



**EIB**

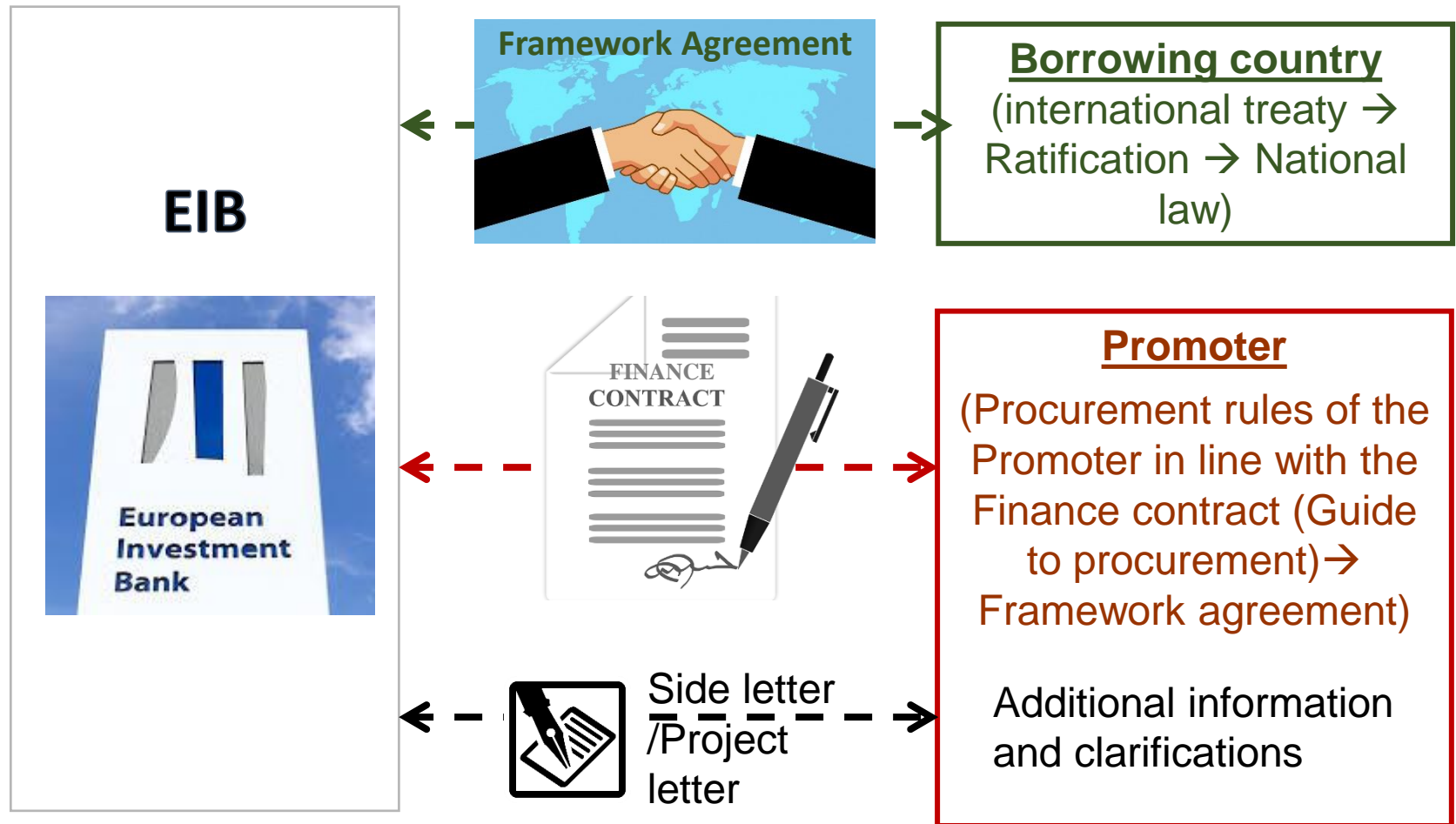
# **PROJECT PROCUREMENT POLICY**

(International Public Procurements in Ukraine)

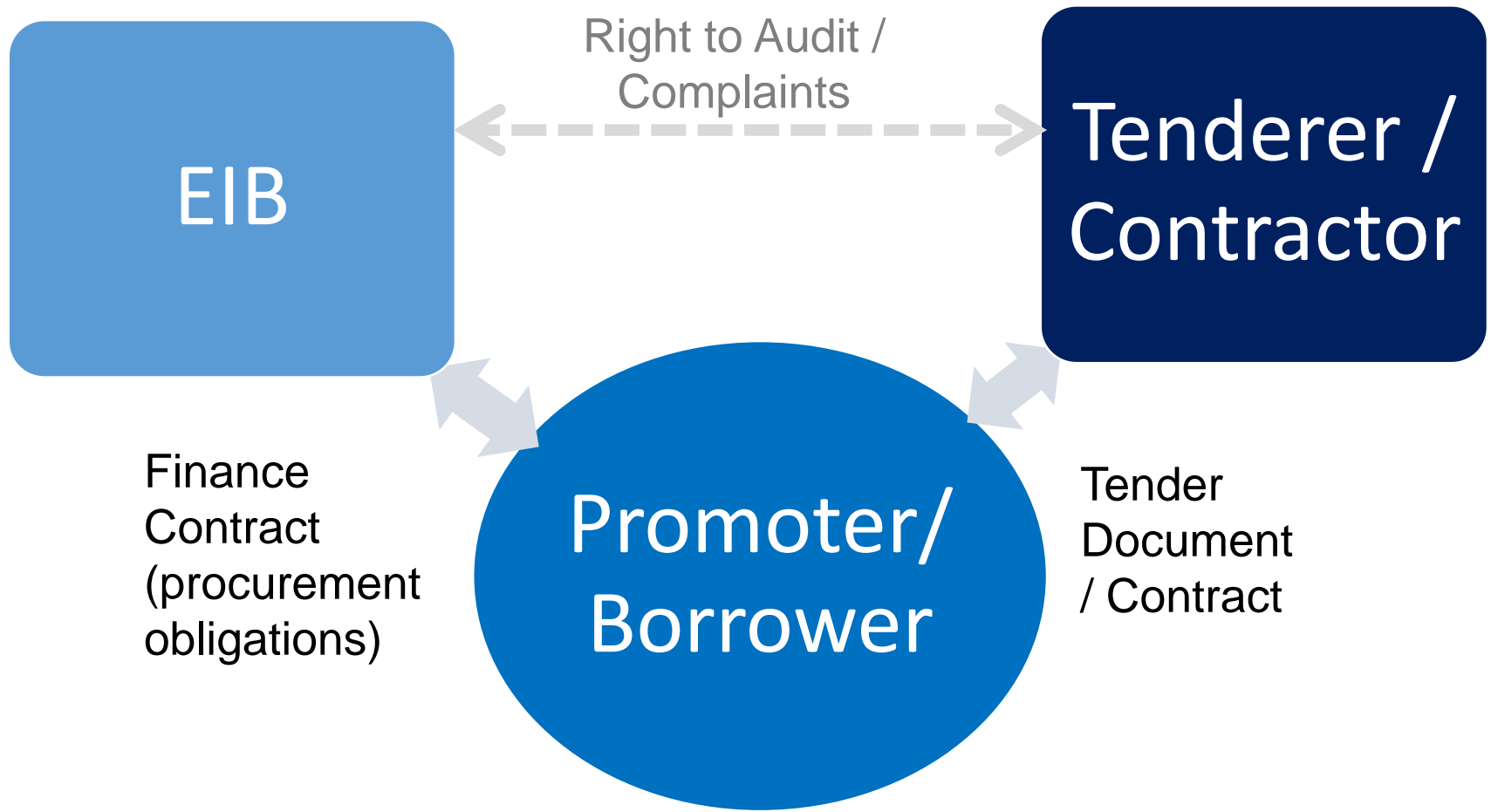
9 October 2024

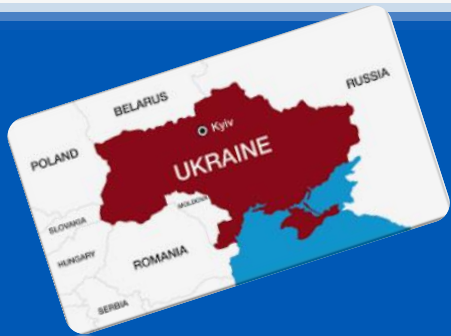


# EIB: Legal Framework for Project Financing Outside the EU



# Legal Relationship within EIB Financed Projects





# Ukraine:

## EIB's Activity and Project Procurement Approach



# EIB-financed projects in Ukraine

More than **50 projects** focused on:



social and economic infrastructure



energy efficiency



climate action and innovation

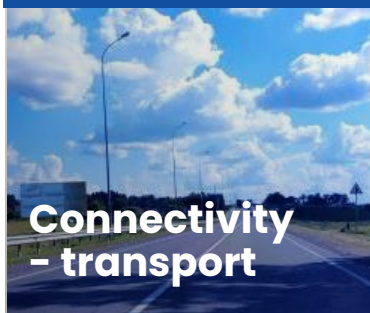


transport and connectivity



SMEs development

Examples of projects supported by EIB loans, advisory support and financial instruments



## Connectivity - transport

Examples:

- Road corridors to the EU
- Beskyd Railway Tunnel
- Boryspil Airport Development
- Air Navigation Upgrade



## Connectivity - energy

Examples:

- Rivne-Kyiv High Voltage Line
- 750kV Zaporizhzhia – Kakhovska Line



## Urban Transport

Examples:

- Ukraine Urban Public Transport I & II
- Dnipropetrovsk Metro Completion
- Kyiv City Urban Electric Transport



## Sustainable Energy

Examples:

- Ukraine Public Buildings Energy Efficiency Program
- Ukraine Municipal Infrastructure Program
- Hydro Power Plants Rehabilitation
- Agri-infrastructure and biomass power generation



## SMEs & Private Sector

Examples:

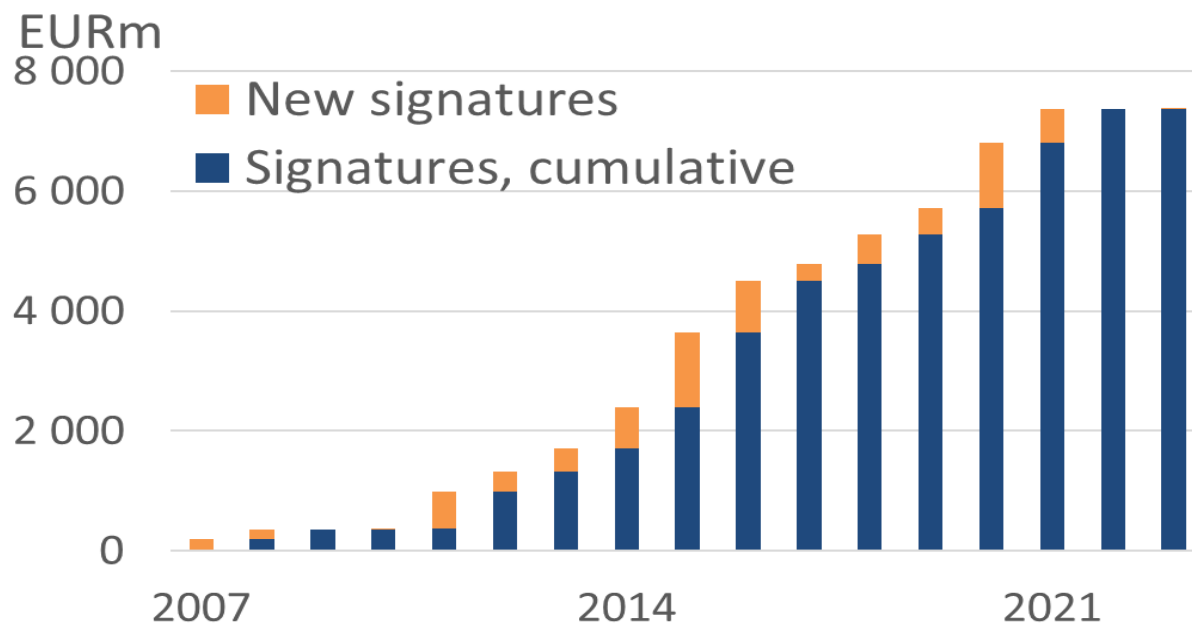
- Bank intermediated loans to SMEs and MidCaps and direct loans to corporates

## EIB Group Financing in Ukraine so far

Following the full-scale Russian invasion: over **EUR2bn** of financing

- **First IFI** disbursing in Ukraine: **EUR 668m** starting in **March 2022**.  
Additional repurposed operations: **EUR1.1bn** (fully disbursed)
- Resumed operations **EUR 536m** (EUR 288m disbursed)
- One impact financing private equity operation: **EUR 25m**

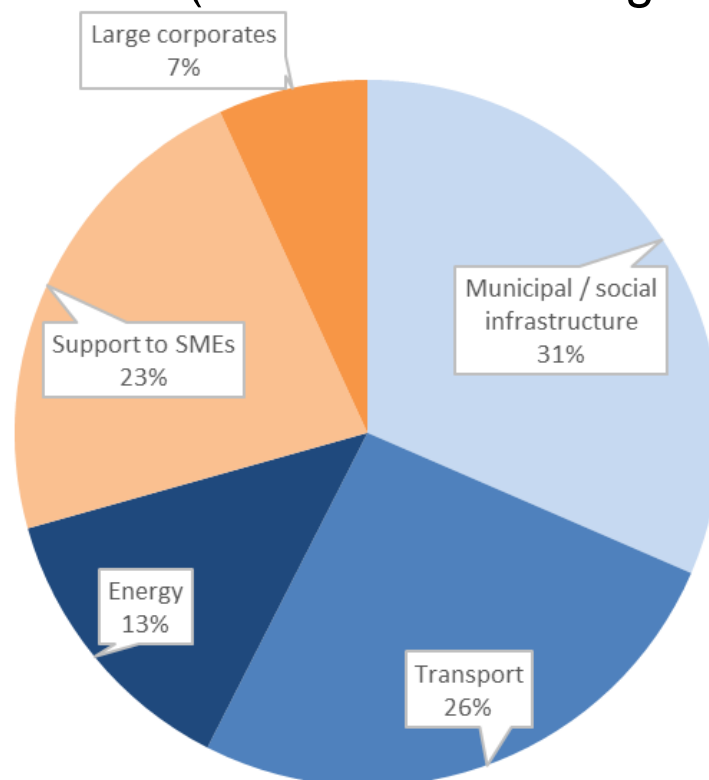
Strong focus on **procurement procedures** and **anti-corruption safeguards**



## Share of EIB Group Financing in Ukraine

**EUR 7.5bn of operations since 2007** – strong acceleration since 2014.

- **70%** in support of **public infrastructure** (municipal, transport, energy, social infrastructure)
- **30%** in support of **private sector** (MSME – including via EIF, corporates).



# EIB: Guide to Procurement



**Guide to Procurement**  
for projects financed  
by the EIB



# EIB Guide to Procurement (GtP)



## Table of Content

1. General Aspects
2. Operations within the EU
3. Operations outside the EU
4. Consultancy Services financed by the Bank



[Guide to Procurement](#)

# EIB's procurement model: a dual approach

## Inside EU

National Law implementing  
EU Directives

## Outside EU

GtP §3  
principle based

Following the **Treaty principles** (equal treatment, non-discrimination, mutual recognition, proportionality and transparency)

EIB Statute: ensure that the Bank's **funds are employed as rationally as possible** in the interest of the Union.

Procure works, goods and services to implement a project in the **economically most advantageous way**.

**No standard templates and tender documents** like most of other MDB's have

# EIB'S AND PROMOTER'S RESPECTIVE RESPONSIBILITIES



The GtP is NOT a legal framework, and therefore the national legislation **(aligned with the GtP where needed)** is the framework governing procurement procedures.



The principles laid down in the GtP prevail over conflicting national provisions.



Promoters are fully responsible for all aspects of the procurement process.



The Bank's involvement is confined solely to verifying whether or not the conditions attached to its financing are met.



The Bank may advise or assist promoters, but is not a party to the resulting contracts.

# Open Eligibility

## UNIVERSAL ELIGIBILITY

- Open to nationals of all countries, except:
  - Conflict of interest
  - Within EU: tenderers excluded in accordance with EU Law
  - Outside EU: EIB exclusions due to prohibited conduct and/or EU and UN Sanctions Lists
- Jointly co-financed with other MDB: open as much as possible, at least EU and beneficiary country.

## LOCAL CONTENT/PREFERENCE

- TFEU: No discrimination based on nationality!
- Except: 15% margin of preference (if duly justified, not automatic) for **equipment/goods/supply** contracts outside EU.
- **NOT accepted: mandatory local component!**



### Hidden barriers to international competition:

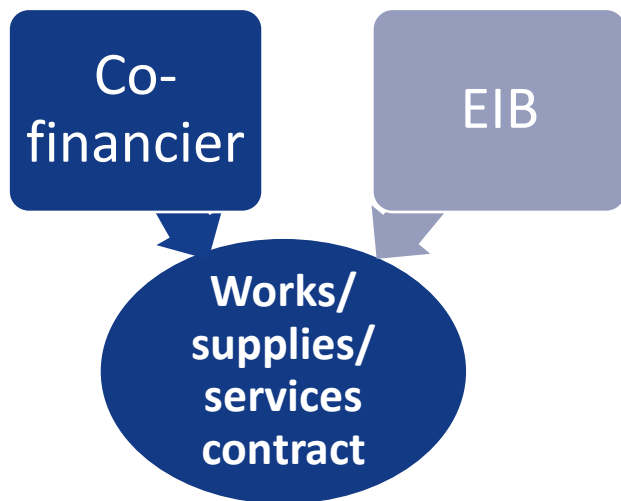
- Mandatory local shareholdership of concessionaire.
- Mandatory minimum share of local labour.
- Mandatory establishment of a local branch for participation.
- Application of national sanctions.
- Local company mandatory lead.
- Indirect financial incentives (through tariff regulations, grants, higher advance payments, etc.)
- Payments in local currency only...

**Any barrier to participation?**  
[procurementcomplaints@eib.org](mailto:procurementcomplaints@eib.org)



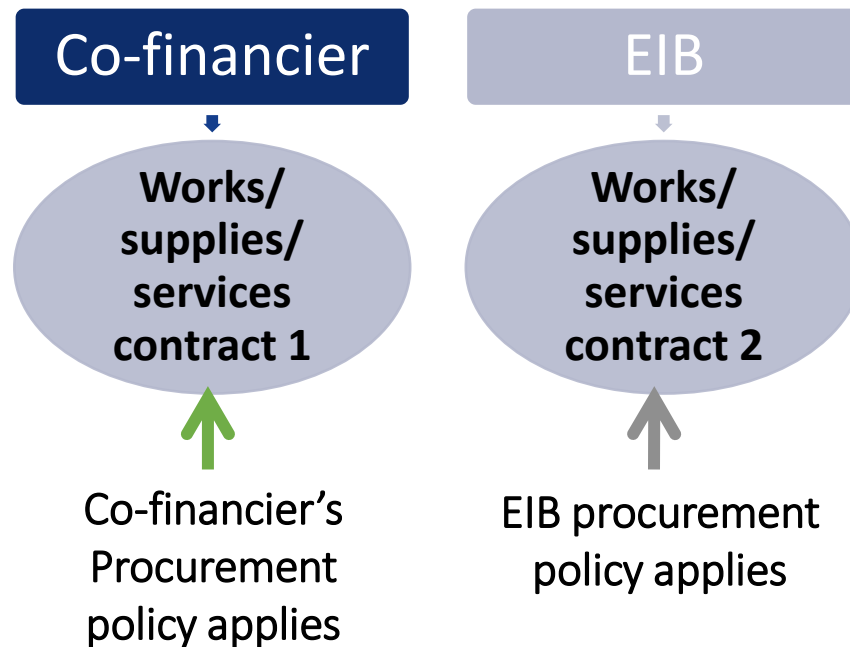
# Co-Financing

## Joint Financing

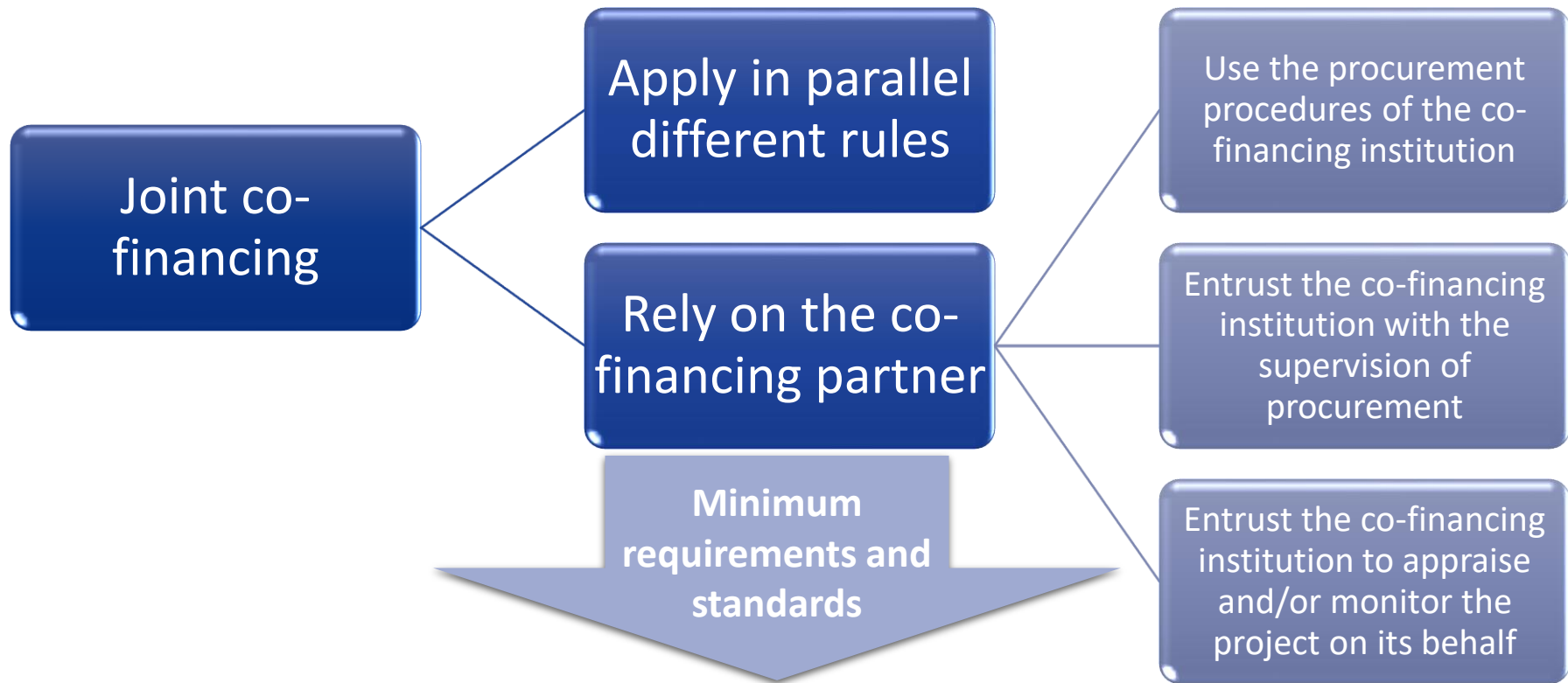


Whose procurement policy applies?

## Parallel Financing



# Joint Co-financing Options



- ❖ Eligibility open as much as possible (i.e. at least EU Member States and the beneficiary country).
- ❖ Adequate publicity to ensure wide international competition.
- ❖ Basic EU principles are respected:
  - ❖ Non discrimination of tenderers.
  - ❖ Fairness and transparency of the process.
  - ❖ Contract award to most economically advantageous offer.

# Procurement Procedures for Public Sector Operations

## International procurement procedures (GtP, §3.3.2)

- Open procedure
- Restricted procedure (with pre-qualification)
- Other procedures subject to Bank's prior approval:
  - Competitive dialog
  - Competitive procedure with negotiation
  - Negotiated procedure

Ex-Ante

## National procurement procedures (GtP, §3.3.3)

- National competitive bidding
- Shopping and direct contracting
- Force account

Ex-Post

Mandatory thresholds

Nature of the Contract	Threshold in Euro
Works	5 million
Goods and Services except Consultancy services:	200,000
In General	400,000
Electricity, Gas, Water and Transport	600,000
Telecommunications	

# Consultancy Services Procured by Promoters (GtP, \$4.)

Contract Amount in EUR	Type of procedure
Above or equal to 200 000	Open or Restricted Procedure, with OJEU publication
Below 200 000	Negotiated Procedure without Publication (3 to 7 candidates of at least 2 nationalities)
Exception below 50 000	Negotiated Procedure without Publication (single candidate allowed)



**Any barrier to participation?**

[procurementcomplaints@eib.org](mailto:procurementcomplaints@eib.org)

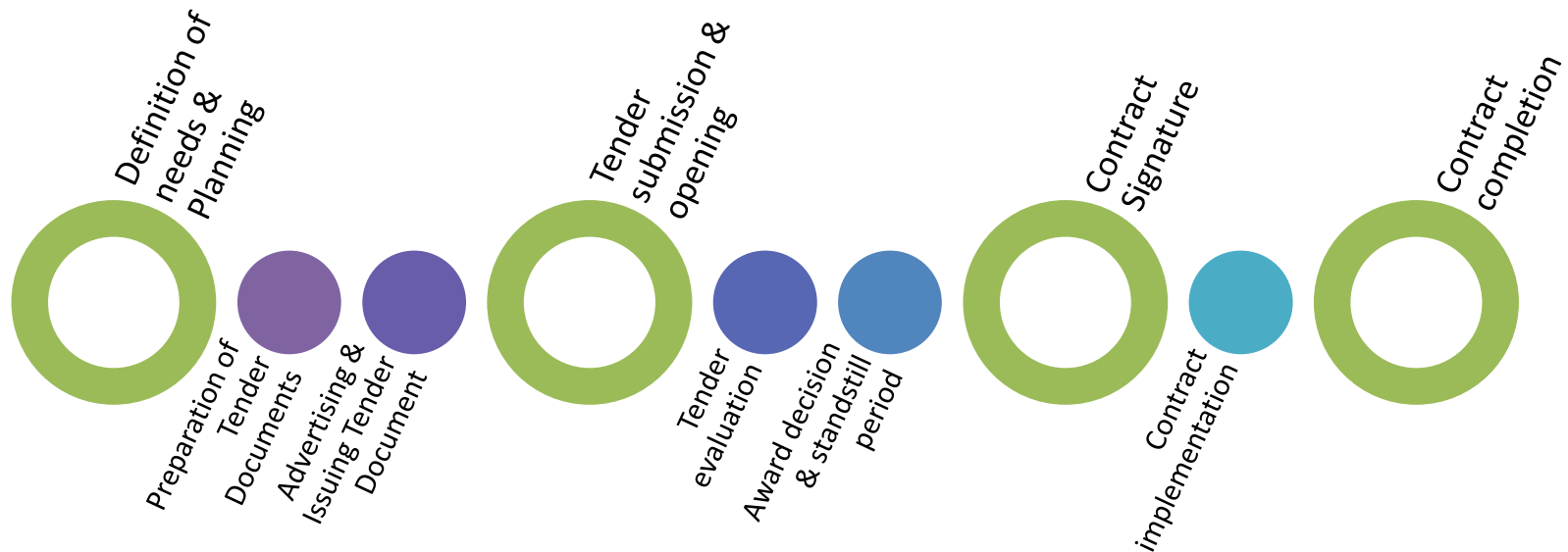


# Open Procedure

Preferred method for traditional works, supplies or services (e.g. road construction)

Typically Qualification could be verified ex-post (post-qualification) mainly for the tenderer(s) most likely to be awarded the contract!

Outside EU

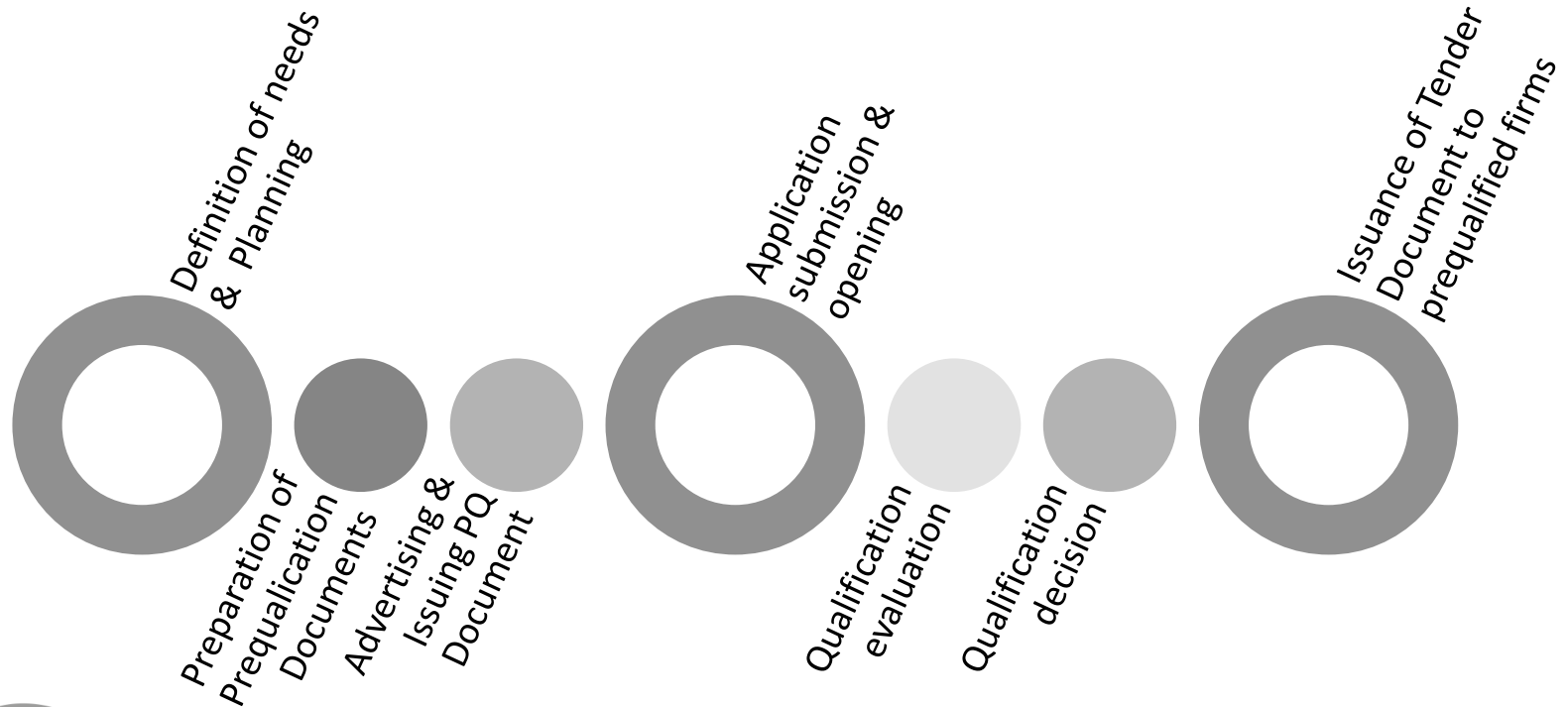


# Restricted Procedure with Prequalification

Preferred method for large / complex public contracts and for services contracts where large number of bids are expected

- Purpose: Since tender evaluation and preparation are complex and resource consuming; only those who are qualified are invited to tender → prequalification procedure

Outside EU



# Publication

- When in full agreement, EIB publishes procurement notice in the Official Journal of the EU (OJEU), on behalf of promoter



[Advanced search - TED Tenders Electronic Daily \(europa.eu\)](https://ec.europa.eu/eu-portal/tenders/eu-portal-tenders_en)

## NEW!

- Procurement notices will be published on the EIB website



[All procurement](#)

- At the same time promoter may publish same procurement notice in other local or international media (GtP, § 3.7.2)
- The procurement notice shall include the evaluation criteria

# Procurement Complaints (GtP,§1.8.1. and 1.8.2.)

*Complaints against Promoter's action addressed to the Promoter: "The Bank requires that **Promoters review, take the necessary actions and respond in a timely manner to complaints** addressed to them related to the procurement process of an EIB-financed contract and originating from any person or entity having or having had an interest in obtaining the contract."*



*Complaints against Promoter's action addressed to the National Remedy Body: "Moreover, the **EIB generally requires that review procedures for remedies acceptable to the Bank are available** to any person or entity having or having had an interest in obtaining the contract and (at risk of) being harmed by an alleged infringement from applicable procurement rules. In the case of public procurement, such review procedures are **normally provided through the competent national remedy mechanisms**."*

*Complaints against Bank's action addressed to the Bank: "**Any member of the public may refer a complaint to the EIB** in respect of an instance of maladministration in the Bank's procurement due diligence. The Bank's Procurement Complaints Committee reviews the Bank's position relative to complaints arising from tendering of EIB-financed contracts for goods, works and consultant services in case a complaint against Bank's action has been received."*



# Memorandum of Intent

signed in October, 2023



- Joining forces in helping the Government of Ukraine to meet the challenges of reconstruction
- Continuing to develop mutual reliance agreements: EIB already signed one with EBRD and other MDBs (not yet with the WB)
- Support in alignment of Prozorro with MDB's requirements



MDB's partnership to harmonise procurement approach in Ukraine for public sector investments

# EIB's Approach to Project Procurement in Ukraine

- EIB's procurement policy, **Guide to Procurement (GtP)**
  - principle based
  - gives sufficient flexibility for emergency procurement



## GtP, §3.4.:

- Negotiated procedures with the list of candidates directly established by the promoter
- Direct contracting
- Force account

**Only in justified circumstances and under the conditions as provided in the GtP!**

## Flexibility for contractors proposed:

- original administrative certificates from winning bidder,
- increased advance payments (still balanced),
- flexibility in delivery arrangements,
- use of e-procurement tools, etc.

# Experiences of our Ukrainian Promoters

**Unpredicted response time receiving “no comments” from the Bank during the procurement procedure,**

**Difficulties to harmonise the schedule between contractual payments and receipt of loan disbursements**

**Collect the invoices for a minimum disbursement amount of 3-5 million EUR**

**High level of staff fluctuation both at the promoter and at the ministries**

**Bidders' high willingness for complaints**





**THANK YOU**