



Procurement and Legal – Options and Issues

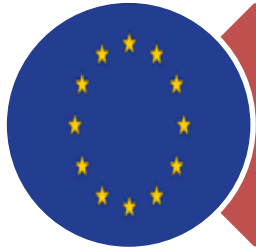
16 June 2017

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Key Questions



When do you need an OJEU?



What statutory powers apply?



Are there any state aid risks?

Option 1: Supply to the Authority

OJEU compliant procedure

Framework
or DPS

Open or
Restricted
Procedure

Competitive
Procedure

Option 2: Investment Opportunity

Purchase of shares in a power project

- Procurement – Securities transactions are exempt
- Powers – General Power of Competence (Localism Act)
- State Aid - Purchase at an overvalue could be state aid (so get an independent assessment if it is not publicly traded).

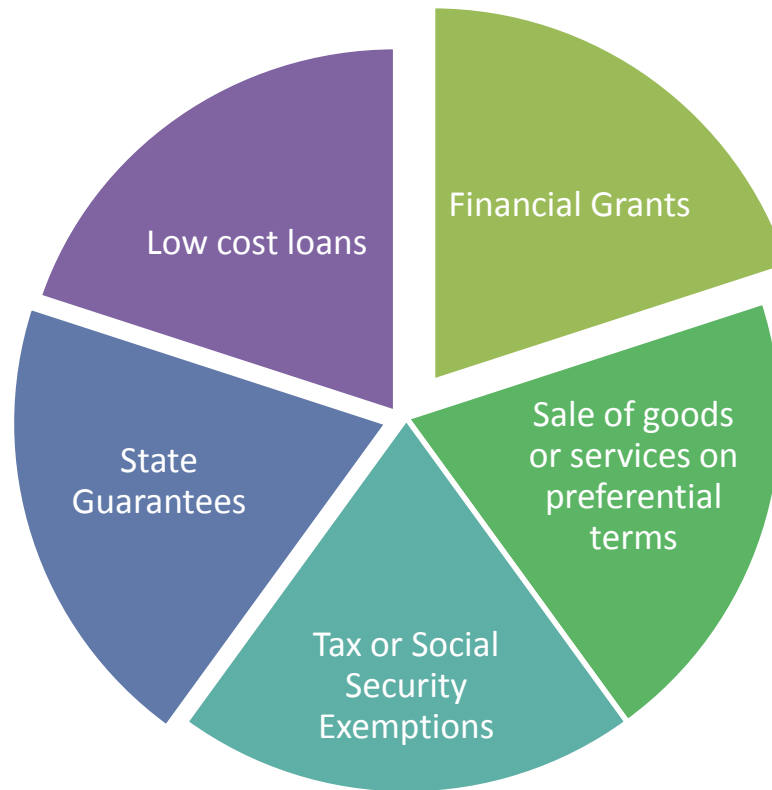
A JV to sell power through the grid or private wire

- Procurement – OJEU not necessary if it is for a commercial purpose and uses a holding company.
- Procurement – if the project needs the council to offtake then an OJEU will be required
- Powers – General Power of Competence (Localism Act) and requirement to exercise right through a company.

Developing a power project to sell through the grid or private wire

- Procurement – OJEU not necessary if done through a company with a commercial purpose
- Procurement – if the project needs the council to offtake then an OJEU will be required
- Powers – General Power of Competence (Localism Act) and requirement to exercise right through a company

What is State Aid?



What is the risk and can it be managed?



Claw-back from
the Beneficiary



Block Exemption
– the “Safe
Harbour”

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