CONTRACT AWARD PROCEDURES ("Sub-Contracting")
Procurement by Grant Beneficiaries of the
Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures

1. GENERAL PRINCIPLES

If the implementation of an Action requires procurement ("sub-contracting") by the Beneficiary, the contract must be awarded to the most economically advantageous tender (i.e. the tender offering the best price-quality ratio), in accordance with the principles of transparency and fair competition for potential contractors and taking care to avoid any conflicts of interest.

To this end, the Beneficiary must comply with the rules set out in sections 2 to 7 below, subject to section 8.

Where the Beneficiary makes use of the services of a central buying office, the buying office must obey the same rules as the Beneficiary.

In the event of failure to comply with the rules referred to above, expenditure on the operations in question is not eligible for the Anna Lindh Foundation financing.

The Anna Lindh Foundation (ALF) will carry out ex post checks on beneficiaries’ compliance with the rules.

Definition of sub-contracting for Beneficiaries of ALF Grant contracts: Works, supplies and services provided or delivered by institutions or companies other than the Leader (the Grant "Beneficiary") or his Partners or by individuals other than those assigned to the action under Heading 1. Human Resources of the Budget (Annex B page 1) must be subject of sub-contracting in line with these Contract Award Procedures. Expenses for works, supplies and services falling under this definition must be budgeted under Heading 3 of the Budget (Annex B page 1).

Note: For services, supplies or works contracts worth EUR 5,000 or less, the following simplified procedure can be applied:
The Beneficiary may place orders on the basis of a single tender. That means: the Beneficiary requests at least one provider of works, supplies or services to make a written offer ("tender") and decides then, in the light of best knowledge of market conditions, whether this offer should be accepted, or whether it should be subject of negotiation, or whether other tenders should be called for. All such decisions and deliberations must be reflected in the accounts file.
2. ELIGIBILITY FOR CONTRACTS

2.1. The Nationality rule
Participation in tender procedures administered by the Beneficiary is open on equal terms to all natural and legal persons of the 35 Member States of the Euro-Mediterranean Partnership (EMP). This rule also applies to the experts proposed by service providers taking part in tender procedures or service contracts financed by the grant. Tenderers must state, in the tender, the country of which they are nationals by presenting the usual proof of nationality under their national legislation. In duly substantiated exceptional cases, the Anna Lindh Foundation may allow nationals of countries other than those referred to in section 2.1 to tender for contracts.

2.2 The rule of origin
Since for the ALF 2006 Call for Proposals, costs for equipment supplies (other than rental of equipment) are not eligible, no specific rules of origin have to be applied.

2.3 Grounds for exclusion from participation in procurement
Candidates or tenderers will be excluded from participation in a procurement procedure if:

a) they are bankrupt or being wound up, are having their affairs administered by the courts,

b) have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

c) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;

d) they have been guilty of grave professional misconduct proven by any means which the Beneficiary can justify;

e) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Beneficiary or those of the country where the contract is to be performed;

f) they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the ALF or the European Communities’ financial interests;

g) following another procurement procedure or grant award procedure financed by the ALF or by the European Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Candidates or tenderers must certify that they are not in one of the situations listed above.

2.5 Exclusion from award of contracts
Contracts may not be awarded to candidates or tenderers which, during the procurement procedure:

a) are subject to a conflict of interests;

b) are guilty of misrepresentation in supplying the information required by the Beneficiary as a condition of participation in the contract procedure or fail to supply this information.
3. RULES COMMON TO ALL TENDER PROCEDURES

The tender documents must be drafted in accordance with best international practice. If they do not have their own documents, grant beneficiaries may use the models (in particular the tender dossier) published on the European Commission’s web site relating to external actions.

The time-limits for receipt of tenders and requests to participate must be long enough to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

All requests to participate and tenders declared as satisfying the requirements must be evaluated and ranked by an evaluation committee on the basis of the exclusion, selection and award criteria announced in advance. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.

4. RULES APPLICABLE TO SERVICE CONTRACTS (under EUR 200,000)

Service contracts worth more than EUR 5,000 but less than EUR 200,000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three service providers of its choice and negotiates the terms of the contract with one or more of them. For services of a value of EUR 5,000 or less, the Beneficiary may place orders on the basis of a single tender.

5. RULES APPLICABLE TO SUPPLY CONTRACTS (under EUR 150,000)

Please note that, for the ALF 2006 Call for Proposals, costs for equipment supplies (other than rental of equipment) are not eligible, unless, in duly substantiated exceptional cases, the Grant Contract indicates this possibility under paragraph 7 as a “derogation from the General Conditions”. Section 5, therefore, applies to such exceptional cases and to supplies of consumables (such as stationery, office or seminar materials).

[5.1 Contracts between EUR 30,000 and EUR 150,000]

Such contracts are awarded by means of an open tender procedure published locally: the procurement notice is published in all appropriate media but only in the country in which the Action is being carried out. A local open tender procedure must provide other eligible suppliers with the same opportunities as local firms.
5.2 Contracts under EUR 30,000

Supply contracts worth less than EUR 30 000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three suppliers of its choice and negotiates the terms of the contract with one or more of them. For supplies of a value of EUR 5 000 or less, the Beneficiary may place orders on the basis of a single tender.

6. RULES APPLICABLE TO WORKS CONTRACT (under EUR 300,000)

Works contracts worth less than EUR 300 000 must be awarded by means of a negotiated procedure without publication, in which the Beneficiary consults at least three contractors of its choice and negotiates the terms of the contract with one or more of them. For works of a value of EUR 5 000 or less, the Beneficiary may place orders on the basis of a single tender.

7. USE OF THE NEGOTIATED PROCEDURE

The Beneficiary may use the negotiated procedure on the basis of a single tender in the following cases:

a) where, for reasons of extreme urgency brought about by events which the Beneficiary could not have foreseen and which can in no way be attributed to him, the time-limit for the procedures referred to in sections 3 to 6 cannot be kept. The circumstances invoked to justify extreme urgency must in no way be attributable to the Beneficiary. Actions carried out in crisis situations identified by the European Commission are considered to satisfy the test of extreme urgency. The ALF will inform the Beneficiary if a crisis situation exists and when it comes to an end.

b) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or designed to provide assistance to peoples in the social field;

c) where contracts extend activities already under way which are not included in the main contract but which, because of unforeseen circumstances, have become necessary to perform the contract, or which consist of the repetition of similar services entrusted to the contractor providing services under the initial contract;

d) for additional deliveries by the original supplier intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the Beneficiary to acquire equipment having different technical characteristics which would result in either incompatibility or disproportionate technical difficulties in operation and maintenance;
e) for additional works not included in the initial contract concluded which have, through unforeseen circumstances, become necessary for carrying out the works;

f) where the tender procedure has been unsuccessful, that is where no qualitatively and/or financially worthwhile tender has been received. In such cases, after canceling the tender procedure, the Beneficiary may negotiate with one or more tenderers of its choice, from among those that took part in the tender procedure, provided that the initial terms of the tender procedure are not substantially altered;

g) where the contract concerned follows a contest and must, under the rules applying, be awarded to the winner of the contest or to one of the winners of the contest, in which case, all winners shall be invited to participate in the negotiations;

h) where, for technical reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular service provider;

i) where warranted by the nature or particular characteristics of the supplies, for example, where performance of the contract is exclusively reserved for the holders of patents or licenses to use patents.

8. SPECIAL CASES

8.1 Co-financing

Where:
- the Action is co financed by several donors and
- one of the other donors, whose contribution to the total cost of the Action is greater than that of the Foundation, imposes procurement rules on the Beneficiary that differ from those set out in sections 3 to 5,

the Beneficiary may apply the rules imposed by the other donor. In all cases, the general principles and rules on nationality and origin set out in sections 1 and 2 still apply.

8.2 Public administrations of the Member states

Where the Beneficiary is a contracting authority and/or a contracting entity within the meaning of the Community Directives applicable to procurement procedures, it must apply the relevant provisions of those texts, in preference to the rules set out in 3 to 5. In all cases, the general principles and rules on nationality and origin set out in 1 and 2 still apply.