



## PROGRAMME MANUAL

# PUBLIC PROCUREMENT

version 2,  
approved by the Monitoring Committee on 31 July 2018

<b>V1</b>	-	January 2017
<b>V2</b>	Specification that the Programme rule (request three offers for contracts over EUR 5,000) is a recommendation.	31 July 2018

The acquisition by means of a public contract of works, supplies or services from economic operators is subject to rules on public procurement. Such rules aim to secure transparent and fair conditions for competing on the common market and shall be followed by the beneficiaries when procuring the above mentioned services, works or supplies on the market.

Rules may differ depending on the kind of goods and/or services to be purchased, as well as the value of the purchase and the legal status of the awarding institution. They are set at the following levels:

- EU rules (i.e. public procurement directives<sup>1</sup> for ERDF partners)
- National rules<sup>2</sup>
- Interreg MED Programme rules and recommendations

Public authorities and other institutions falling under the scope of application of the procurement laws<sup>3</sup> must comply with the applicable rules on public procurement.

With regard specifically to **Interreg MED Programme**, for all contracts with contracting amounts between **EUR 5 000,00** (excl. VAT) and the threshold set by the applicable EU or national rules, beneficiaries are highly encouraged to ask **at least three offers** from three different providers. Documented proof need to be kept as part of the project audit trail.

In the case where the partner must comply with national or internal stricter rules, these stricter rules apply.

Both previous rules apply to all partners, public or private, ERDF or IPA.

**For IPA partners**, IPA participating countries may opt to make use of the Practical Guide to Contract Procedures for EU External Actions (PRAG). The version of PRAG to be used shall be the one in force at the time of the initiation of the relevant procurement procedure. IPA beneficiaries may contact their national authority for further information.

Institutions not falling under the scope of application of the public procurement laws (e.g. private companies for most procurement activities as defined under the EU regulation) are exempt from the application of public procurement laws. Notwithstanding this, such institutions (e.g. private bodies, non-governmental organisations, international organisations) **have to observe the basic principles on which the procurement rules are based and ensure the best value for money or, if appropriate, the lowest price**. Please check national rules and guidelines in this respect.

It is strongly recommended to become familiar with the applicable procurement rules and, if necessary, seek the advice of procurement experts early enough before launching an award procedure.

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<sup>1</sup> More information on EU rules on public procurement can be found at the following link:

[http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm)

<sup>2</sup> National rules include laws on public procurement, related delegated or implementing acts or any other generally applicable legally binding rules and decisions.

<sup>3</sup> Namely "contracting authorities" within the meaning of Directive 2014/24/UE.

Errors in public procurement are among the most frequent errors detected in the Interreg projects. For this reason public procurement must receive special attention from project partners<sup>4</sup> and in the verifications of first level controllers (FLC). It is important that once established the value of the public procurement, the project partners check the value of the works, goods or services against the EU threshold. The procurement procedures can be open, restricted, negotiated or carried out through direct contracting. **Whenever possible, green procurement guidelines should be applied and project partners should take the occasion to reflect on social inclusion measures too.** In any case, the project partners need to keep a proper documentation on the procurement procedure including but not restricted to:

- Initial cost estimate made by the project partner to identify the applicable public procurement procedure;
- A copy of the procurement publication/announcement;
- A copy of the Terms of reference;
- Offers/quotes received by the bidders;
- Report on the assessment of the bidders;
- Information on the acceptance or rejection of the bidders;
- Complaints by bidders submitted to the project partner, if any;
- Contract stipulated with the chosen bidder, including any amendments;
- Invoices of the external consultants and proof of payment;
- Other pieces of information, if relevant.

The FLC will check the above listed documentation in the verification of expenditure and might request also additional information to be able to confirm that:

- 1) there has been **no artificial splitting of the contract objective or value** in order to avoid public procurement procedure;
- 2) **in case of issued amendments or extensions**: there has been no significant change in the overall objective, content or economy of the tender that would invalidate the initial tender procedure;
- 3) in case there no public tender was carried out there is a documented justification of this decision;
- 4) in case an **in-house** was contracted or there were cases of **inter-communal cooperation** there is enough documented evidence that this kind of choice is justified and that only real costs are charged in the project costs and correctly allocated to the right cost categories.

In case of Interreg projects also communication and publicity requirements need to be respected and in case of public procurements with a potential relevance for bidders in other countries, when carrying out a public procurement procedure, the project partners need to respect the principles of transparency, non-discrimination and effective competition.

The FLC, second level controllers and auditors will check also that the contracts are in line with the selected offers.

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<sup>4</sup> For further information on the avoidance of the most common errors in project funded by the European Structural and Investment Funds, please consult the public procurement guidance for practitioners (available at [http://ec.europa.eu/regional\\_policy/en/information/publications/guidelines/2015/public-procurement-guidance-for-practitioners](http://ec.europa.eu/regional_policy/en/information/publications/guidelines/2015/public-procurement-guidance-for-practitioners)).