

**IMDEA MATERIALS FOUNDATION
HIRING DIRECTIVE FOR CONTRACTS NOT SUBJECT TO
REGULACIÓN ARMONIZADA [ART. 175(b) SPANISH GOVERNMENT
CONTRACTS ACT (GCA)]**

DIRECTIVE APPROVED ON 28 MAY 2008

The purpose of the Directive of the IMDEA Materials Foundation, hereinafter the Foundation, is to regulate the procedure for onerous contracts made by the Foundation, in compliance with the principles of communication, competition, transparency, confidentiality, equality and non-discrimination set forth in Article 175 of Spanish the Government Contract Act (Act 30/2007) and any other legislation applicable to Government entities.

The Directive herein meets the approval of the Delegate Commission, by virtue of the statutory powers with which it is invested.

If the Government Contract Act is amended in any way, the Foundation's Chairman is authorized to update any reference herein to the precepts of the Government Contract Act or the sums therein, as well as any reference to other regulations.

Any precept herein that is contrary to a legal provision shall be construed as null and void.

For anything not set forth herein, the procurement authority shall be free to establish the regime that will govern the contract, providing it is not contrary to law.

These rules shall be published in the Foundation's buyer profile to which free access shall be given.

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I. PRINCIPLES AND SCOPE

Article 1. Nature of the Foundation

The Foundation has the capacity to award contracts, pursuant to the provisions of Article 3.3(b) of the Government Contracts Act No. 30/2007 (hereinafter, GCA).

Article 2. Exclusion of harmonized contracts

The procurement rules herein apply to contracts not subject to harmonized regulation pursuant to the GCA, which are:

- The contracts mentioned in Art. 13.2 GCA,
- The services contracts included in categories 17-27, both inclusive, in Annex II of the GCA,
- Public works, supplies and services contracts in categories 1-6 of Annex II of the GCA, providing they do not exceed the community thresholds set forth in the next paragraph.

The community thresholds shall be determined according to the current regulations for each year which are published by an appropriate legal instrument. Pursuant to the Spanish Order EHA/3875/2007 for 2008, the thresholds are: (i) Construction and civil engineering works: Euro 5,150,000; (ii) Services and Procurement: Euro 206,000.

Contracts subject to harmonized regulation shall have their own specific regulations in order to complete the regulation set forth in Act 30/2007.

Article 3. Procurement regime and principles

The Foundation is a government foundation whose contractual activity is governed by the principles of free access to tenders, transparent procedures and the publicity thereof, non-discrimination, and equal treatment of the candidates. A prior definition of needs is required to guarantee that the funds for contracting public works, procurement and services will be used effectively, to safeguard free competition, and to select the tender offering best value for money.

Any award of contract shall be subject to the principles of publicity, competition, transparency, confidentiality, equality and non-discrimination.

The Foundation shall always act according to the criteria of effectiveness, efficiency and sound administration.

Article 4. Scope

The purpose of this Guideline is to establish the Foundation's tendering procedures according to the principles that govern it in contracts not bound by harmonized regulation. Notwithstanding the foregoing, such procedures shall not apply if other specific regulations

are in force that could apply to them directly or which, whilst being applicable, are not compatible with them. Insofar as the Foundation is funded with public resources (either of the State, an autonomous region or the European Community), it is also obliged to comply with the GCA, as well as any regulations on subsidies and the terms and conditions for granting them.

This Guideline shall not apply to unrequited payments or the hiring of dependent staff.

Likewise, the Guideline shall not apply to contracts in which the Foundation is the provider of services or the supplier.

Likewise, they shall not apply to agreements and Partnership Agreements between the Foundation and the general government, individual businesspeople and legal entities for the Foundation's purposes. A partnership agreement shall only be construed as an agreement between the parties to carry out a joint project and never as an acquisition on the part of the Foundation of a good or a service in exchange for a consideration.

Article 5. Excluded contracts and services

This Guideline does not include the contracts listed in Article 4.1 of the GCA, and contracts which are not included in that Act due to a regulation.

The provisions in this Guideline shall not apply to the preparation and awarding of contracts for teaching and research work at the Foundation's Centers performed by natural persons and consisting in training and continued training courses, seminars, colloquiums, round tables, conferences, partnerships, applied research studies and similar activities. Transfers of contract and subcontracting are not allowed under this contract.

Article 6. Exceptions to the rules for in-house contract awarding

Under exceptional circumstances, and by reason of an emergency which shall be stated in the call for tenders, the Board or the Delegate Commission may authorize shorter deadlines than the ones set forth in Article 11, no requirement for the guarantees set forth in Article 17, no announcement in the Spanish State Gazette (BOE) or a major Spanish newspaper as provided for in Article 22, and may substitute the Technical Committee on Procurement's requirement alluded to in Article 25 herein, for a proposal made by one or more members of the Foundation.

Article 7. Data protection

Pursuant to GCA supplementary provision number thirty-one, compliance with current regulations on data protection shall be assured in any procurement procedure.

II. GENERAL ISSUES

Article 8. Procurement authority

Procurement shall be made by the Board or by the Delegate Committee, with no restriction to the amount. The Chairman and/or the Manager are authorized to award contracts within the limits of their authority. Likewise, they may hire anyone they have been authorized to recruit or any sponsor in whom they may have delegated that authority.

Contracts shall be awarded by the procurement authority. The restrictions to recruitments shall apply to the entire tendering process (including approval of the conditions) and not just to the conclusion of a contract.

Article 9. Initiation of the call for tenders

Calls will be initiated at the proposal of the head of a department where an expenditure or investment is required and needs to be justified. The proposal must be authorized by someone with sufficient authority, depending on the amounts involved.

The contract will need to be necessary in order to meet and comply with the Foundation's aims.

Article 10. The price of procurement contracts

Article 74 GCA on the object of the contract and execution by stages shall apply, as well as the provisions in Article 75 (price) and 76 (calculation of the contract's estimated cost). Therefore, the estimated value of the contract will depend on the global cost, before the Added Value Tax (or the Canary Island's General Indirect Tax (IGIC) or the Tax on Production, Services and Imports) and shall include all the years set forth in the contract (including any extensions).

The definitions used in the GCA shall apply to procurement contracts. The duration of services contracts shall not exceed four years. Tacit extensions shall not be permitted for the leasing of personal property and expressly stated extensions shall not exceed more than half of the period set forth in the immediately preceding contract.

Combined contracts, as defined in Article 12 of the GCA, may only be executed when the services are related to each other and can be treated as a single functional unit.

Article 11. Deadlines

In procurement contracts, the period for the receipt of tenders shall be not less than 15 days from the date of publication or call for tenders. The period shall be 26 days in the case of construction and civil engineering work. In the event of an emergency, the period may be shortened to 8 and 13 days, respectively. In determining the time-limits, such factors as the complexity of the intended procurement and the normal time for transmitting tenders shall be taken into consideration.

The time-limit set for amendments shall be not less than 3 days from notification by any reliable means that allows an acknowledgement of receipt.

The deadline for submitting requests to take part in shortened procedures shall be no less than 10 days from the announcement or request. The time-limit may be shortened to 7 days in the cases of duly substantiated emergency.

The deadline for the evaluation and proposal for awarding shall be 45 days from the day on which the deadline for tender submission ends. Awarding shall be completed within no more than one month from the proposal for awarding.

The time-limits and deadlines herein refer to calendar days. If the last day is a nonworking day, the deadline shall be extended to the next business day. For the effects hereunder, Saturdays shall be nonworking days.

Deadlines shall be computed from the day following publication or announcement.

Article 12. Notification

GCA supplementary provisions number eighteen and nineteen on notifications by mail, electronic means, telex, telegram or facsimile shall apply.

Article 13. Funds for performing contracts

Any calls for tendering shall require a guarantee the existence of sufficient funds to fulfill the contract in question. In the event that a contract exceeds a firm's economic year and depends on new allocations (for whatever item), the firm shall ensure that they do not incur in more commitments than they can assume.

The option of getting into debt in order to enter into a contract shall depend on whether the legal requirements for getting into debt are met. The Foundation shall be obliged to comply with any budget stability rules applicable to it.

Article 14. The Foundation's buyer profile

The Foundation's Website shall include an easily accessible section describing the Foundation's requirements for the profile of admissible candidates. Concretely, the section shall publish the Guidelines herein and other useful information, such as the contact points and the means of communication which can be used to exchange information with the Procurement Agency.

Admissible candidates for contracts involving sums exceeding the limit set forth in Article 175(c) (currently, Euro 50,000) shall include:

- a) Open and current tender and related documentation.
- b) The awarded contracts. This information shall be published on the Website for at least 30 days.
- c) Any procedures which have been annulled.
- d) The planned procurements shall be included only if they are certain to be carried out and their constituent parts can be estimated.

The computer system shall include a device capable of certifying in a reliable manner when the data in the computer was published and any milestones that should be recorded.

Likewise, an endeavor shall be made to give a brief outline of the contracts for works costing less than Euro 50,000 but more than Euro 18,000.

In contracts which are to be co-financed by the European Regional Development Fund (ERDF), the profile shall include the sentence: "This contract is co-financed by the European Regional Development Fund within the Objective of Regional Competitiveness and Employment for the 2207-2013 programming period" in all stages of the tendering procedure (tender, awarding and contract).

Article 15. Admissible candidates

Individuals and companies from Spain and other countries may enter into a contract with the Foundation providing they have the legal capacity to do so, have not incurred in contracting ban status and can certify their economic, financial, technical and professional solvency.

To these effects, Articles 44- 48, and Articles 49.1, 49.3, and 50 of the GCA shall apply. Articles 51-53 shall also apply.

Likewise, to enter into a contract with the Foundation, they shall not have incurred in the contracting ban status set forth in Spanish Act 14/1995, dated 21 April, on the Incompatibilities of High Offices in the Autonomous Region of Madrid and in Article 29.5 of Act 9/1990, of 8 November, which governs the Treasury in the Autonomous Region of Madrid (they shall not have debts outstanding with the Autonomous Region of Madrid, unless such debts are duly guaranteed).

To certify a tendering firm's solvency, the procurement authority may require them be in a certain classification in order to determine the level of solvency required to conclude a contract. Ways of proving solvency other than the ones set forth in Articles 64 -68 are permitted. The Foundation shall ensure that the required solvency criteria are adapted to the nature of each contract. When evaluating personal and material assets, the level, degree or measure of solvency taken into consideration shall be stated.

Unless proven otherwise, the entry in the Official Registry of Bidders and State Classified Companies and in the Autonomous Region of Madrid's Bidders Registry certifies the Foundation that entrepreneurs are admissible candidates given their status and authority to enter into and be bound by a contract, professional or corporate qualifications, economic and financial solvency and classification, as well as the existence or non existence of incursion in contracting ban status.

Entering into contracts for services with temporary employment agencies is not permitted.

Article 16. Conclusion of contracts and awarding of tenders

Notwithstanding the provisions for minor contracts set forth in Article 18 herein, the Foundation shall only enter into written contracts which are in Spanish, with independence of the Foundation's authority to conclude written contracts for lower sums. Contracts shall state:

- a) The identity of the parties.
- b) Certification of the signatories capacity to enter into the contract.
- c) A definition of the purpose of the contract.
- d) A statement that the contract is a private contract, pursuant to the provisions set forth in Article 20.1 of the GCA
- e) A list of the documents which are an integral part of the contract. The list may be ordered according to a hierarchy agreed by the parties; in which case, unless there is an obvious error, the order will be used to determine which document shall prevail if the documents contradict each other.
- f) The preset price, or the way of arriving at it, as well as any review clauses, where appropriate.
- g) The duration of the contract or the estimated dates on which it will come into effect and end, as well as the dates for any extension or extensions, if planned.
- h) The conditions for receiving, delivering or accepting the provision.
- i) The terms and conditions for payment and, where appropriate, of any guarantees. The cases in which termination is advisable, and the resulting penalties.
- k) The object and duration of the obligation of confidentiality.
- l) The venue for concluding the contract, which shall be the Foundation's main office.
- m) Mention shall be made of the conditions under which subcontracting and transfers of contract are permitted.
- n) It shall be recorded whether, pursuant to Article 21.2 of the GCA, any controversies regarding the preparation, awarding, effects, compliance with and extinction of the said private contracts will be settled in the civil courts. The contract shall mention whether a solution for any disputes over the effects, compliance with and termination of contracts shall be settled in the civil Courts of Justice for the area in which the Foundation has its main offices, or by Arbitration.
- o) The guarantee period, if any.
- p) The obligations with regards to data protection.
- q) Mention that the contract shall be executed at the contractor's own risk and venture.
- r) In the event that the services contracts listed in categories 17-27 in Annex II are for sums equal to or higher than Euro 211,000, mention shall be made of the special appeal related to procurement set forth in Article 37 of the GCA before lodging an appeal to the ordinary courts against decisions of the government, which would preclude any ordinary appeals against government decisions.

Contracts for the provision of services shall expressly state that the status of those who have performed work as members of the Foundation's staff work shall not become consolidated under any circumstance.

The contractual document shall not include stipulations that establish any rights and

obligations for the parties beyond the ones set forth in the bidding conditions which shall be concentered on the basis of the successful bidder's proposal or, if there are no conditions, from the stipulations decided when the contract was awarded. Notwithstanding the foregoing, the contract can be revised to include an optional right to amend the contract under certain circumstances, which shall also be stated in the contract and in the specifications, and which objectively justify an amendment.

The contracts shall be concluded when they are signed, which shall necessarily take place with the entity that was the successful bidder.

Contracts that are to be co-financed by the ERDF shall include the sentence: "This contract is co-financed by the European Regional Development Fund within the Objective of Regional Competitiveness and Employment for the 2207-2013 programming period2.

Article 17. Payments and Guarantees

As a rule, the Foundation shall make the payments after the object of the contract has been performed or proportionally according to the milestones established in the contracts. To that effect, the manager of the Department that initiated the call for tenders shall verify that the works and service have been executed according to the agreed terms and conditions before making the payments. Any sums paid in advance shall be guaranteed by the contractor, unless the non obligation to guarantee them is justified with supporting arguments.

Payments shall be made before 30 days have elapsed from the date the invoice was received or 30 days after the goods were delivered and the service provided, whichever takes place first. The payments shall always be made by bank transfer or a check made out to a named entity.

Without prejudice to the foregoing, the procurement authority may agree the requirement of a final guarantee from the successful bidder in order to assure proper execution of the service. The guarantee may cover up to 10 percent of the contract, with 4 percent of the contract being the rule. The guarantee shall be mandatory in contracts for a sum that exceeds Euro 120,000 for the provision of services and supplies or Euro 1,000,000 in works, unless the non obligation to guarantee them is justified with supporting arguments.

Article 18. Subcontracting and transfer of contract

Procurement and transfers of contract shall be governed by the provisions in Articles 209-211 of the GCA. Notwithstanding the foregoing, in the measure that the funds come from subsidies, the articles shall apply without prejudice to the provisions set forth in the Spanish Subsidies for Subcontracts Act.

III. MINOR CONTRACTS

Article 19. Minor contracts

If the sum in a contract does not exceed the amounts set forth in Article 122.3 of the GCA

(which is currently Euro 50,000 for construction and civil engineering contracts and Euro 18,000 for services and supplies), it will suffice for the call for tenders to include the order, the authorization for the expenditure, and the respective invoices are enclosed, as stipulated in the Foundation's rules of procedure for internal controls. The duration of minor contracts shall not exceed one year and cannot be extended.

Minor contracts shall include proof that the bidder is legally and professionally qualified to execute the work.

Pursuant to supplementary disposition number twelve of the GCA, this procedure may be applied to contracts to data bases and subscriptions of publications, with no restriction as to the cost.

Notwithstanding the foregoing, minor contracts may be processed pursuant to the provisions set forth in Article 23 herein when the procurement authority deems it necessary due to the nature of the object of the contract.

Pursuant to Article 16 herein, contracts shall be formalized in writing in the cases where the rights and obligations of the parties need to be expressly recorded. The requirement shall be mandatory in contracts for legal advice and consultancy.

IV. CONTRACTS THAT ARE NOT MINOR CONTRACTS

Article 20. Contracts for supplies and services amounting to less than Euro 50,000 and which are not minor contracts

Contracts for supplies and services amounting to less than the sum set forth in Article 121.2 of the GCA (which is currently Euro 50,000) and which are not minor contracts pursuant to Article 19 herein shall only require a request for three tenders and shall be awarded to the one that is optimal with regard to cost.

In each case, the procurement authority shall decide whether to draw up terms and conditions, pursuant to the provisions set forth in Article 21 herein, which would preclude negotiation, or whether to negotiate the terms and conditions of the contract with each bidder.

In all cases, the level of solvency required of the bidders shall be established in advance and certification shall be provided that the chosen bid was optimal with regard to cost.

Article 21. Conditions in contracts for sums exceeding Euro 50,000

In contracts for sums that exceed the amount set forth in Article 121.2 of the GCA (which is currently Euro 50,000) a schedule of the bidding conditions shall be drawn up, stating all of the items that should be included in the contract pursuant to Article 16 herein. The bidding conditions shall also include the provisions set forth in Article 121.2 of the GCA and any technical specifications that should govern the execution of the provision. Likewise, the conditions shall establish who the procurement authority is, who should draw up the proposal for awarding and decide the deadlines.

Notwithstanding the foregoing, a schedule of the bidding conditions shall not be a requirement if the contract can only be awarded to one bidder, pursuant to the provisions set forth in Article 154 (d), 155 (b) and (c), 157 (c), (d) and (e) and 158 (c) and (d). In such case, the fact shall be recorded in the call for tender.

The procurement authority shall establish award criteria to evaluate the optimal tender with regard to cost, such as the price (which shall not be less than 30 percent of the total, unless the reason is duly substantiated and justified), any variations and improvements made by the bidders, quality, execution deadlines, the personal and material means assigned to contract by the company, and so on. The bidders shall supply such information and the weighting involved. If, for a duly justified reason the chosen criteria cannot be weighted, they shall be listed by decreasing order of importance. In the event that the Foundation draws up a schedule of legal and other technical conditions, it shall not state the criteria for awarding or any details regarding the awarding procedure.

Criteria for deciding whether a company is solvent enough to take part in the tender procedure may not be used as criteria for awarding. A distinction shall be made between the criteria for selecting the companies and the criteria for selecting the bids. A company's experience, the personal and material means available to them and the characteristics of the company shall not be valid criteria.

In the event that a schedule of the technical conditions is required, it shall at least state the technical requirements for the contract concerned. Likewise, it may provide the opportunity to include variations that imply technical improvements to the provision and any other appropriate clauses in line with the characteristics of the contract. The technical conditions shall be defined by taking into consideration the criteria of universal access and design, pursuant to the definitions set forth in Act 51/2003 on equal opportunities, non-discrimination and universal access for people with disability. When the object of the contract has an impact on the environment, the criteria for sustainability and protection of the environment shall apply.

The technical conditions shall allow the bidders equal access without creating unjustifiable barriers to competition. Unless the object of the contract so requires, the technical clauses shall not mention products from a specific manufacturer or origin, or any specific procedures that might facilitate the elimination of potential competitors. When a general description cannot be provided with sufficiently precise and intelligible specifications, marks, permits and types may be stated, providing they are always accompanied by the mention "or equivalent".

In the event that a schedule of technical conditions or a schedule of legal conditions exists, the Foundation shall ensure that the schedules only contain the elements pertaining to each one. The legal schedule shall not mention technical considerations nor vice versa.

The Foundation shall not request or accept advice from a company that may have a commercial stake in the contract and that could be used to prepare specifications for a contract that would exclude competitors.

The rules set forth in Article 101 to define and establish technical prescriptions, and the rules in Articles 102-104 shall apply to the contracts for services included in the categories 17-27 of Annex II on sums equal to or higher than Euro 211,000.

Article 22. Publicity of contracts that exceed Euro 50,000

Any tenders for a sum that exceeds Euro 50,000 shall include the Foundation's buyer profile regulated in Article 21 herein, although the procurement authority may agree additional modalities. This requirement does not apply to the cases in which a schedule of bidding conditions is not necessary, pursuant to the provisions set forth in Article 21 herein. The announcement of the tender shall include the basic details that are required to know that the planned tender exists, as well as its essentials. Thus, the profile may include:

- a) Object of the contract.
- b) Price of the tender.
- c) Execution deadline.
- d) Criteria for evaluating the bids and their weighting.
- e) The minimum levels of solvency required of the entrepreneurs and the documents certifying their solvency.
- f) The venue where the schedules of technical and legal conditions are available to the bidders.
- g) The time-limit and manner of submitting the bids, including the date and deadline.
- h) The awarding procedure.
- i) The bidders' opportunity to offer variations and improvements, stating precisely which elements are involved and under what conditions their submission is authorized.
- j) Any additional documents besides the one mentioned in Article 130 of the GCA
- k) Any special conditions related to the execution of the contract (set forth in Article 102 of the GCA)
- l) Who will pay the cost of the announcement, where appropriate.

In the event that the price of the contract exceeds Euro 150,000 for services and supplies and Euro 3,000,000 for construction and civil engineering works, the announcement shall be made in the Official Gazette of the Spanish State or in the Official Gazette of the Autonomous Region of Madrid and/or in a newspaper distributed across Spain. In such cases, the announcement may be limited to the object, deadline, price and manner in which the contract will be awarded, indicating the venue or Website address of the Foundation's buyer profile where the tender can be found. The announcement in the Official Gazettes and/or major national newspapers shall also state that the tender is co-financed with the ERDF alluded to in Articles 14 and 16.

Article 23. Procedure for awarding contracts that exceed Euro 50,000

Contracts that exceed the sums set forth in Article 121.2 of the GCA (which is currently Euro 50,000) and lower than the sums set forth in Articles 155 (d) for construction and civil engineering contracts (currently Euro 1.000.000), 157(f) and 158(e) for supplies and services (currently Euro 100,000) may be processed by the independent, restricted or agreed

procedure, without distinction. The two latter cases require a request for three tenders is required. To these effects, an independent procedure shall mean a procedure in which any entrepreneur who is interested may submit a proposal and any negotiation of contractual terms is excluded. In the restricted procedure, only entrepreneurs expressly selected by the Foundation for their solvency may submit proposals. In this case, any negotiation of the terms of the contract is excluded. In the agreed procedure, the terms of the contract are consulted in advance with one or more entrepreneurs.

Notwithstanding the foregoing, in the case of contracts that exceed the sums set forth in Articles 155 (d) for construction and civil engineering works (currently Euro 1,000,00), 157(f) and 158(e) for supplies and services (currently Euro 100,000), the procedures convened in the cases set forth in Articles 154, 155, 157, 158 may be used. The Foundation shall provide due certification that it falls within one of those cases.

In all other cases, the independent procedure may be used.

Any loopholes in these guidelines related to the preparation and awarding of contracts shall be resolved according to the precepts of the GCA.

Article 24. Evaluation of bids and proposal for awarding in convened procedures

After the deadline for submitting bids has expired, a decision shall be reached with the companies with regards to which economic and technical issues in the schedules of conditions are open to negotiation. Care shall be taken to provide equal treatment for all bidders. The negotiations shall be organized in such a way that the bidders will have access to the same amount of information and in such a way that no unjustified advantages are granted to any one bidder.

The procurement authorities shall negotiate the bids received with the bidders in order to adapt them to the schedules of conditions, where appropriate. The negotiation with the bidders shall conclude with an awarding proposal that shall be signed by the executive officer in charge of initiating the procurement procedure, who will send it to the procurement authority. The proposal shall include the amendments to the bid derived from the negotiation process and any technical reports that have been requested.

Article 25. Technical Committee on Procurement

A Technical Committee on Procurement shall be appointed for contracts that require the preparation of a schedule of conditions pursuant to the provisions set forth in Article 21 herein. In the event that the price of a contract for services or supplies is lower than Euro 100,000 or, in the case of a construction or civil engineering contract, lower than Euro 1,00,000, the proposal to award shall be made by the Chairman of the department that requested the initiation of the procedure. The Chairman shall request the in-house reports on the economic assessment and the adaptation of the proposal to the schedule of conditions.

The Technical Committee on Procurement shall comprise at least three members with a right to vote. It shall comprise the Chairman of the Department that requested the initiation of the procurement procedure or the Chairman's deputy, and the manager of the Foundation's legal and/or economic-financial department, or the manager's deputy. The Chairman or Manager shall select the remaining members, taking into consideration those who have sufficient technical expertise on the object of the contract. The Chairman or Manager shall decide who shall chair the Committee (the Chairman may be the Chairman or the Manager if they are not the procurement authority), and the secretary (who shall act without a voice), and when meetings are constituted and agreements arrived at in a valid manner. The Technical Committee on Procurement may include members who do not belong to the Foundation, providing they duly comply with the requirement of confidentiality.

In those cases where the characteristics of the tender require a detailed technical analysis and the subjective criteria exceed other criteria by 50 percent, the Manager shall ensure that the Committee members have adequate expertise and/or shall request appropriate technical reports from third parties.

Those who will later take part in the awarding of the contract or who incur in one of the reasons for abstaining set forth in Article 28 of Act 30/1992 may not be part of the Committee. The Chairman or Manager shall remove from the Committee anyone whose impartiality is in question.

The Technical Committee on Procurement shall have the following functions and shall hold as many sessions as necessary to comply with them:

- a) Study the documents submitted by the bidders to verify whether they meet the requirements set forth in the legal and technical specifications, and agree any potential amendments that should be made by the bidders.
- b) Proceed to open the proposals submitted by the bidders.
- c) Propose to the procurement authority the awarding of contract to the optimal technical tender on the basis of the evaluation criteria established in each case. The proposal to award shall be duly justified and shall include reports alluded to in the previous Article as a schedule thereto.

Article 26. Awarding the contract

The proposal to award a contract to the bidder who submitted the optimal bid shall be sent to the procurement authority, pursuant to Article 8 herein. The procurement authority may award the contract to the optimal proposal according to the criteria established in the schedules of conditions, or declare the competition void, providing a justified reason to do so exists.

Notwithstanding the foregoing, the procurement authority may dismiss the proposed awarding of contract, in which case the reason will need to be substantiated.

The award shall be announced in writing to the successful bidder in writing before proceeding to formalize the contract, and shall be published in the Foundation's buyer profile. Likewise, the award shall be notified to the reimagining bidders by any means that

provides an acknowledgement of receipt (including by email). The notifications shall safeguard the commercial interests of the companies, any technical secrets and protect the data of individuals.

V. FORMAL ISSUES

Article 27. Call for tender documents

The call for tender shall include all the documents required by a third party to verify compliance with the tender guidelines herein. Concretely, insofar as appropriate pursuant to the rules herein and depending on the type of tender and price of the contract, the call shall include: an announcement of the tender; the schedule of legal and technical conditions; any invitations which have been sent; the proposals submitted; minutes of the meetings held by the Technical Committee on Procurement and their proposal, the documents that justify the award of contract and the concluded contract, the award of contract and the reasons for awarding or dismissing it.

Article 28. Record of contracts in force

The Foundation shall keep a record of the contracts in force from time to time, with an indication of the type of contract, the price and other necessary features for the purpose of internal control and reporting when necessary.

The record shall state: the number of calls to tender; a description of the service, supplier; date signed; date on which the good was delivered or the service ended; the price committed, and the tendering procedure.

ENTRY INTO FORCE

This Guideline shall apply to any procedure initiated on the day following the day on which it is approved. Procedures shall be deemed initiated when the call for tenders is published in the Foundation's buyer profile. In the event that they are not published, the date on the approval of the schedule of conditions shall apply.