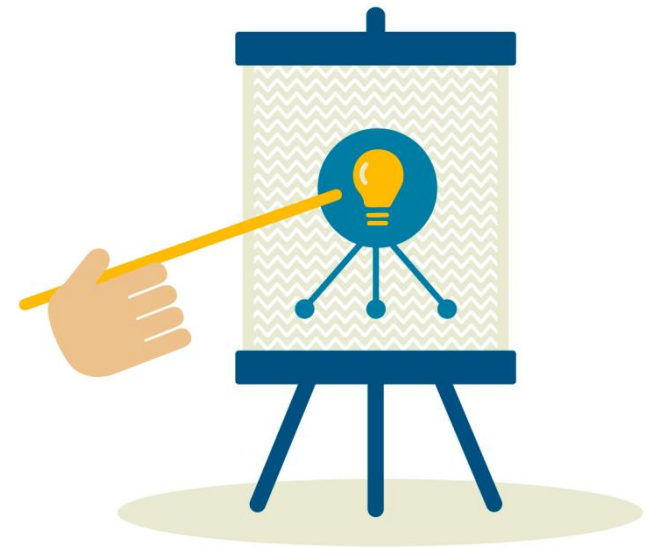


Public procurement

Management verifications in Interreg
21-22/2/2018 | Thessaloniki, Greece

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Specific considerations

- Co-funded operations must be in line with the applicable public procurement rules on National and EU level.
- Avoiding over interpretation of public procurement rules when transposed into the national laws.
- Excess of procedures accumulated at national levels limit the expected goals to be achieved.

Rationale

EU Directives

- create the legal framework for contracting authority for acquiring goods, services and works
- provide an adequate level of flexibility
- promote economy and efficiency of the public contracts

Real life implications

- lack of transparency and efficiency
- the most frequent source of errors
- risk of fraud and corruption in awarding public contracts

Regulatory framework

New EU directives on public procurement

- Directive [2014/24/EU](#) on public procurement
- Directive [2014/25/EU](#) on utilities
- New Directive [2014/23/EU](#) on concessions

Major improvements

- Simple and flexible rules
- Higher thresholds
- Life cycle cost
- Preliminary market consultation
- Prior involvement of economic operators
- ESPD, European Single Procurement Document
- E-CERTIS, online repository of certificates

Principles

- Free movement of goods and services.
- Non-discrimination
- Equal treatment
- Transparency
- Publicity
- Confidentiality

Applicability

- Provisions of the EU 2014/24 Directive on public procurement apply to public contracts above thresholds.
- EU 2014/24 Directive shall not apply to public contracts awarded by a contracting authority to another contracting authority.
- Applicable procedures: Simplified, Open, Restricted, Competitive with negotiation, Competitive dialogue, Innovation partnership, Negotiated without prior publication.

Selection criteria

- Qualification and experience of the staff of the economic operator with significant impact on the quality of delivering the procurement outcomes.
- Quality, technical advantages, functional aspects, accessibility, design concept, social, environmental and innovative aspects.
- Service, maintenance, technical assistance and delivery conditions, timescale.

Award criteria

- Lowest price
- Lowest cost
- Best quality-price ratio
- Best quality-cost ratio
- Best value for money

Grounds for exclusion

- Administrative decision
- Breach its financial obligations,
- Conflict of interest
- Distortion of competition
- Bankrupt
- Corruption
- Fraud

Thresholds and estimated value

EU thresholds and national thresholds are considered

- Contracts for works, services and goods under EU threshold are subject to a simplified procedure.
- Contracting authority shall apply for simplified procedure in order to obtain better value for public money.
- Below threshold contracts are substantially free from formalities and excluded from most procurement requirements.
- Procurements that do not qualify as low value contracts are the subject of EU Directives on public procurement.
- In case of mixed procurements provisions applicable to the main type of procurement of the contract

Thresholds and estimated value

1. Estimated value is above EU threshold → EU wide tender
2. Estimated value is below EU threshold → National tender apply
3. Estimated value is below EU threshold BUT above National threshold → National tender apply
4. Estimated value is below EU threshold AND below National threshold → Bid at three rule
5. Estimated value is below EU threshold ALSO below National threshold AND below (2,000).....(5,000) → No Specific Rules

Management verification as measures to avoid errors, and prevent irregularities (1)

Primary responsible first level control (Ex Ante):

- Administrative verification, freezing payments until clarification
- On the spot verification

If detected during second level control (Ex Post):

- Recovery procedure foreseen in the audit trail
- Measures shall be taken concerning irregularities in public procurement

Management verification as measures to avoid errors, and prevent irregularities (2)

Programme level (Ex Ante):

- On the spot sample checks performed by JS/MA based on risk consideration
- Sampling of projects with risk criteria

Programme level (Ex Post):

- Monitoring report, Progress reports

Types of findings

Error: any unintentional misstatements

Irregularity: any breach of a normal procedure, omission, intentional or unintentional

Systemic irregularity: any irregularity with probability of occurrence in similar types of operations

Fraud: financial benefits by a trick or by lying

Errors

Examples

- Errors related to selection and award criteria
- Failure to state all the selection and contract award criteria in the tender documents
- Insufficient or discriminatory definition of the subject
- Awarding contracts without competition in the absence of extreme urgency
- Application of unlawful selection and awarding criteria

Irregularities

Examples

- Artificial splitting of works, services, supplies contracts
- Contracts awarded with non-competition in the absence of extreme urgency
- Modification of the tender after opening the tenders, during the evaluation etc
- Negotiation during the award procedure
- Non-compliance with the requirements of transparency and advertising procedures
- Breach of the principle of equal treatment

Red flags

Red flags warning signs of fraud:

- Missing documents
- Complaints
- Excessive purchases
- Duplicate payments
- Rounded amount for invoices
- Amount just under the ceilings

Fraud

Examples

- False or overstated, even double costs for procurement outcomes
- Reducing the total number of works, services and goods without reducing the price
- Failing to meet the expected quality
- Records are missing or duplicated
- Variations of procurement outcomes

Cooperation works

All materials will be available on:

www.interact-eu.net

