



Selection of bodies implementing financial instruments under ESIF

Selection of bodies implementing financial instruments on the basis of the tendering procedures foreseen by the Directive 2014/24/EU; common mistakes and good practice

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Public procurement in ESIF – common errors and good practice

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Content

➤ Why?

- Importance of PP for ESIF Funds – Audit results
- Public Procurement Action Plan

➤ What?

- Public Procurement Guidance for Practitioners:
avoid most common errors (***from audit findings***)
- Public Procurement study:
good practice examples and recommendations

➤ How?

- REGIO TAIEX PEER2PEER:
Exchange of best practice between Member States

2 sides of interest of REGIO in procurement

Innovation!



Aims

- Demand drive for innovation
- Public sector modernisation, cost saving
- Value for money for environment, health, transport...
- Mobilise private investment



**Smart Specialisation
Strategies**
Operational programmes

Regularity!



Aims

- Lower error rate & financial corrections
- Shorten delays
- Admin. capacity for ESIF management
- Anti-corruption ...



Ex ante conditionality
Action plan

DG REGIO audit work on Public Procurement irregularities

- **40% of irregularities** detected by DG REGIO since 2005 are due to non-compliance with Public Procurement rules
- European Court of Auditors: **around 40%** of all quantifiable errors due to Public Procurement. At least **25% of the contracts** audited were affected by errors
- National audits: report irregularities on Public Procurement



REGIO: Why act and how?

- **Audit findings:** lack of proper preparation of the tendering and inadequate publicity
- **Risky areas:** services and supply contracts, smaller beneficiaries, additional works
- Result: **financial corrections**
- **Preventive actions** (practical guidance, training, administrative capacity) reduce risk of errors and financial corrections

- ***Strong cooperation with policy DG GROW***



Public Procurement Action Plan

Working Group in European Commission: DG REGIO (Chair), GROW, EMPL, AGRI, MARE, EIB

- Agreed **Public Procurement Action Plan**: 14 actions, among
 - Public Procurement Guidance for Practitioners
 - Study on administrative capacity for Public Procurement
 - REGIO TAIEX PEER 2 PEER exchanges

FOCUS ON PREVENTIVE ACTIONS!

- Spread knowledge of EU PP rules at the level of all stakeholders
- Reinforce administrative capacity

Public Procurement Guidance for Practitioners

- **Guidance** structured around the **6 main stages** of a public procurement process based on list of **25 most common errors** identified in audits
- **Toolkit** of resources addressing specific topics with concrete examples, checklist, links



Public Procurement Guidance for Practitioners

- **Target Audience** is "Procurement Officer" in Contracting Authorities (CA)
- **Purpose** support to avoid the steps that lead to errors and to adopt good practices
- Based on 2004 Directives - update for 2014 Directives now
- **Practical document** with "alert icons" in text

Warning



Alert 

Help!



Public Procurement Guidance for Practitioners

Stages:

1. Preparation and planning
2. Publication
3. Submission of tenders and selection of tenderers
4. Evaluation of tenders
5. Award
6. Contract implementation

Recurring errors in Procurement (1)

1. Preparation and planning stage

- Choice of procedure
- Direct award

2. Publication stage

- Restrictive time limits for tendering
- Disproportionate or discriminatory criteria
- Non-compliance with advertising requirements, tenders published at regional/national level instead of EU level
- Artificial splitting of projects in order to avoid the need to comply with the Directives

Recurring errors in Procurement (2)

3. Submission of tenders and selection of tenderers

- Evaluation committees: insufficient qualification/experience
- Exclusion of tenderers not duly justified
- Abnormally low bids excluded without possibility for justification
- Tender clarification: weaknesses, not transparent

4. Evaluation of tenders

- Mixing up/ reuse different criteria: selection and award
- Unlawful discriminatory criteria applied, e.g. the requirement to have an office or representative in the country/region
- Modification of criteria after opening of tenders

Recurring errors in Procurement (3)

5. Award

- Appeals from unsuccessful bidders not properly dealt with
- Post award contract notice not published

6. Contract implementation

- Substantial reduction of scope
- Works started prior to completion of tender procedure
- Additional works – direct award in absence of unforeseen circumstances
- Extension of contracts

Good practice in preparation/planning

- **Engagement of key stakeholders**
 - Customers/users
- **Achievability**
 - Can market deliver the contract? Technical maturity, transfer risk
- **Market research**
 - Good practice: Market research 6-12 before publication of CN
- **Realistic timetable** (including potential remedies)
- **Contract/project management**
 - Project organisation and resources, controls

Tips to avoid frequent errors I

Examples of "DOs and DON'Ts"

Planning stage

- Spend enough time planning, choose the correct procedure, document it
- Find the appropriate contract packaging options
- Design selection criteria (eligible tenderers) and award criteria (best tenders)
- Don't launch a procurement process without adequate planning, approval and control systems
- Split contracts or avoid grouping contracts
- Restrictive selection criteria

Publication stage

- Publish a Contract Notice in the OJEU
- Don't start procurement without advertising
- No publication, direct award, no competition

Tips to avoid frequent errors II

Examples of "DOs and DON'Ts"

Selection stage

- Follow minimum time limits
- Don't accelerate timetables
- Don't apply discriminatory, unproportionate selection criteria

Evaluation stage

- Transparent procedures
- Don't evaluate using unlawful award criteria
- Don't modify award criteria
- Have Conflict of Interest declarations signed
- Don't involve anyone with a Conflict of Interest

Award and implementation

- Tender additional works
- Don't modify the contract

Real life examples from the guidance

Major reduction in contract scope during the tender process / or at implementation stage

- After a prequalification phase for a project with an estimated cost of EUR 600 million, it was decided to reduce the scope to the contract resulting in a new contract price of EUR 60 million, while keeping the list of already prequalified tenderers

- > restriction in competition, as prequalification criteria were not proportionate to the reduced scope, and should have required re-tendering
- > additional tenderers may have expressed an interest had they known the true value of the project



Example: Irregular selection of winning bidder for specific fund

Use of disproportionate and discriminatory selection criteria

- MA selected financial intermediary in open procedure, two banks applied, one won.
- Contract was signed, full disbursement of funds from MA to bank
- Bank's license was cancelled, all funds blocked in bankruptcy

Disproportionate and discriminatory selection criteria :

Necessity of bidders to have at the time of submission of bids already established branches /regional offices in the country where the MA is located

How to avoid: proportionate and non-discriminatory selection criteria in the Tender documentation



Infographic

- Translations
23 languages
- Dissemination
also through
EU Funds'
Authorities
(Managing
Authorities)
to beneficiaries

PUBLIC PROCUREMENT
Guidance for practitioners
on the avoidance of the most common errors in projects funded by the European Structural and Investment Funds

WHY IS IT SO IMPORTANT?

- 19% of EU's GDP*
- 48% of EU FUNDS go through Public Procurement

WHY DO WE NEED A GUIDANCE?

- Lack of KNOWLEDGE
- Insufficient ADMINISTRATIVE CAPACITY

HOW DOES IT HELP?

- TYPICAL MISTAKES & 25 MOST COMMON ERRORS
- HOW TO HANDLE SITUATIONS?
- GOOD PRACTICES, CASE STUDIES, TEMPLATES, TIPS

TOP 10 TIPS TO AVOID PUBLIC PROCUREMENT ERRORS

	DO	DON'T
PLANNING	PLAN, choose the CORRECT PROCEDURE , document Find the appropriate CONTRACT PACKAGING OPTIONS	Launch WITHOUT ADEQUATE PLANNING , approval and controls SPLIT or avoid grouping CONTRACTS
	SELECTION	PUBLISH the Contract Notice in the OJEU Check potential CROSS-BORDER INTEREST and advertise
IMPLEMENTATION		Follow MINIMUM TIME LIMITS in Directives and national rules DESIGN selection criteria (eligible tenderers), AWARD criteria (of best tenders)
	IMPLEMENTATION	Apply TRANSPARENT and FAIR procedures Ensure that everyone has signed a Conflict of interest declaration
IMPLEMENTATION		PUBLISH contract award notice Tender additional works if they are not justified by UNFORESEEN CIRCUMSTANCES

* Gross Domestic Product

Study on PP administrative capacity

Overview of good practice and recommendations on public procurement to the EC and Member States

Available at: http://ec.europa.eu/regional_policy/en/policy/how/improving-investment/public-procurement/study/



Main results of PP Study

- **Human resources, systems and tools**
 - *Strengthen skills of frequent procurers (specialised trainings)*
 - *Provide support for infrequent procurers (standardised documents, ad hoc helpdesks, guidance, joint procurement)*
 - *Encourage exchange of good practices*
- **Governance structures, better policy making, law enforcement**
 - *Deliberate inclusive reforms, time for implementation and training*
 - *Improve execution of sanction mechanisms*
- **Data collection, transparency**
 - *Interoperability between systems*
 - *Procurement information published on-line promptly, regularly*

Examples of exchanges on public procurement: PEER 2 PEER

- Slovakia: Experts from Portugal and Poland on Coordination
 - Authorities: Central Coordination Body and PP Office
 - Coordination of public procurement
 - Management verifications, conflict of interest, standard documents
- **Bulgaria: Workshop with experts from IT, AT, HR, FI**
 - Authority: Public Procurement Agency
 - Strengthening the administrative capacity of bodies, professionalism
 - Central Purchasing Bodies (CPBs), e-proc, framework agreements
- **Croatia: Workshop and study visit to ES and EE**
 - Authority: Ministry for Regional Development
 - PP in MCS: verifications during the project implementation
 - Methodology for sampling for PP control and system level verification



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Public procurement study and
Public procurement guidance
on Inforegio "Improving investment"

http://ec.europa.eu/regional_policy/en/policy/how/improving-investment/public-procurement/

TAIEX REGIO PEER 2 PEER:

http://ec.europa.eu/regional_policy/en/policy/how/improving-investment/taieux-regio-peer-2-peer/



financial instruments revolving capacity building
 added value **ERDF** funding agreement **ESF** EU guidance
 technical support seminars leverage financial intermediaries microfinance
 co-financing **ESIF** case studies
 investments **fi-compass** final recipients
 business plan **Thank you** thematic objectives
 advisory services guarantees banks loans **EaSI** equity
 private investors life cycle combination of support
EAFRD conferences factsheets
 fund of funds **EMFF** investment strategy **CF**
 managing authorities manuals

