of smaller contracts as defined in paragraph 1.1. processing the case only require the approval of expenditure and the addition thereto of the corresponding invoice.

3. If the contract is subject to particular resource procurement, formalization may not be made later than fifteen working days since the notification of award is sent to the tenderers and candidates. The Autonomous Communities may increase this term, but not exceeding one month.

The contracting authority shall require to the successful tenderer to formalize the contract within no more than five days counting from the following that in which it had received the requirement.

In the remaining cases, formation of the contract must be made no later than fifteen working days following that in which the notice of award is received to tenderers and candidates.

4. When cases are attributable to the successful tenderer had not formalized the contract within the period specified, administration may agree the seizure on the final guarantee of the amount of provisional guarantee.

If the causes of formalization not be ascribed to the Administration, the contractor for any damages will be compensated and damages that you may cause delay.



5. You cannot start execution of the contract without prior formalization, except in emergency handling.

## **2. Procedures**

### **2.1. Ordinary procedures**

#### **2.1.1. Opened procedure**

In the process open all interested contractors may submit a proposal, to the exclusion of any negotiation of contract terms with the tenderers.

1. When has not been provided access electronic, computer or electronic means to be the specifications and any supplementary documents, these are sent to the concerned within six days after receipt of a request, provided the same has been submitted, before the deadline for submission of tenders expires.

2. The additional information requested should be provided six days before the deadline for receipt of tenders, provided the same has been submitted, before the contracting authority has indicated in the specifications.

3. When although requested in due time, have not been provided within the time limits, deadlines for receipt of tenders shall be extended so that all affected stakeholders to become acquainted with all the information needed to produce tenders.

#### Deadlines for submission of proposals

1. In procedures for the award of contracts subject to harmonized regulation, the deadline for submission of tenders not less than fifty-two days from the date of dispatch of the contract notice to the European Commission. This period may be shortened by five days when electronic access is offered to the specifications and additional documents.

If it were sent the pre-announcement, the deadline for submission of tenders may be reduced to thirty-six days or in exceptional cases, to twenty days. This reduction is permissible only within when the previous announcement had been submitted for publication before the fifty-two days and within the twelve months preceding the date of dispatch of notice.

The limits referred to in the two preceding paragraphs may be reduced in seven days when notices are drawn up and transmitted by electronic, computerized or telematics. This reduction may be added to the five days provided in the final paragraph of the first paragraph.



In these procedures, publication of the notice in the « Official State Bulletin » must be made with at least equivalent to the deadline for submission of proposals in the following section.

2. In contracts of government which are not subject to harmonized regulation, the deadline for submission of tenders will not be less than fifteen days, from the publication of the contract notice. In contracts for building and public works concession, the period shall be twenty-six days.

#### Consideration of proposals and award proposal

1. The competent organ for the assessment of proposals previously qualifies documentation, which must be submitted by tenderers in a separate envelope to the proposition. Later proceed to the opening and consideration of proposals, formulating the corresponding award proposal to the contracting authority, after careful balancing the criteria that should be applied to make the selection of the successful tenderer. The open the proposals shall be made within a maximum period of one month from the date of expiry of the deadline for submission of tenders.

When for the assessment of proposals have taken into account criteria other than price, the competent authority for it may request all technical reports deemed precise.

2. The award proposal does not create any right in favor of the proposed tenderer front the Administration. However, when the contracting authority shall not award the contract in accordance with the proposal must justify its decision.

#### Adjudication

1. When you consider only criterion to select the winner of the contract is that the price, the award must fall within the maximum period of fifteen days counting from the day after opening the bids.

2. When for the award of the contract must be considered other criteria, the deadline for making the award shall be two months counting from the open the proposals.

3. The time periods in the preceding paragraphs will be extended to fifteen working days when necessary to follow the procedures deals with abnormal values or disproportionate.

4. The award not occurs within the prescribed period, tenderers will be entitled to withdraw his proposal.



### **2.1.2. Restricted procedure**

In restricted proceedings may submit proposals employers who are selected by the contracting authority. In this procedure all negotiating the terms of the contract shall be prohibited with applicants or candidates.

1. Prior to the announcement of the tender, the contracting authority shall be established objective criteria solvency.

- Proof of economic and financial solvency.

- Technical solvency in works contracts.

- Technical solvency in supply contracts.

- Technical or professional solvency in service contracts.

- Technical or professional solvency in the remaining contracts.

2. The contracting authority shall indicate the minimum number of entrepreneurs to those invited to participate in the proceedings, which may not be less than five. Anyway, the number of candidates invited shall be sufficient to ensure effective competition.

3. The criteria or objective and non-discriminatory rules under which it will select the candidates will be indicated in the contract notice.

#### Requests to participate

1. In the award of contracts subject to harmonized regulation, the deadline for receipt of requests to participate may not be less than thirty-seven days, from the date of sending the notice to « Official Journal of the European Union ». If concession contracts for public works, his period may not be less than fifty-two days. This period may be reduced by seven days when advertisements sent by electronic, computer and telematics.

2. If contracts are not subject to harmonized regulation, the deadline for the submission of requests to participate shall ten days, after publication of the announcement.

3. Requests to participate must be accompanied by documentation referred to in paragraph "1.3." about minimum requirements documentation.

#### Selection of Applicants



1. The contracting authority, after verifying the character and solvency of applicants, will select to those who must move to the next phase, to which will be invited to submit their proposals within the time limit appropriate as stated below in paragraph propositions.

2. The number of candidates invited to tender must be equal at minimum that would have previously fixed. When the number of candidates meeting the selection criteria is less than the minimum number, the contracting authority may continue the procedure with who meet the required conditions.

#### Content of invitations and information to guests

1. The invitations contain a reference to the contract notice published and indicate the deadline for receipt of tenders, the address must be sent and the language in which they must be written, the contract award criteria that will be considered and with their relative weighting or decreasing order of importance to them, and where, date and time of opening of tenders.

2. The invitation to the candidates shall include a copy of the statements and copies of additional documents, or contain the necessary instructions to allow access to these documents.

3. When additional sheets or documentation, held by an entity or body other than that handles the procedure, the invitation shall state the way in which these documents can be requested and the deadline for this, as well as the amount and terms of payment of the amount to be paid. The competent department shall send that documentation to interested parties upon receipt of your request.

4. The contracting authorities or competent departments shall provide, within six days prior to the deadline for receipt of tenders, supplementary information on the specifications or additional documents who are requested in due time for the candidates.

5. When, the specifications and additional documents, despite being requested in due time, have not been provided within the time limits, deadlines for receipt of tenders shall be extended so that all affected stakeholders to become acquainted with all the information needed to produce tenders.

#### Propositions

1. The deadline for receipt of tender procedures relating to contracts subject to harmonized regulation may not be less than forty days, counted from the date of dispatch of the written





invitation. This period may be reduced by five days when access is available by electronic, computer and telematics to the specifications and additional documents.

If it were sent the pre-announcement, the period may be reduced to thirty-six days or, in exceptional and duly justified cases, until twenty-two days. This reduction of the term is permissible only if the prior information notice is dispatched for publication before the fifty-two days and after the twelve months preceding the date of dispatch of invitation to tender, provided that he would have included all the information required for this.

2. In proceedings relating to contracts not subject to harmonized regulation, the deadline for submission of bids shall not be less than fifteen days, from the date of dispatch of the invitation.

#### Award decision

In awarding the contract shall apply provided for in the open procedure on the review of proposals and award, except as regards the need to pre-qualify the documentation.

## **2.2. Extraordinary procedures**

### **2.2.1. Negotiated procedure**

In the negotiated procedure the award shall be the tenderer justifiably chosen by the contracting authority, after consultation with various candidates and negotiate the terms of contract with one or more of them.

The negotiated procedure shall be subject to prior publication in the cases provided for in paragraph "invitation to tender" which is found below, in which the submission of tenders in competition will be possible for all interested contractors. In the remaining cases, not necessary to publicize the procedure.

#### **Cases of application**

##### - General cases

In the terms established for each type of contract in the following items, contracts concluded between public authorities may be awarded by negotiated procedure in the following cases:

a) When economic propositions in open procedures, restricted or competitive dialogue followed previously are irregular or unacceptable for being filed devoid fitness entrepreneurs,



or failure offers legal obligations relating to taxes, environmental protection and working conditions, for violating the conditions for the submission of variants or improvements, or for including abnormal values or disproportionate, provided that the original terms of the contract are not substantially altered.

b) In exceptional cases, in the case of contracts in which, by reason of its characteristics or of the risks posed, cannot be predetermined global price.

c) When, after having followed an open or restricted procedure, has not made any offer or candidature, or offers are not appropriate, provided that the initial terms of the contract are not substantially altered.

d) When, by technical or artistic or for reasons connected with protection of exclusive rights contract only be carried out by a particular contractor.

e) When an urgency demanded early implementation of the contract which cannot be achieved by the application of urgent processing.

f) When the contract was declared secret or confidential, or when their performance must be accompanied by special security measures in accordance with current legislation, or when required by the protection of the essential security interests of the State and so is declared in accordance.

g) In the case of contracts falling within the scope of the Treaty on the Functioning of the European Union.

#### - Building contracts.

In addition to the above cases, the building contracts may be awarded by negotiated procedure in the following cases:

a) When the works are performed solely for research purposes and not for the purpose of ensuring profitability or recovering research costs or development.

b) In the case of additional works not included in the project or in the contract and whose execution is entrusted to the contractor of the main work in accordance with rates which apply to the original contract and the cumulative amount of additional works not exceed 50 percent of the original contract amount.



c) When works consisting in the repetition of similar awarded by open or restricted procedure to the contractor by the contracting authority, and that the possibility of using this procedure is indicated in the notice of the original contract and that the amount of new works has been computed by fixing the amount of the contract.

You can only use this procedure for a period of three years, from the conclusion of the original contract.

d) In any case, when the estimated value is less than one million euros.

- Contract management public services.

In addition to the general cases, may be exercised to the negotiated procedure for award contracts management of public services in the following cases:

a) In the case of public services for which it is not possible to promote competition in the offer.

b) The service management whose budget of preopening expenses is expected less than 500,000 euros and term of less than five years.

c) Those relating to the provision of concerted health care by outsiders, derivatives of a collaboration agreement between the Public Administrations or a framework contract.

- Supply contracts.

In addition to the general cases, Supply contracts may be awarded by negotiated procedure in the following cases:

a) In the case of the acquisition of movable property forming part of the Spanish Historical Heritage, Valuation and Export of Spanish Historical Heritage Assets or agency recognized for the purpose of the Autonomous Communities, and intended for museums, files or libraries.

b) When products are manufactured purely for research purposes, experiment, study or development.

c) In the case of additional deliveries by the original supplier that constitute a partial replacement of normal supplies or installations in common use, or an extension of existing supplies or installations, if the change of supplier would compel the contracting authority to acquire material having different technical characteristics, leading to incompatibilities or technical difficulties in operation and maintenance disproportionate.



d) In the case of the acquisition on organized markets or commodity exchanges supplies listed on the same.

e) When it try to supply concerted on particularly advantageous terms with a supplier whose service terminates in their business activities, or administrators a contest, or through a settlement agreement or a method of the same nature.

f) In any case, when the estimated value of less than 100,000 euros.

#### - Service contracts.

In addition to the general cases, service contracts may be awarded by negotiated procedure in the following cases:

a) When due to the characteristics of the provision is not possible to establish the conditions with the necessary precision for assigning it open or restricted procedure.

b) In the case of services not included in the project or in the contract and whose execution is entrusted to the employer that the main contract was awarded in accordance with the prices which apply to this, and the aggregate amount of additional services does not exceed 50 percent of the original contract amount.

c) When services consisting in the repetition of similar awarded by open or restricted procedure to the contractor by the contracting authority and that the possibility of using this procedure is indicated in the notice of the original contract and that the amount of new services has been computed by fixing the amount of the contract.

You can only use this procedure for a period of three years, from the conclusion of the original contract.

d) Where the contract concerned follows a contest and be awarded to the winner. If there are multiple winners must invite all to participate in the negotiations.

e) In any case, when the estimated value of less than 100,000 euros.

#### - Other contracts.

Unless otherwise provided in the special regulations which regulate, remaining the Public Administration contracts may be awarded by negotiated procedure in the general assumptions and when the estimated value is less than 100,000 euros.



### **Processing**

In the tender documents terms of economic and technical aspects that need to be negotiated with the company shall be determined.

### **Invitation to tender and submission of requests to participate**

1. When you go to the negotiated procedure, the circumstances referred to in points a) y b) the general cases, in points a) the building contracts, or point a) of service contract, the contracting authority shall publish a notice in the manner provided in paragraph 1.3. "Call for tenders".

May be waived publication of the notice when you go to the negotiated procedure for being filed irregular or unacceptable tenders in the background procedures.

2. Similarly, contracts not subject to harmonized regulation that may be awarded by negotiated procedure for being the lower amount indicated on the above assumptions, advertisements shall be published as provided in paragraph 1.3. "Call for tenders" whose estimated value exceeds 200,000 euros, whether it is building contracts, or 60,000 euros in the case of other contracts.

### **Negotiation of contract terms**

1. In the negotiated procedure must be sought offers three qualified firms for the completion of the contract, provided that this is possible.

2. Contracting authorities may articulate the negotiated procedure in stages. The number of solutions that reach the final stage will be large enough to ensure effective competition, provided those are submitted enough solutions or suitable candidates.

3. During the negotiation, contracting authorities shall ensure that all tenderers are treated equally. In particular they shall not provide a discriminatory manner, information which may give some tenderers an advantage compared to the rest.

4. Contracting authorities shall negotiate with tenderers the tenders which they have submitted to suit the requirements of the tender documents and clauses in the contract notice, in order to identify the most economically advantageous.

5. The record shall be recorded the invitations issued, of the offers received and the reasons for acceptance or rejection.



### **2.2.2. Competitive dialogue**

In the competitive dialogue, the contracting authority conducts a dialogue with the candidates selected, upon request by the same, to develop one or more suitable alternatives capable of meeting their needs and which to base for the selected candidates to submit an offer. Contracting authorities may provide for bonuses or compensation for participating in the dialogue.

#### Cases of application

1. The competitive dialogue may be used in the case of particularly complex contracts, when the contracting authority considers that the use of the open procedure or on the restricted does not allow proper contract award.
2. For this purpose, considering whether a contract is particularly complex when the contracting authority is not objectively able to define the technical means capable to meet their needs and objectives or to specify the legal or financial make a project.
3. Partnership contracts between the public sector and the private sector will be awarded by this procedure, without prejudice to it may follow the negotiated procedure with advertising.

#### Initiation of proceedings and requests to participate

1. Contracting authorities shall publish a invitation to tender where they will present their needs and requirements that define in that notice, or in a descriptive document.
2. Apply this procedure in the rules contained in the restricted procedure. However, if it is decided to limit the number of suppliers which will be invited to take part in the dialogue, this may not be less than three.
3. Invitations to take part in the dialogue will contain a reference to the invitation to tender published and shall indicate the date and place of beginning of the consult phase, the language or languages used, documents relating to the qualifications that be annexed, and the relative weighting of the criteria for awarding the contract or descending order of importance of these criteria, if it did not appear in the invitation to tender.

#### Dialogue with candidate



1. The contracting authority shall develop dialogue whose purpose will be to identify and define the means to satisfy their needs. During this dialogue, may be discussed all aspects of the contract with the selected candidates.
2. During the dialogue, the contracting authorities give equal treatment to all bidders and not provide, a discriminatory manner, information which may give some tenderers an advantage compared to the rest.
3. The process can be articulated in successive stages. The number of solutions to be discussed in the final phase must be large enough to ensure effective competition between them, provided that have been submitted enough solutions or suitable candidates.
4. The contracting authority continues the dialogue until it is able to determine, after comparing the solutions that can respond to their needs.

Having declared that the dialogue and to inform all participants, the contracting authority shall invite them to submit their final tenders, based on the solution or solutions presented and specified during the dialogue phase, indicating the deadline, the address to be sent and the language or languages that can be written if it is admitted another addition to Castilian.

#### Submission and examination of tenders

1. The offers must include all elements required and necessary for the project.

The contracting authority, may request details or clarifications on the offers submitted, adjustments in the same or additional information concerning these.

2. The contracting authority evaluate offers submitted by tenderers based on the award criteria set out in the invitation to tender or in the descriptive document and select the most economically advantageous tender. For this assessment will be taken into consideration several criteria, without possibility of awarding the contract based solely on the price offered.
3. The contracting authority may require the tenderer whose offer is considered most advantageous economically to clarify certain aspects of the same or ratify the commitments contained therein.



### 3. Special rules apply to project contests

Design contests are procedures for obtaining plans or projects, mainly in the fields of architecture, urbanism, engineering and data processing, through a selection, is entrusted to a jury.

The rules of this section apply to design contests which meet one of the following types:

- a) Design contests organized as part of a procedure for the award of a service contract.
- b) Design contests with prizes or participation payments to participants.

Considered subject to harmonized regulation design contests whose amount equals or exceeds the thresholds below:

- 134.000 euros, when contracts are to be awarded by the Central Government, autonomous bodies, or the Investment Managers and Common Services of the Social Security.
- 207.000 euros, when contracts are to be awarded by local authorities, public sector entities other than the Central Government, autonomous bodies or the Investment Managers and Common Services Social Security.

The amount of design contests shall be calculated by applying the following rules to the assumptions provided above: in the case of point a), will take into account the estimated value of the service contract and possible prizes or payments to participants, and in the case provided for to in point b), will take into account the total amount of payments and premiums, and including the estimated value of the service contract which might subsequently awarded, if the contracting authority does not exclude this award in the contest notice.

#### Contest rules

The rules for the organization of a design contest shall be established in accordance with the regulations in this section and made available to those interested in participating in the same.

#### Participants

If you decide to limit the number of participants, their selection must be made using objective criteria, clear and non-discriminatory, without access to participation may be limited to a specific geographical area, or to natural persons.

#### Advertising





The tender for the Design contest will be published as provided for in paragraph 1.2. "Advertising".

Contest results will be published as provided for in paragraph 1.5. "Advertising of formalize contracts".

#### Decision Contest

1. The jury will be composed of natural persons independent from participating in the Design contest.
2. Where a particular professional qualification is required to participate in a Design contest, at least a third of jurors shall have that qualification or equivalent.
3. The jury shall take its decisions independently, based on projects that will be submitted anonymously, and having regard to the criteria indicated in the notice of conclusion of the competition.
4. The jury shall be autonomous in its decisions or opinions.
5. It shall record in a report ranking the projects together with its remarks and any points which may need clarification.
6. Anonymity must be observed until the jury has reached its opinion or decision.
7. If necessary, may be invited participants to answer questions that the jury been included in the minutes to clarify any aspects of the projects.
8. Opinion from the jury and considering the content of the classification and the minutes referred to in the preceding article the contracting authority shall make the award that must be justified unless they conform to the proposal or proposals jury.
9. In matters not covered by this section, contest projects are governed by the rules governing the contracting of services.

## **4. Composition of the Contract Awarding Committee**

#### Contracting Boards

1. Except where competition to hire appropriate to a Board of Contracting, in the open and restricted procedures and in negotiated procedures with advertising the contracting of Public



Administration shall be assisted by a Contracting Committee, which shall be the authority for the appraisal of tenders. In negotiated procedures where it is not necessary to publish notices, the constitution of the Committee shall be optional for contracting.

2. The Board will be constituted by a President, the members specified in the regulations and a Secretary.

3. The members of the Committee shall be appointed by the contracting authority. The Secretary shall be appointed from among officials or other staff under the contracting authority, and between members must necessarily include an official among those who have attributed legal or legal advice from the contracting authority and Controller, or in their absence, a person in the service from the contracting authority who have attributed the functions corresponding to the legal advice, and other who have attributed to the relative economic-budgetary control.

#### Special Board of competitive dialogue

1. To assist the contracting authority in the competitive dialogue procedures that are followed by state Public Administrations, a Board shall be constituted with the composition indicated in section 2 of the preceding paragraph to which persons specially qualified in the art to be incorporated on the dialogue, designated by the contracting authority. The number of such persons shall be equal to or greater than one-third of the members of the Board and participate in discussions with voice and vote.

2. The files that are processed for the conclusion of contracts of partnership between the public sector and the private sector will correspond to the special Board of competitive dialogue the development of pre-assessment document.

#### Selection Boards

1. In design contests, the Contracting Committee will constitute Jury design contests, composition incorporating five personalities of recognized competence in the relevant field, designated by the contracting authority, so they can to contribute in a special way to evaluate the proposals submitted, and to participate in discussions with voice and vote.

2. Jury members must be independent of the individuals participating in the contest. When candidates are required to possess certain qualifications or experience, at least one third of the members of the jury must be in possession of the same or equivalent.



### III. Protocol of contracting in Hungarian public administration

Contractor selection and award process of contracts in the Hungarian public administration is developed according to Act CVIII of 2011 on Public Procurement.

As I mentioned in introduction, both laws are very similar due to both are under the directives of the European Union. But there are some differences, which I have explained below.

- According to the threshold of the European Union:

This law establish one contract classification based in economic thresholds, explained in the Law in second part "Provisions related to public procurements reaching EU thresholds" and third part "National procedures".

This classification and the thresholds are specified by EU law and defined as national thresholds by the Budget Act of Hungary. (Public procurement thresholds, Article10)

In the paragraph "Value of public procurements", Articles 11 to 18, are explained how calculate the estimated contract value. In the last article (Article 18) is determined the limit amounts which separate both types of contracts:

*"3. The procedure laid down in Part Three of this Act shall apply in each case to contracts having an estimated value less than HUF 21 824 000 in case of services and supplies and less than HUF 272 800 000 in case of works contracts, on condition that the estimated value of such a part not calculated together does not exceed 20 % of the value that would have been established by the contracting authority in case of application of paragraph 2 as the total estimated value of the public procurement contract."*

Earlier in the "Protocol of contracting in Spanish public administration" this classification is explained in the introduction "Requirements amount".

- According to the objective requirements of the European Union:

In the Spanish Public Sector Contracts Law (Articles 5 to 12) there are 7 different kinds of contracts, whilst, in chapter I "Subject-matters of public procurements" (Article 7) of Hungarian Law, there is the follow classification:

*"1. Subject-matters of public procurements shall be the following: public supply, public works, public services, public works concessions and service concessions."*

- In the award procedures:

In Hungarian Law second part "Provisions related to public procurements reaching EU thresholds" there are the same procedures than in Spain. The kinds of procedures are explained in the chapter XII "Types of contract award procedures, and more exactly" (Article 82):



*"Contract award procedures may be open or restricted or negotiated procedures or competitive dialogue. Recourse to a negotiated procedure or to a competitive dialogue may only take place if this is permitted by this Law. Negotiated procedures may be with or without the publication of a contract notice."*

The procedures in both countries agree on the form of processing, time limits, and required documentation. This happens because they are subject under the same directives of the European Union.

- Language used in the processes of recruitment:

One of the differences between both laws and contracts appears in chapter I "Principles and main purpose of the Act" (Article 2):

*"6. Contract award procedures shall be conducted in Hungarian. The contracting authority may make it possible to use another language instead of Hungarian but it shall not be made compulsory."*



#### **IV. Conclusions**

As a result of the study of the law of public sector contracting in Spain and Hungary, one can conclude that both laws have a lot in common. This fact is due to both laws are based in European directives on recruitment in the public sector (Community Contracts Directive (Directive 2004/18/EC)).

On the other hand I can say that the differences between the two are given, contracts not subject to these directives. That is to say, contracts below the thresholds budgets outlined above or that due to the conditions of the contract are not part of European assumptions.

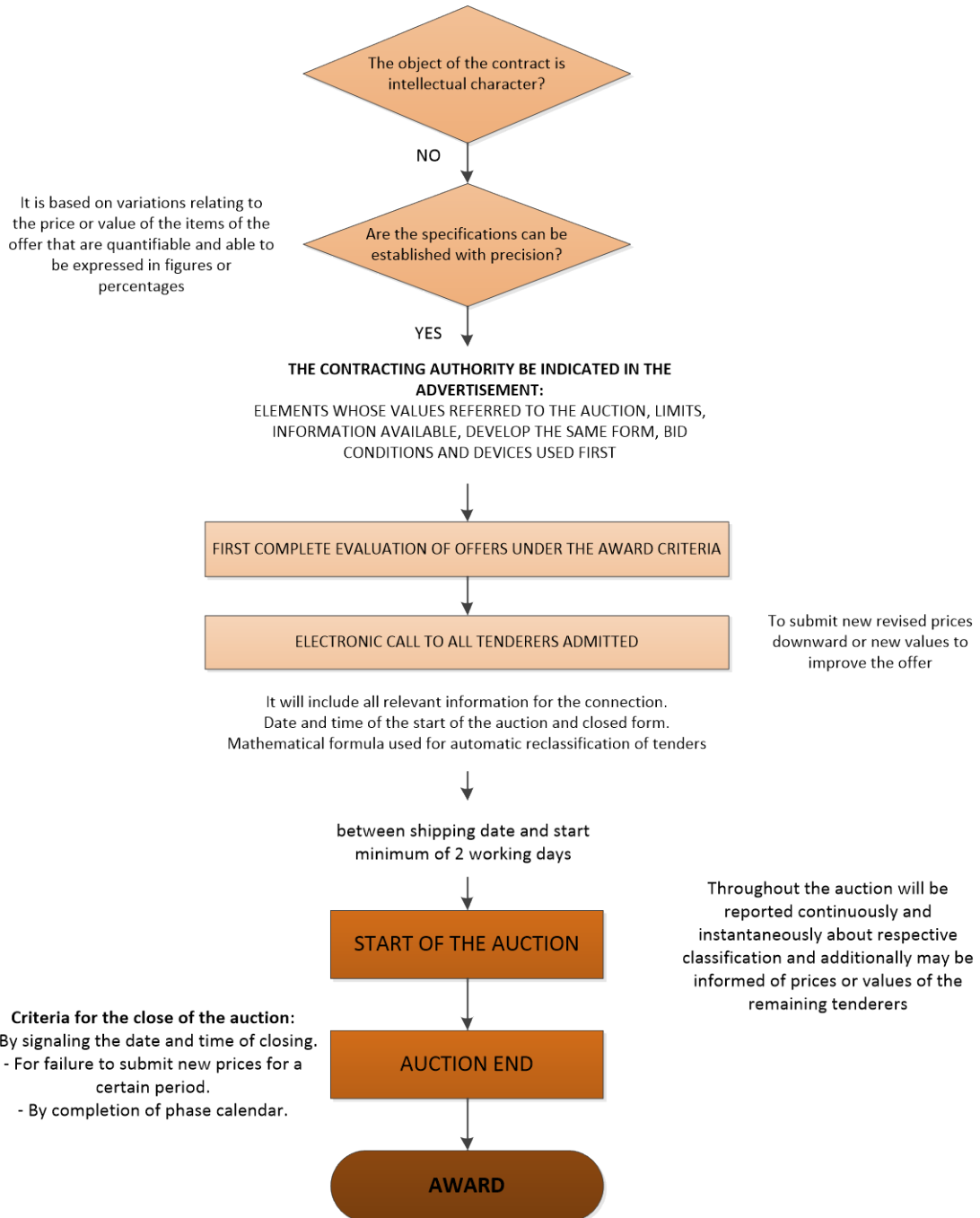


## **V. Annex**



## ELECTRONIC AUCTION

- Is a technique that can be used when it is anticipated that the offers of tenderers may be improved.
- Supported on the opened, restricted and negotiated procedures.
- You can not resort to the electronic auction abusively or so as to obstruct, restrict or distort competition or change the subject of the contract.

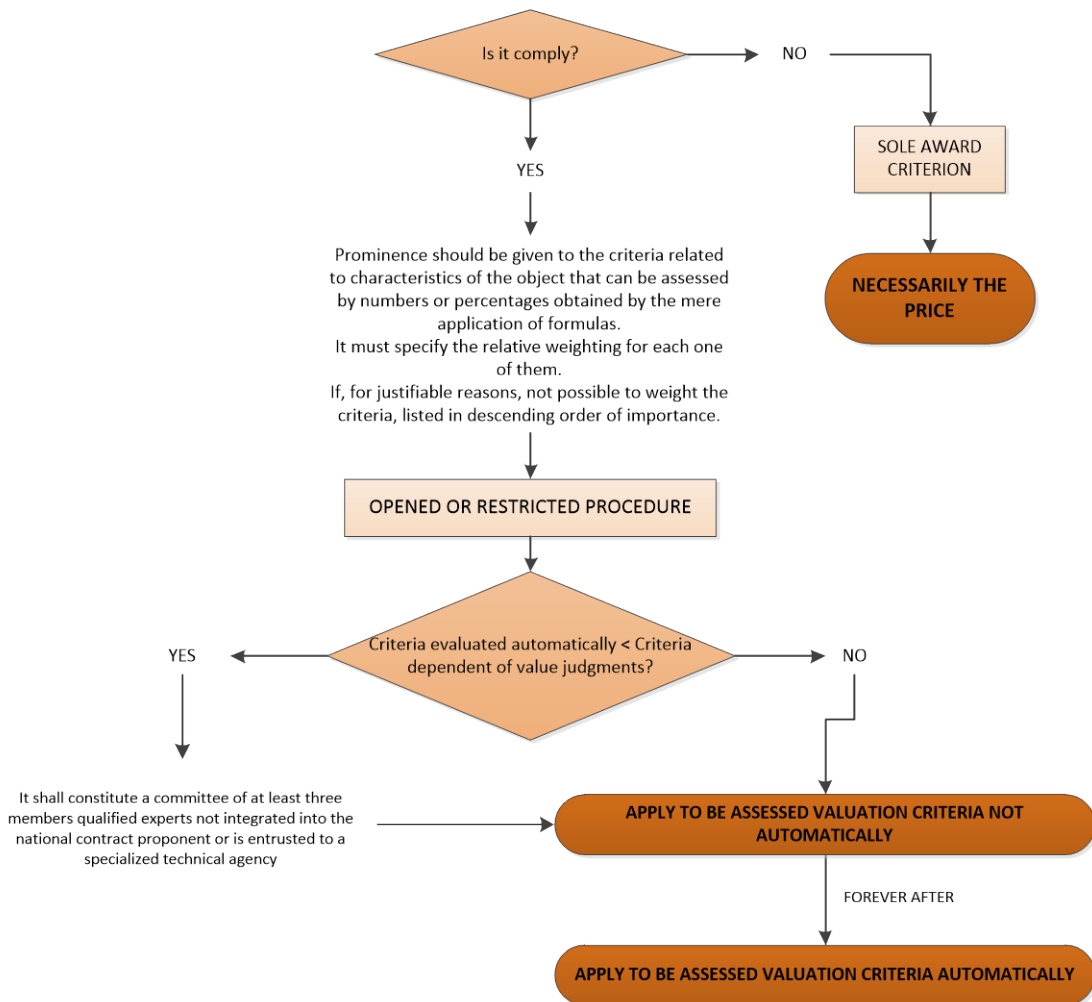


## AWARD CRITERIA

Are determined by the Contracting authority and are detailed in the invitation to tender

### APPROPRIATE CONSIDERING MORE THAN ONE CRITERIA IN:

- CONTRACTS WHOSE PROJECTS OR BUDGETS ARE NOT ABLE TO BE ESTABLISHED PREVIOUSLY AND SHOULD BE SUBMITTED FOR TENDERERS
- DEFINING THE PROVISION IS SUSCEPTIBLE TO BE IMPROVED BY OTHER TECHNICAL SOLUTIONS TO PROPOSE TO TENDERERS FOR REDUCTION OR LIMIT FOR COMPLETION
  - THOSE IN WHICH THE CONTRACTING AUTHORITY PROVIDE MATERIALS OR OCCASIONAL MEDIA
  - THOSE WHO EMPLOY ADVANCED TECHNOLOGY
- THOSE WHOSE EXECUTION MAY HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT IN WHICH AWARD IS VALUED MEASURABLE ENVIRONMENTAL CONDITIONS
  - THE MANAGEMENT OF PUBLIC SERVICES
- THE SUPPLIES OR SERVICES, EXCEPT THAT ARE PERFECTLY DEFINED, THEREFORE, THE PRICE IS THE DETERMINING FACTOR AWARD

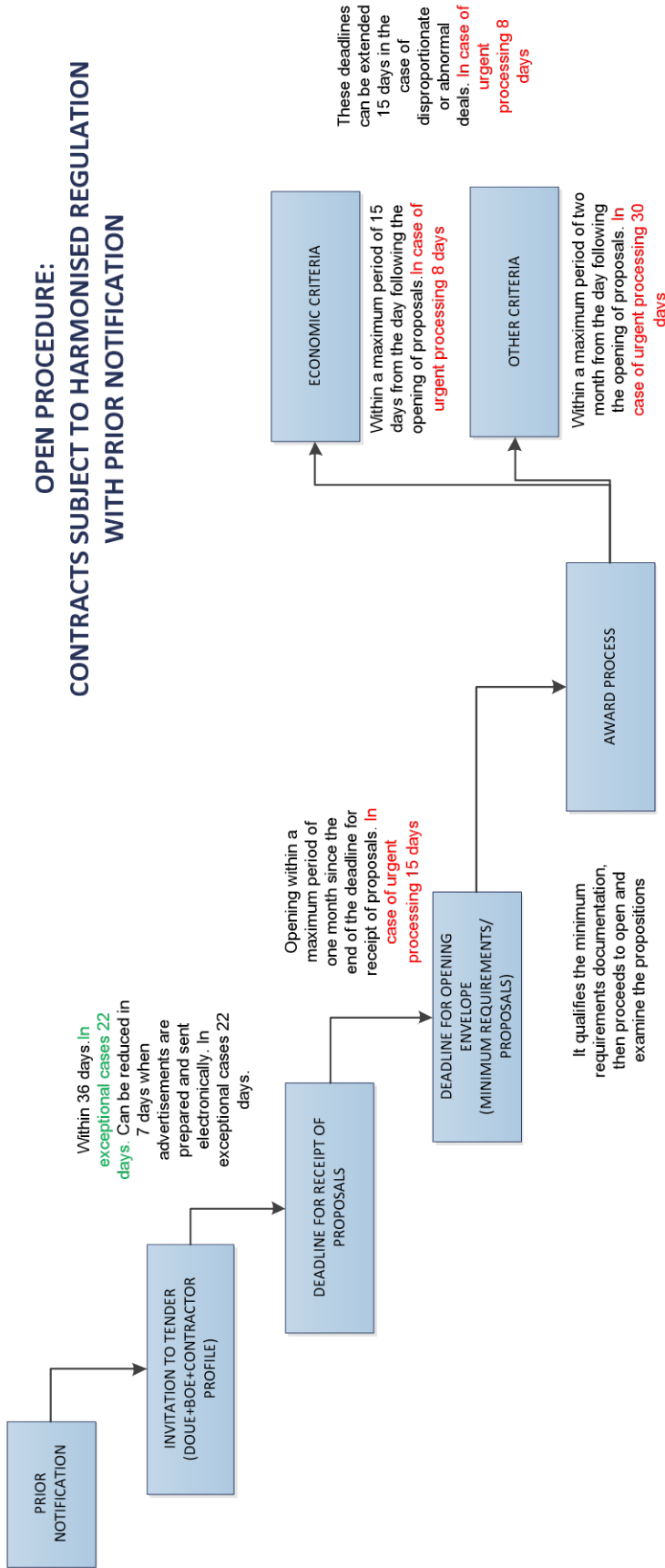




DEADLINES FOR CONTRACT FORMALIZATION	CONTRACTS SUBJECT TO HARMONISED REGULATION	REGULAR PROCESSING	There will be a waiting period of 15 days for the interposition of a special recourse. Then will be notified the successful tenderer and the contract will be formalized within 5 natural days from the request. This period is not reduced by the urgent processing.
		URGENT PROCESSING	
	CONTRACTS NOT SUBJECT TO HARMONISED REGULATION	REGULAR PROCESSING	The formalization of the contract shall occur no later than 15 days after the tenderers and candidates receive the notification.
		URGENT PROCESSING	The formalization of the contract shall occur no later than 8 days after the tenderers and candidates receive the notification.



## OPEN PROCEDURE: CONTRACTS SUBJECT TO HARMONISED REGULATION WITH PRIOR NOTIFICATION



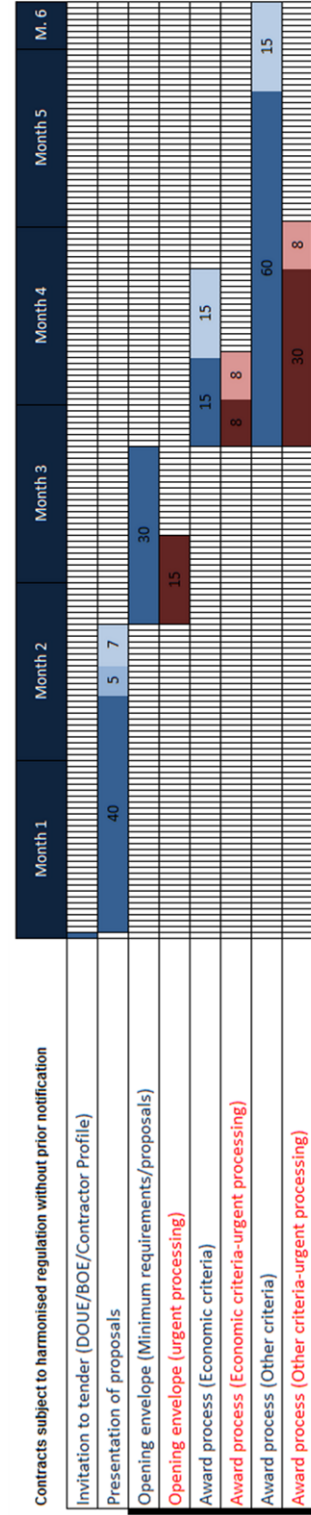
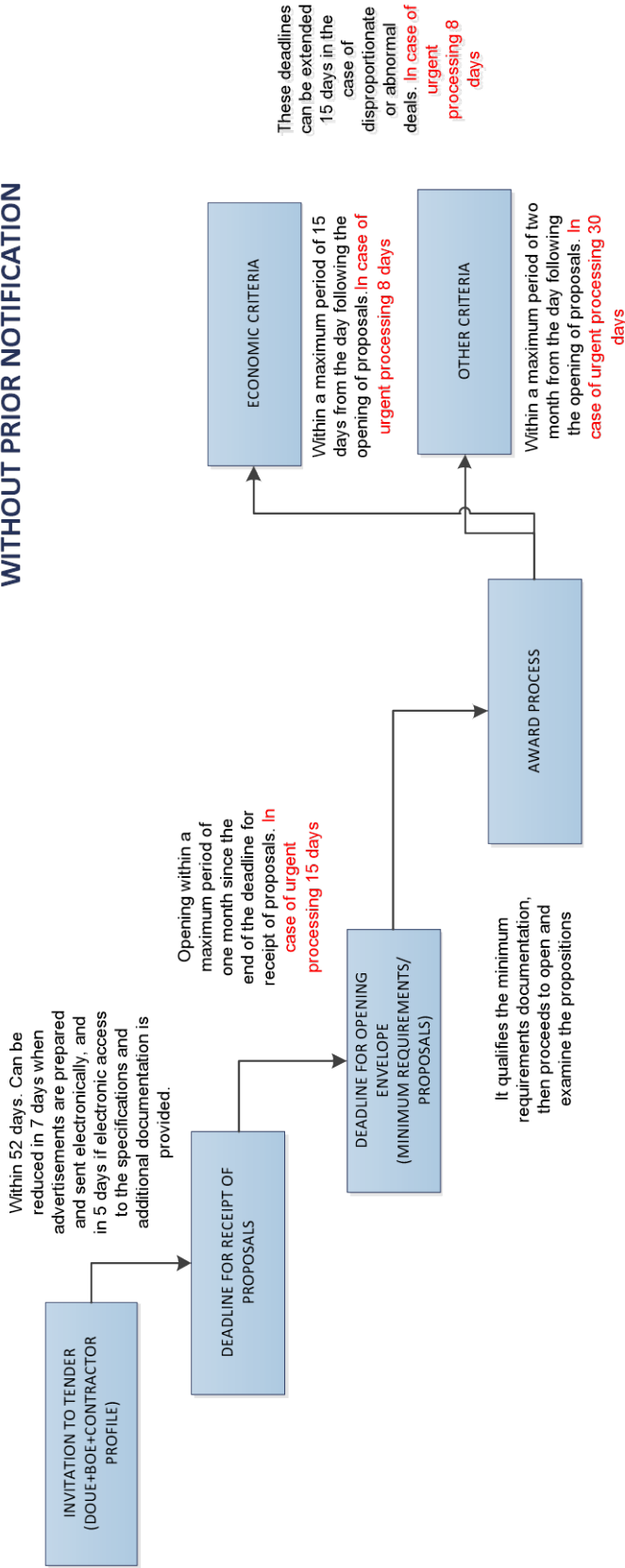
Contracts subject to harmonised regulation with prior notification

	Month 1	Month 2	Month 3	Month 4	Month 5
Invitation to tender (DOUE/BOE/Contractor Profile)					
Presentation of proposals	29	7			
Presentation of proposals (exceptional cases)	15	7			
Opening envelope (Minimum requirements/proposals)		30			
Opening envelope (urgent processing)		15			
Award process (Economic criteria)			15	15	
Award process (Economic criteria-urgent processing)			8	8	
Award process (Other criteria)					15
Award process (Other criteria-urgent processing)			30	8	

\* DOUE=Official Journal of the European Union / BDE=Official State Bulletin



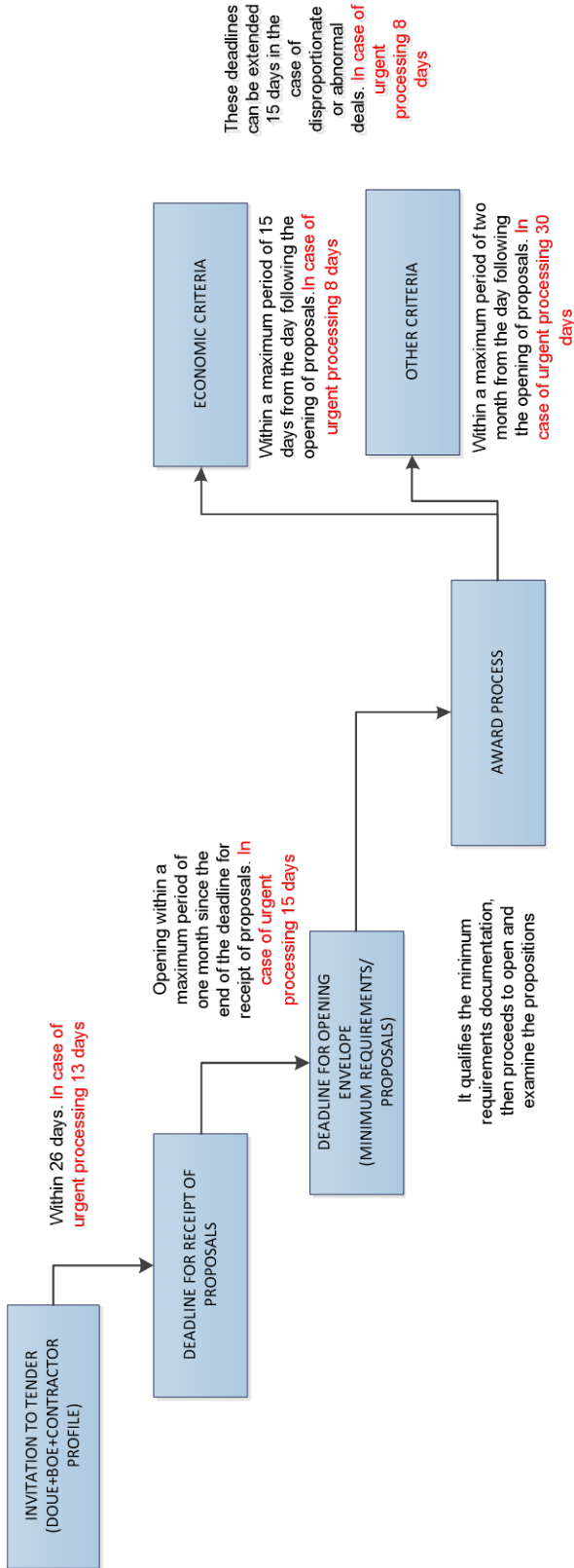
## OPEN PROCEDURE: CONTRACTS SUBJECT TO HARMONISED REGULATION WITHOUT PRIOR NOTIFICATION



\* DOUE=Official Journal of the European Union / BOE=Official State Bulletin



**OPEN PROCEDURE:  
CONTRACTS NOT SUBJECT TO HARMONISED  
REGULATION (PUBLIC WORKS CONCESSION)**

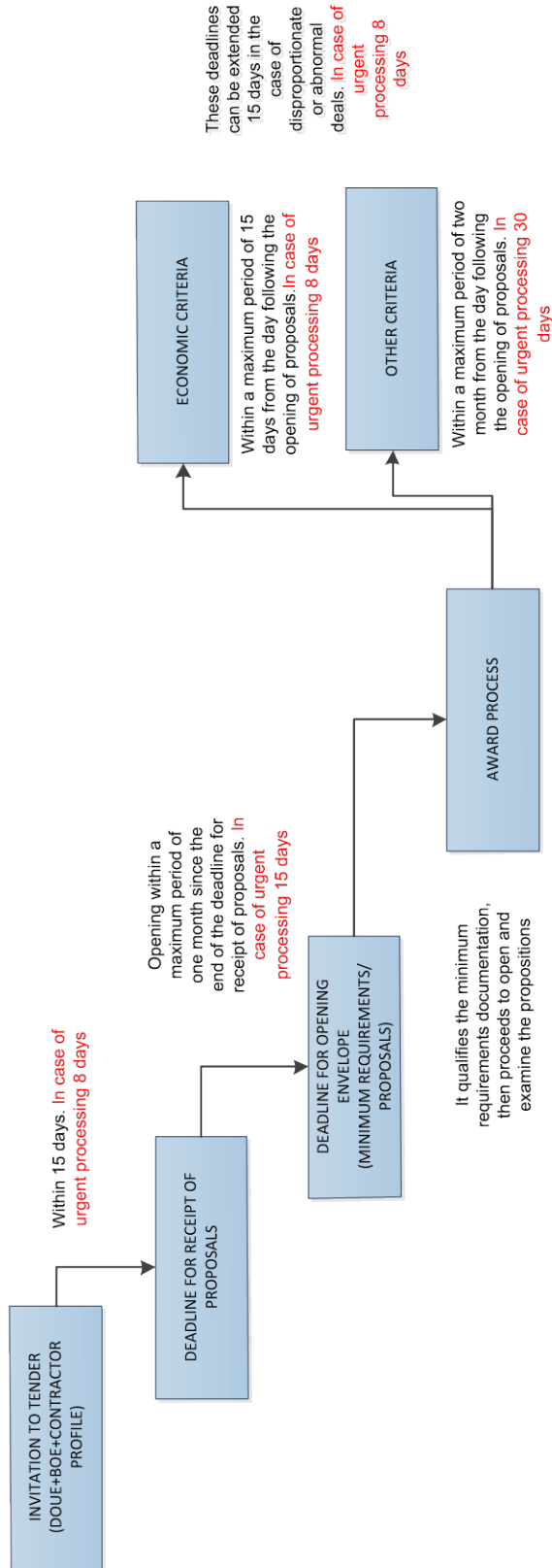


	Month 1	Month 2	Month 3	Month 4	Month 5
<b>Contracts not subject to harmonised regulation (public works concession)</b>					
Invitation to tender (BOE/Contractor Profile)					
Presentation of proposals	26				
Presentation of proposals (urgent processing)	13				
Opening envelope (Minimum requirements/proposals)		30			
Opening envelope (urgent processing)		15			
Award process (Economic criteria)		15	15		
Award process (Economic criteria-urgent processing)		8	8		
Award process (Other criteria)			60		
Award process (Other criteria-urgent processing)			30	8	15

\* BOE=Official State Bulletin



**OPEN PROCEDURE:  
CONTRACTS NOT SUBJECT TO HARMONISED  
REGULATION (NOT PUBLIC WORKS CONCESSION)**



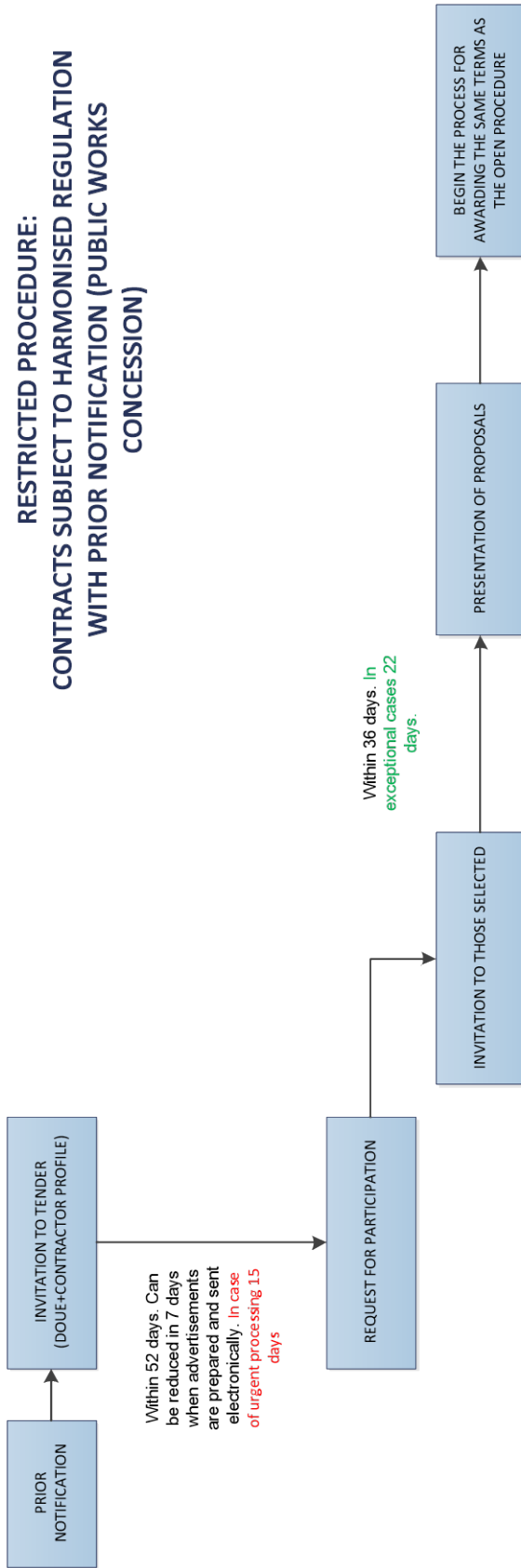
**Contracts not subject to harmonised regulation (not public works concession)**

	Month 1	Month 2	Month 3	Month 4	Month 5
Invitation to tender (BOE/Contractor Profile)					
Presentation of proposals	15				
Presentation of proposals (urgent processing)	8				
Opening envelope (Minimum requirements/proposals)		30			
Opening envelope (urgent processing)		15			
Award process (Economic criteria)		15	15		
Award process (Economic criteria-urgent processing)		8	8		
Award process (Other criteria)			60	15	
Award process (Other criteria-urgent processing)			8	8	

\* BOE-Official State Bulletin



**RESTRICTED PROCEDURE:  
CONTRACTS SUBJECT TO HARMONISED REGULATION  
WITH PRIOR NOTIFICATION (PUBLIC WORKS  
CONCESSION)**



Contracts subject to harmonised regulation with prior notification (public works concession)

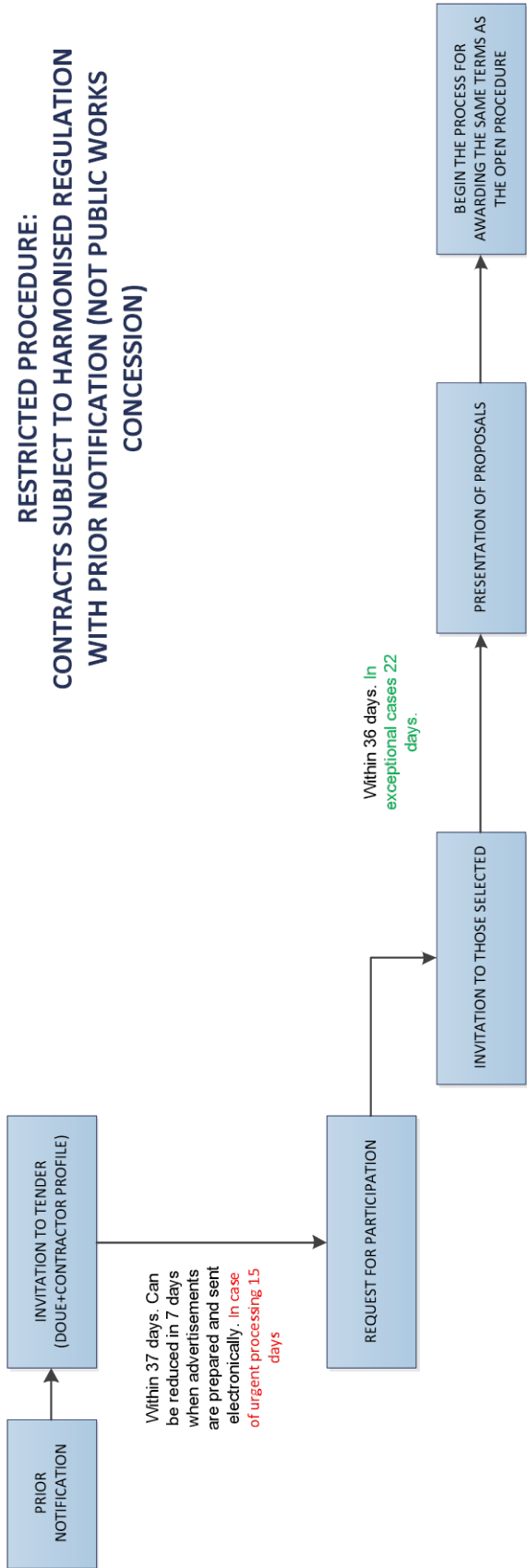
	Month 1	Month 2	Month 3	Month 4
Published in BOE	10			
Invitation to tender (DOUE/Contractor Profile)				
Request for participation		45	7	
Request for participation (urgent processing)	10	5		
Presentation of Proposals			36	
Presentation of Proposals (exceptional cases)			22	
Begin the process for awarding the same terms as the Open Procedure				

\* DOUE=Official Journal of the European Union / BOE= Official State Bulletin

(last six steps in the table of open procedure)



**RESTRICTED PROCEDURE:  
CONTRACTS SUBJECT TO HARMONISED REGULATION  
WITH PRIOR NOTIFICATION (NOT PUBLIC WORKS  
CONCESSION)**



Contracts subject to harmonised regulation with prior notification (not public works concession)

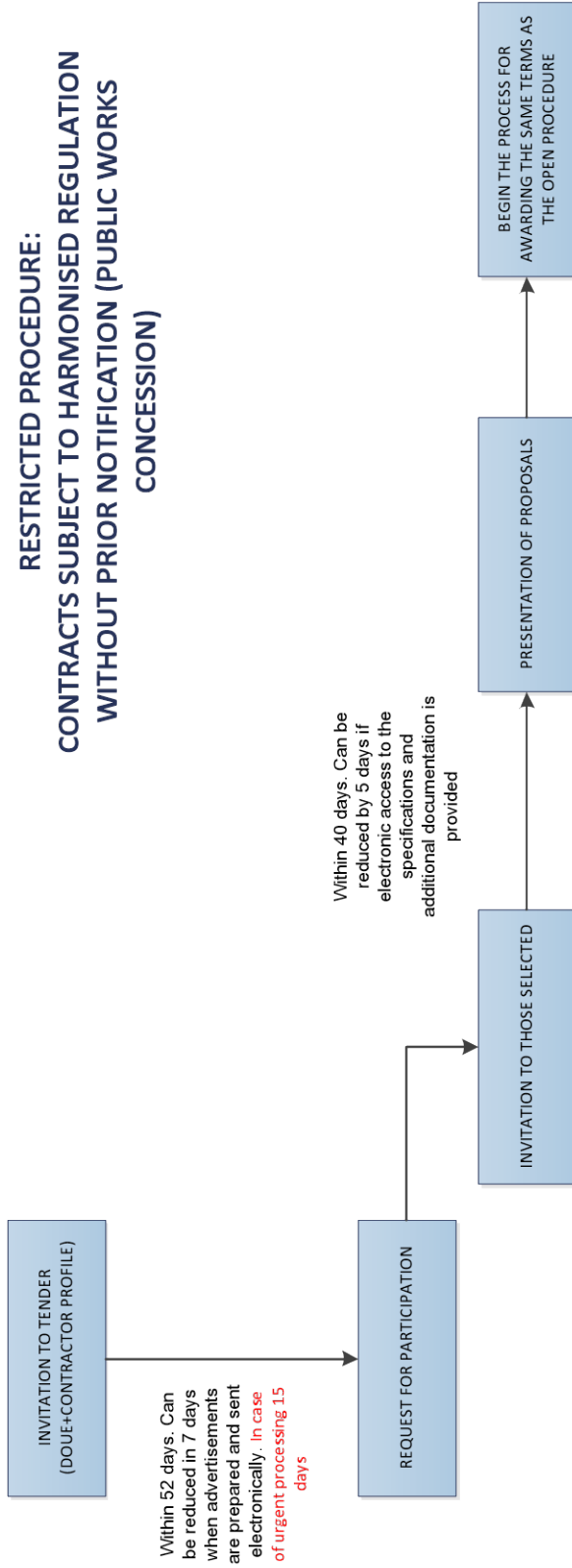
	Month 1	Month 2	Month 3	Month 4
Published in BOE	10			
Invitation to tender (DOUE/Contractor Profile)				
Request for participation	30	7		
Request for participation (urgent processing)	10	5		
Presentation of Proposals		36		
Presentation of Proposals (exceptional cases)		22		
Begin the process for awarding the same terms as the Open Procedure				

\* DOUE=Official Journal of the European Union / BOE=Official State Bulletin

(last six steps in the table of open procedure)



**RESTRICTED PROCEDURE:  
CONTRACTS SUBJECT TO HARMONISED REGULATION  
WITHOUT PRIOR NOTIFICATION (PUBLIC WORKS  
CONCESSION)**



Contracts subject to harmonised regulation without prior notification (public works concession)

	Month 1	Month 2	Month 3	Month 4
Published in BOE	10			
Invitation to tender (DOUE/Contractor Profile)				
Request for participation	45	7		
<b>Request for participation (urgent processing)</b>	10	5		
Presentation of Proposals			35	5
Begin the process for awarding the same terms as the Open Procedure				

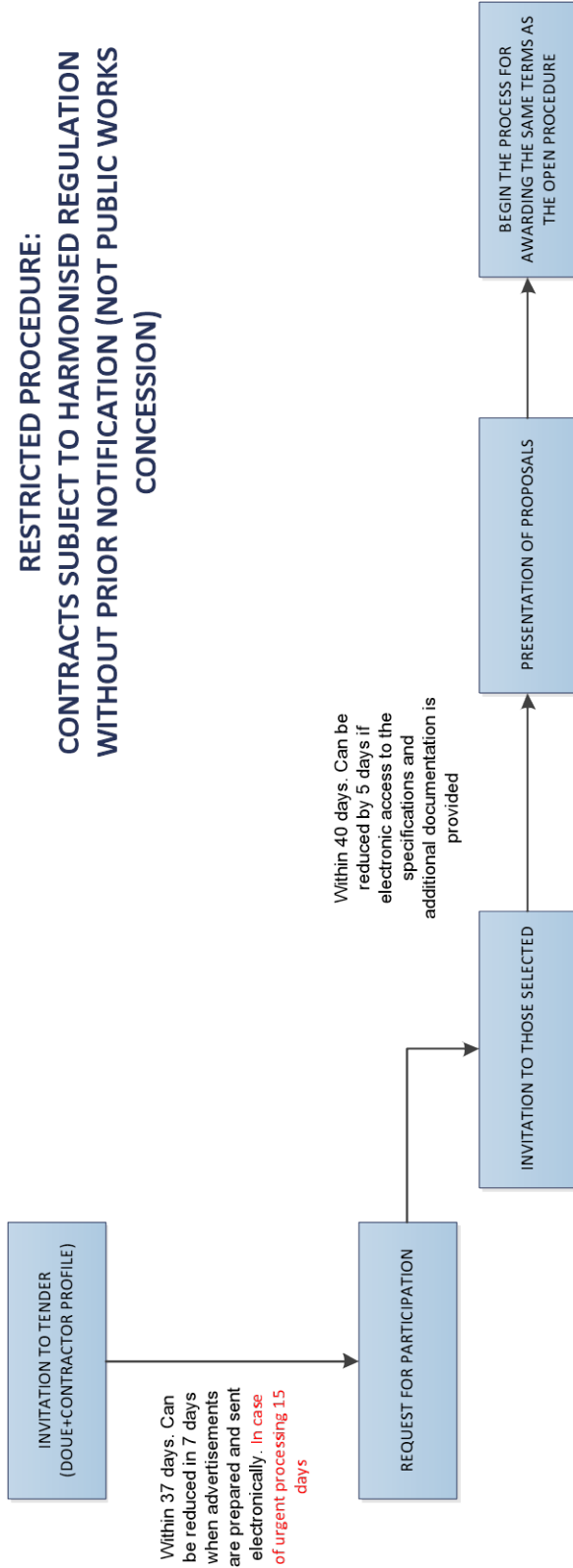
\* DOUE=Official Journal of the European Union / BOE=Official State Bulletin

(last six steps in the table of open procedure)





**RESTRICTED PROCEDURE:  
CONTRACTS SUBJECT TO HARMONISED REGULATION  
WITHOUT PRIOR NOTIFICATION (NOT PUBLIC WORKS  
CONCESSION)**



Contracts subject to harmonised regulation without prior notification (not public works concession)

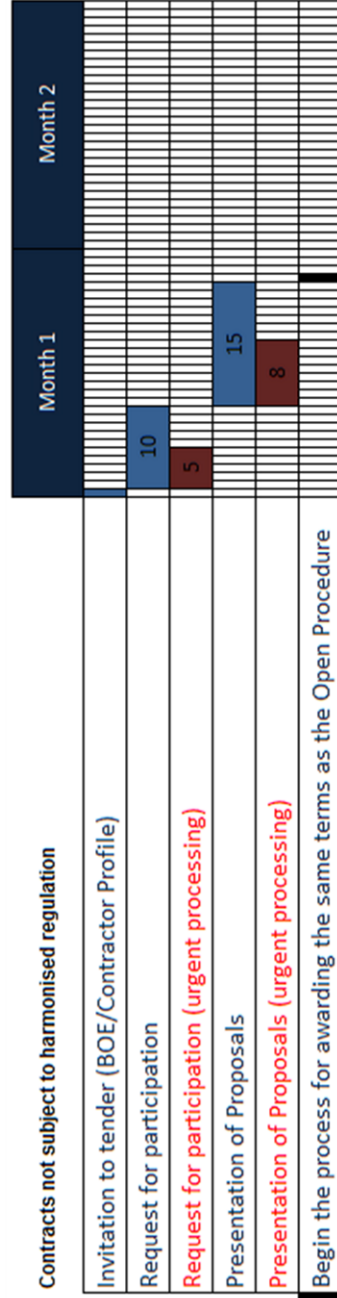
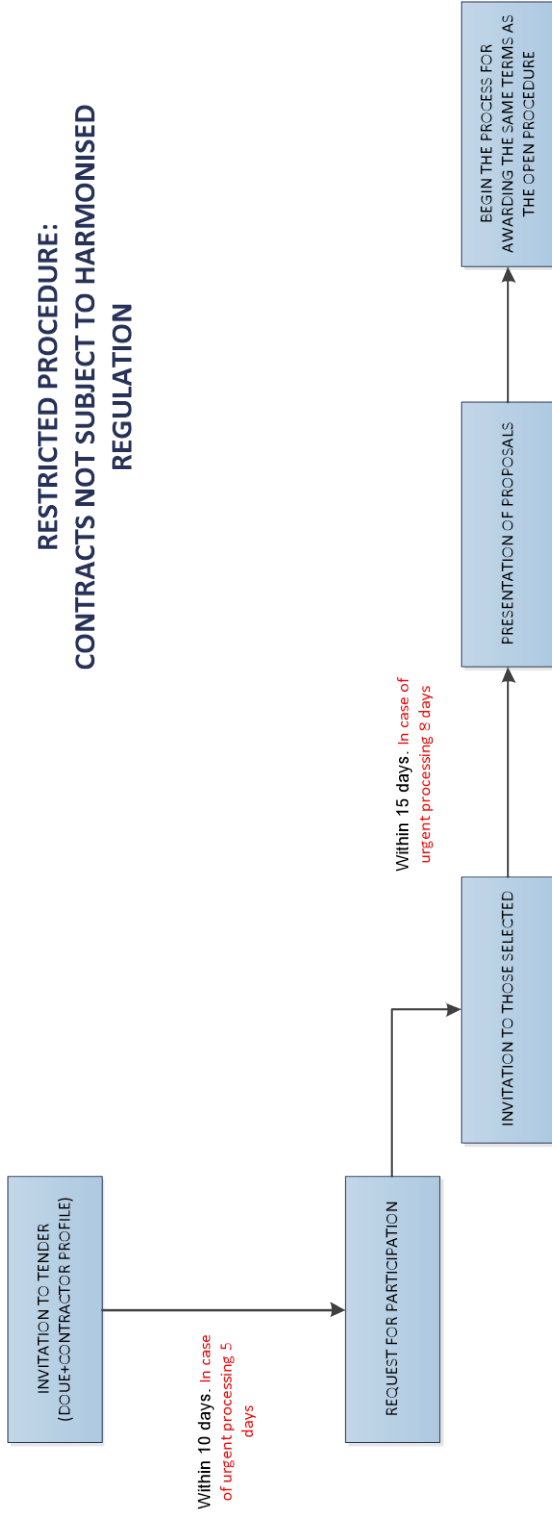
	Month 1	Month 2	Month 3	Month 4
Published in BOE	10			
Invitation to tender (DOUE/Contractor Profile)				
Request for participation	30	7		
Request for participation (urgent processing)	10	5		
Presentation of Proposals			35	5
Begin the process for awarding the same terms as the Open Procedure				

\* DOUE= Official Journal of the European Union / BOE= Official State Bulletin

(last six steps in the table of open procedure)



**RESTRICTED PROCEDURE:  
CONTRACTS NOT SUBJECT TO HARMONISED  
REGULATION**



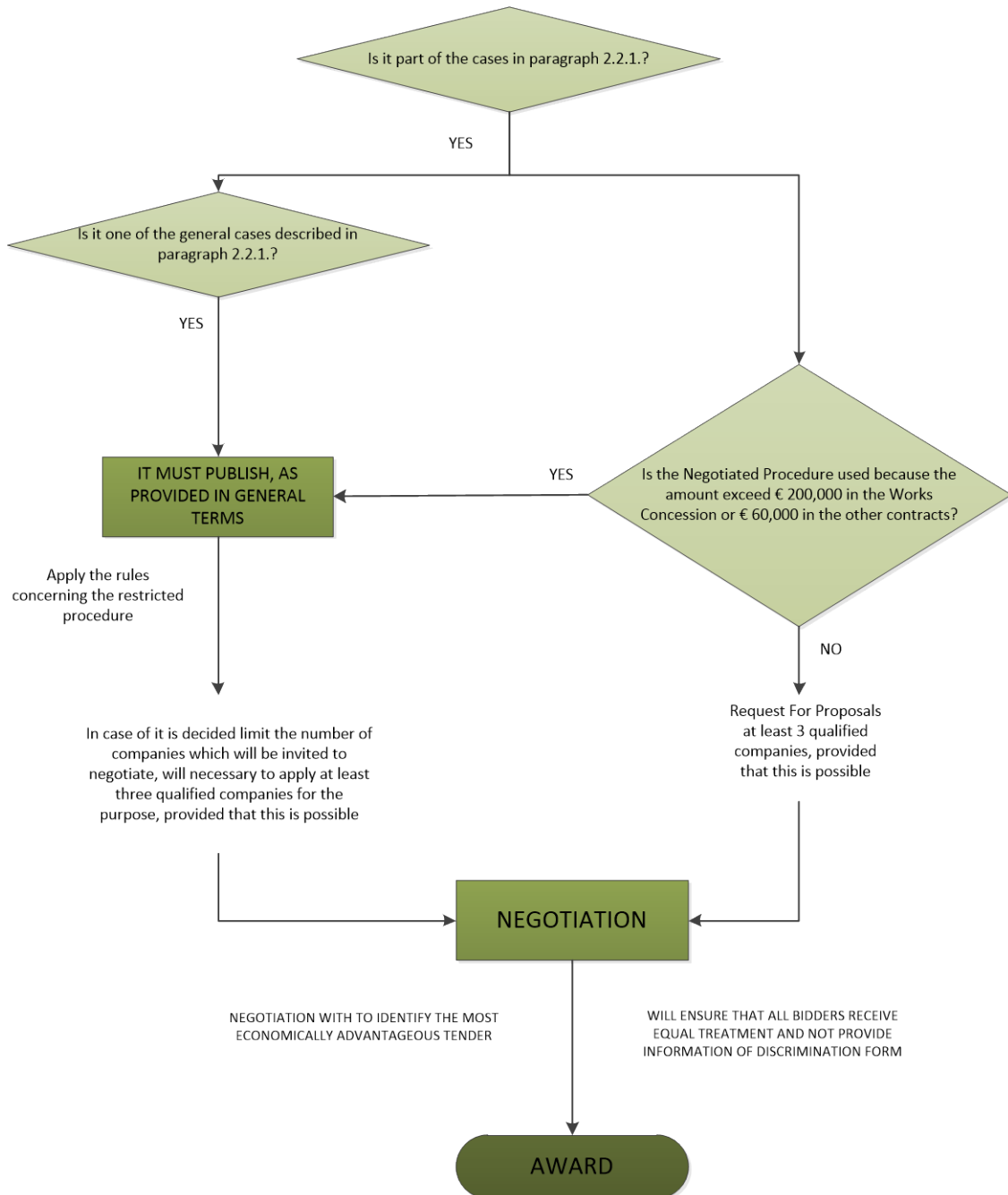
\* BOE= Official State Bulletin

(last six steps in the table of open procedure)



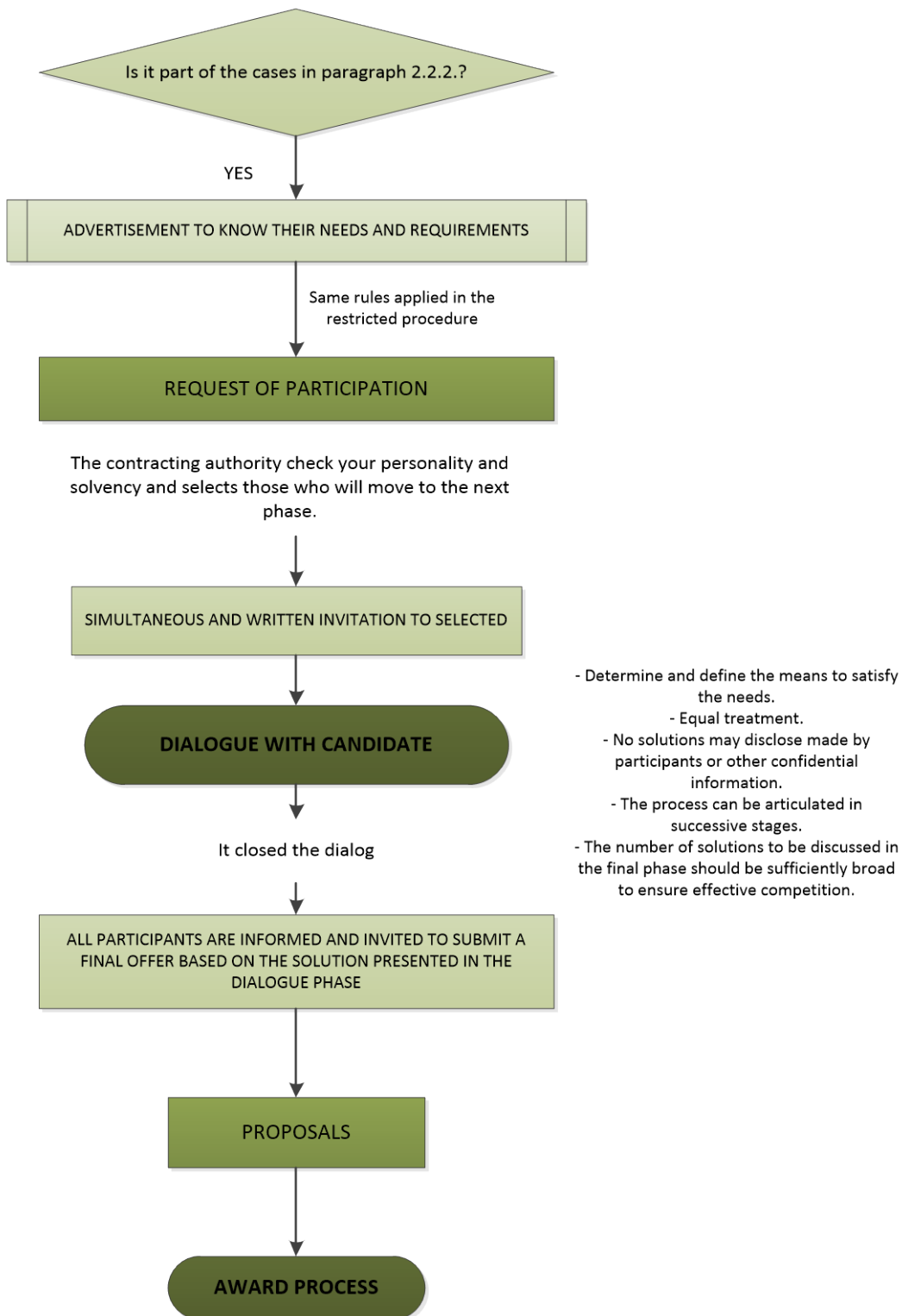
### NEGOTIATED PROCEDURES

It rests with the tenderer justifiably chosen after consultation with various candidates and negotiate the terms of contract with one or more of them



## COMPETITIVE DIALOGUE

The contracting authority conducts a dialogue with the candidates selected, prior their request, to developing one or more suitable alternatives capable of meeting their needs and provide the basis for which the candidates chosen submit an offer.



## COMPOSITION OF THE CONTRACTING BOARD AND THE COMMITTEE OF EXPERTS

IN GENERAL	LOCAL AREA	SPECIAL BOARD FOR COMPETITIVE DIALOGUE	SPECIAL BOARD FOR DESIGN CONTEST	COMMITTEE OF EXPERTS
<p><b>President Secretary:</b> the public official who serves on the contracting authority.</p> <p><b>Members:</b> Minimum of 4 members.</p> <p>Among the members shall include a public official responsible of legal advice and Controller in charge of economic and budgetary control of the contracting authority.</p> <p>All board members have voice and vote, except the secretary that only have voice.</p> <p>A meeting may be incorporated specialized officials or advisers, depending on the nature of the issues at hand and act also with voice but no vote.</p>	<p><b>President:</b> Member of the Corporation or Officer thereof.</p> <p><b>Secretary:</b> An official of the Corporation.</p> <p><b>Members:</b> - Secretary or holder of the contracting authority responsible for legal advice. - Controller</p> <p><b>Other members: (minimum 3) appointed by the contracting authority.</b> Among officials, contract staff and elected members. They can not be part of the eventual board staff or non-elected members of the Governing Board.</p>	<p>It adds at least 1/3 of members specially qualified. Their number shall not be less than 3 nor represent less than one-third of the board members.</p>	<p>The Contracting Committee is constituted by jury composition incorporating up to 5 personalities from recognized competence in the field designated by the contracting authority.</p> <p>Jury members must be independent of the participating individuals.</p>	<p>When quantifiable criteria is 50%, the committee will be formed with a minimum of three members, composed of experts with appropriate qualifications are not integrated in the national contract proponent.</p>

THE COMPOSITION OF THE BOARD WILL BE PUBLISHED IN THE CONTRACTOR PROFILE OF THE CONTRACTING AUTHORITY AT LEAST 7 DAYS BEFORE OF THE MEETING FOR QUALIFICATION PREVIOUS DOCUMENTATION.

IF THE BOARD IS PERMANENT OR BE ATTRIBUTED FUNCTIONS FOR MULTIPLE CONTRACTS, ITS COMPOSITION BE PUBLISHED IN THE BOE.

TO THE CONSTITUTION OF THE OFFICERS TO BE VALID MUST BE PRESENT THE ABSOLUTE MAJORITY OF MEMBERS AND, IF AT ALL, THE PRESIDENT, SECRETARY AND THE TWO MEMBERS THAT HAVE ASSIGNED FUNCTIONS FOR THE LEGAL ADVICE AND ECONOMIC BUDGET CONTROL OF THE AUTHORITY



## VI. Bibliographic References

- Royal Legislative Decree 3/2011, of 14 November, approving the Codified Text of the Public Sector Contracts Law (Spanish Law)

[1] Section II.1.1. of the project – Articles 138 to 140

[2] Section II.1.2. of the project – Articles 141 and 142

[3] Section II.1.3. of the project – Articles 143 to 149

[4] Section II.1.4. of the project – Articles 150 to 152

[5] Section II.1.5. of the project – Articles 153 to 155

[6] Section II.1.6. of the project – Articles 156

[7] Section II.2.1.1. of the project – Articles 157 to 161

[8] Section II.2.1.2. of the project – Articles 162 to 168

[9] Section II.2.2.1. of the project – Articles 169 to 178

[10] Section II.2.2.2. of the project – Articles 179 to 183

[11] Section II.3. of the project – Articles 184 to 188

[12] Section II.4. of the project – Articles 320,321 and 323

- Act CVIII of 2011 on Public Procurement (Hungarian Law)

[13] Section III. of the project – Articles 11 to 18, 7, 82 and 2

