

Applicable Laws

Law 38/2003 of 17 November, General Subsidies Law (LGS)

Law 38/2003 of 17 November, General Subsidies Law (LGS) is the basic legislation in Spain regulating the legal framework governing public grants awarded by all Public Administrations, based on the principles of transparency, objectivity and equality. It establishes the procedures for awarding grants (competitive procedure or direct award), the obligations of beneficiaries, financial control mechanisms and the recovery of funds in cases of non-compliance.

Key aspects of Law 38/2003:

- **Purpose and Scope:** Regulates the awarding, management, monitoring and recovery of grants by public administrations, local authorities and public bodies.
- **Management Principles:** Publicity, transparency, free competition, objectivity, equality and non-discrimination.
- **Award Procedures (Title I):** The general rule is competitive tendering, although direct awards are permitted in duly justified cases.
- **Beneficiaries and Collaborating Entities (Title II):** Defines expenditure justification obligations and the requirements to qualify as a beneficiary.
- **Recovery of Funds (Title II):** Establishes the obligation to repay amounts received, plus late-payment interest, in cases of non-compliance (false declarations, total or partial breach, or failure to justify expenditure).
- **Financial Control (Title III):** The General Intervention Board of the State Administration (IGAE) oversees the proper use of funds.
- **National Grants Database (BDNS):** Operates as the national transparency system, strengthening openness and the fight against fraud.

The law also establishes administrative offences and penalties for the improper use of public funds. Its implementing regulation was subsequently approved by **Royal Decree 887/2006**.

Further information and full legal text:

<https://www.boe.es/buscar/act.php?id=BOE-A-2003-20977>

Law 9/2017 of 8 November on Public Sector Contracts (LCSP)

Law 9/2017 of 8 November on Public Sector Contracts (LCSP), which transposes into Spanish law Directives 2014/23/EU and 2014/24/EU of the European Parliament and of the Council of 26 February 2014, regulates how public administrations and public entities in Spain procure goods and contract services and works.

Further information and full legal text:

<https://www.boe.es/buscar/act.php?id=BOE-A-2017-12902>

Updates to the Public Contracts Law (2024–2026)

Public procurement regulation in Spain (Law 9/2017, LCSP) has undergone several updates between 2024 and 2026, primarily focusing on the revision of harmonised thresholds, the transposition of European sustainability regulations and adaptation to new security-related exclusion measures.

1. New EU (SARA) Thresholds (2026–2027)

From 1 January 2026, new thresholds for contracts subject to harmonised regulation (SARA) will apply, generally slightly lower than in the previous two-year period:

- **General public procurement (Works, Supplies and Services):** €5,404,000 (previously €5,538,000).
- **Entities operating in special sectors:** €5,404,000.
- **Concessions:** The threshold is set at €5,404,000.

2. Developments and Trends (2024–2025)

- **Restrictions on foreign companies (International Procurement Instrument – IPI):** In 2025, the European Commission adopted measures restricting access to certain Chinese-origin medical products in EU public procurement (IPI Regulation). Contracting authorities are therefore required to exclude tenders that do not comply with these measures.
- **Sustainability and Reserved Contracts (2025):** Social and environmental sustainability criteria have been strengthened. Recent Supreme Court rulings (October 2025) support reserving contracts for Social Initiative Special Employment Centres (SECs) as a labour inclusion measure, without breaching equality principles.

-
- **New technologies:** Greater use of electronic catalogues and electronic reverse auctions has been promoted.
 - **Price review:** Due to inflation, price adjustment mechanisms in works and services contracts have remained a key issue during 2024 and 2025.

3. Case Law and Interpretative Updates (2025–2026)

- **Contract modifications:** Stricter limits on the inclusion of new price items, requiring that the functional nature of the unit is not altered and that the limits set out in Article 242.4 of the LCSP are respected.
- **Tendering procedures:** Increased strictness regarding compliance with technical specifications. Tenders must fully comply with the conditions set out in the procurement documents.
- **Concessions:** Clarification of the limits concerning the compatibility of fees and charges in the occupation of public domain assets.

4. Key Points for Candidates and Tenderers

- **Validity:** Procurement summaries and training materials must be updated to reflect the new thresholds from 1 January 2026.
- **Deadlines:** Where a prior information notice is published, the minimum time limit for submitting tenders may be reduced to 15 days.

Upcoming changes: The new SARA thresholds for the 2026–2027 period have already been announced and will affect the EU-wide publication requirements for public tenders.