



**BTC**

**BELGIAN  
DEVELOPMENT AGENCY**

## **PUBLIC CONTRACTS LAUNCHED BY BTC FOLLOWING 10TH EDF REGULATIONS FOR THE DRC**

BTC is a public-law company with social purposes and is subject to Belgium's procurement legislation. However, other regulations may be applicable under the Specific Agreement governing a project. This is the case in the DRC where under the Specific Agreements concluded between the Belgian State and the DRC public contracts for certain projects are launched and awarded following the provisions of the *Practical Guide to contract procedures for EU external actions (PRAG)*, which is available on the internet through:

[http://ec.europa.eu/europeaid/work/procedures/implementation/index\\_fr.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/index_fr.htm)

In general, all necessary documents and information for tendering or requesting additional information can be found in the downloadable tender documents.

The PRAG of reference for any specific public contract is the one applicable at the time the contract is launched; the applicable implementation method is direct centralised management. The contracting authority should be understood as the Belgian Technical Cooperation and not the European Commission; and the donor should be understood as Belgium and not the European Union. Consequently, the notion 'European Commission' and references to the 'European Union' in the Practical Guide mentioned above are replaced by references to BTC's (control) instances. It is therefore assumed that the role and tasks of European bodies and instances to which the Guide refers are taken on by bodies and instances of BTC on the basis of internal rules and processes and applicable mandates within BTC.

If the PRAG refers to the 'European Commission' as the 'donor', for public contracts awarded by BTC the notion of 'European Commission' shall be replaced by 'the Belgian State'. If reference is made to 'EuropeAid', it should also be understood as the Belgian donor (Directorate General Development - DGD).

In function of publication obligations, notifications are therefore published in the Official Journal of the European Union, on the Beltrade website, on BTC's website or through DRC publication channels.

So, the PRAG (last updated version) is fully applicable, with the exception of:

- The chapter concerning 'Grants' since according to the Belgian law BTC itself cannot grant grants (or subsidies);
- Clauses referring to 'EuropeAid'. If reference is made to 'EuropeAid', this should also be understood as the 'Belgian donor' (for instance, EuropeAid website translates into DGD website, i.e. the Beltrade website);

- The publication channels: Since the Congolese counterpart of the Belgian Public Tender Bulletin does not appear (daily) as Belgium's BDA does, the following publication is required:
  - International open procedures: publication in OJEU, on Beltrade (< Belgian embassy, donor) + BTC website;
  - National open procedures: BTC website + Beltrade + UCAG website (?) Radio, local newspapers.... ex post publication (p. 20 PRAG 2013) is required on BTC website at the least;
- EWS (2.3.3. and 3.3.12.1 PRAG): The EWS is a European Commission data system or data base to which BTC cannot access; therefore, BTC will rely on its own data bases to identify instances that are recorded at exclusion level;
- References to the anti-fraud office of the European Commission (OLAF), which should be duly informed "where fraud, corruption or other irregularities concerning EU funds is suspected". Since it concerns Belgian funds, the Belgian or BTC system should be informed. BTC's Integrity desk must be informed, which will, if applicable, involve third parties with broader competencies pertaining to claims of fraud, such as the Public prosecutor;
- References to the (EU) Court of Auditors must be understood as the Belgian Court of Audit;
- 2.4.15.1. Legal remedies

Complaints cannot be filed with Belgium's federal ombudsperson because handling complaints about public contracts does not lie within his/her (Belgian) competence and complaints against Belgian public authorities do not lie within the competence of the European ombudsperson. So, the legal remedies applicable are:

1. Complaint to the contracting authority

Complaint to the person who has taken the award decision

Complaint to the competent director at BTC's head office (Directorate Finances), Rue haute 147, 1000 Brussels, Belgium;

2. 'Ordinary' actions: Council of State (which has jurisdiction over acts of Belgian contracting authorities): Council of State - Registry of the department of administrative law, Rue de la Science 33, B-1040 Brussels