



Public Procurement Action Plan for ESI Funds 2014-2020

AGRI Workshop 17/03/2015
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Outline

- 1. Background***
- 2. Lessons from audits***
- 3. The New PP Directives***
- 4. Public Procurement Action Plan***
 - A. Practical Guidance on avoidance of errors**
 - B. Stock taking Study on PP administrative capacity**
- 5. Conclusions***

Improving public procurement (PP) involving EU Funds is a priority

- *It matters - 19% of EU GDP passes through public procurement!*
- *PP errors are single most common cause of administrative errors and financial corrections across all EU Funds*
- *Slow PP procedures delay funds implementation*
- *Better PP procedures and management systems can help limit risks related to Fraud & Corruption through more transparency, "red flag" checks etc*
- *Increasing EU-level competition for PP contracts is a core policy strengthening the single market*
- *Major scope to pursue broader policy objectives via PP (green PP, PP of innovation, social inclusion, SME access to markets)*

2 sides of interest of REGIO in procurement

Innovation!



Aims

- Demand drive for innov.: solvent lead customers
- Public sector modernisation, cost saving
- Better results for environment, health, transport needs ...
- Mobilise private investment



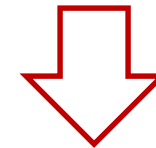
**Smart Specialisation Strategies
Operational programmes**

Regularity!



Aims

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

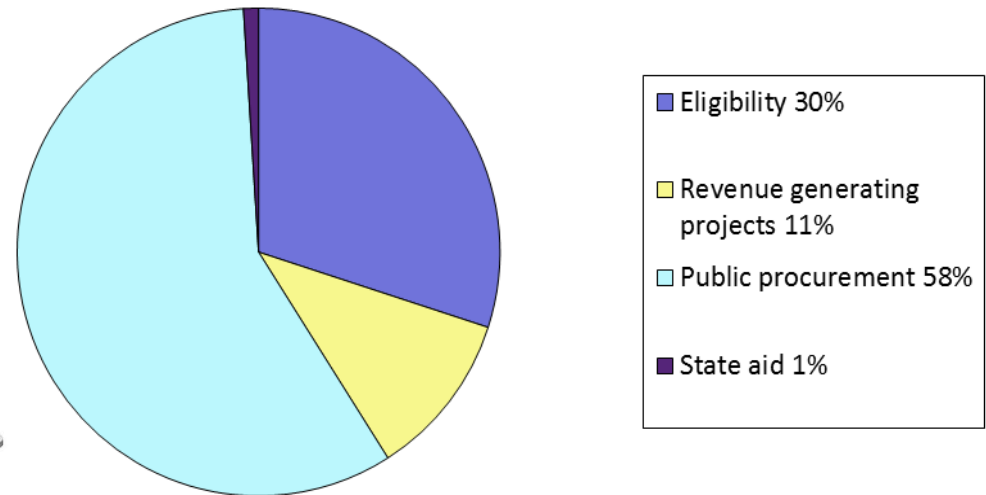


**Ex ante conditionality
Action plan**

Audit Perspective



Types of quantifiable errors in DAS audit 2011



Public Procurement irregularities: main REGIO audit findings (1)

Most common errors detected by audit:

- *Inappropriate tendering procedures*
- *Artificial splitting of contracts*
- *Inadequate assessment of bids*
- *Irregular additional works (25% of irregularities on PP)*

*In general, **lack of proper preparation** of the tendering and **inadequate level of publicity***

Public Procurement irregularities: main REGIO audit findings (2)

More risky areas:

- *services contracts, followed by supply contracts are more risky than works contracts (evaluation, monitoring of actual expenditure)*
- *smaller beneficiaries more at risk (municipal level) : weaker administrative capacity and experience and "local" considerations for choosing the companies*
- *concessions and long term services contracts : financial challenges and direct negotiations*
- *addenda/additional works: can change the balance of the initial competition*

Public Procurement irregularities: main REGIO (2)

Need for capacity-building!

**... both of public procurers
(to prevent errors)**

& auditors

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➤ *concessions and long term services contracts :
financial challenges and direct negotiations*

➤ *addenda/additional works: can change the balance
of the initial competition*

*risky
actual*

(level) :

experience and

operations for choosing the companies

Regio Audit Conclusions

- Zero tolerance to Public Procurement irregularities
- *Current Directives and ECJ case law: clear however compatibility of national legislations with the EC legal framework.
Problems due to wrong transpositions
Lead service: DG GROW*
- *Preventive actions (reinforce administrative capacity, training,..) can reduce significantly the risk of errors and financial corrections*

New Public Procurement Directives

- *Revision of 2004/18/EC (public works, supply and service contracts), Directive 2004/17/EC (water, energy, transport and postal services sectors) and new Directive on Concessions*
- **Aims:** Simplification; Faster; e-procurement; EU2020 alignment

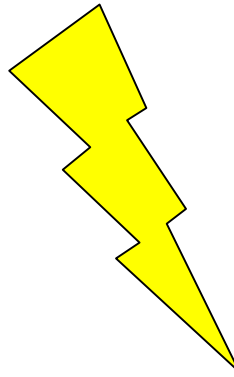
Timetable:

- Entry into force **17 April 2014**
- Full transposition **by start 2016**
- e-procurement mandatory by 2018

***Mid-way through
2014-2020 ESIF
programmes!***

Objectives for the reform

1. Simpler/ more flexible procedures



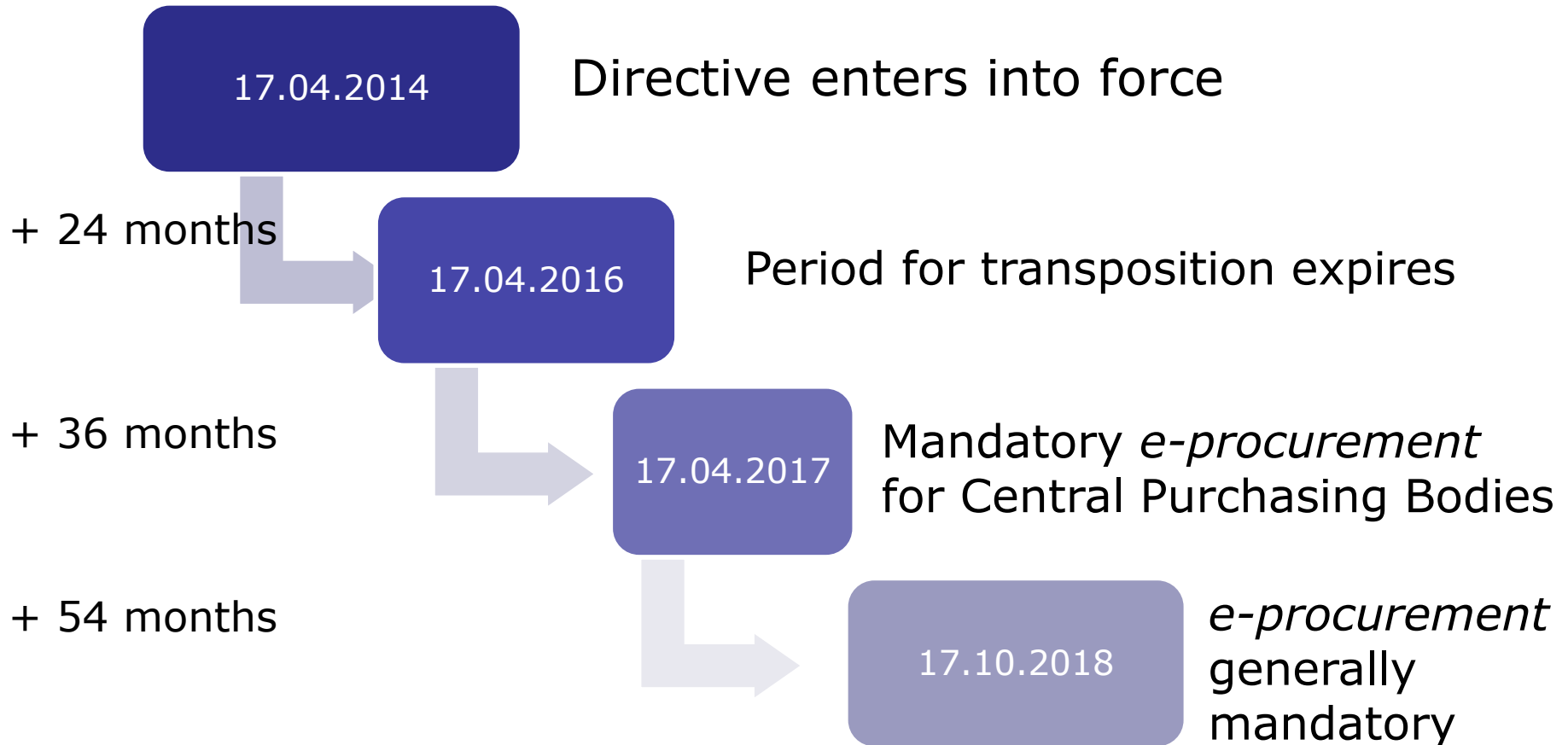
2. Strategic use

4. Sound procedures

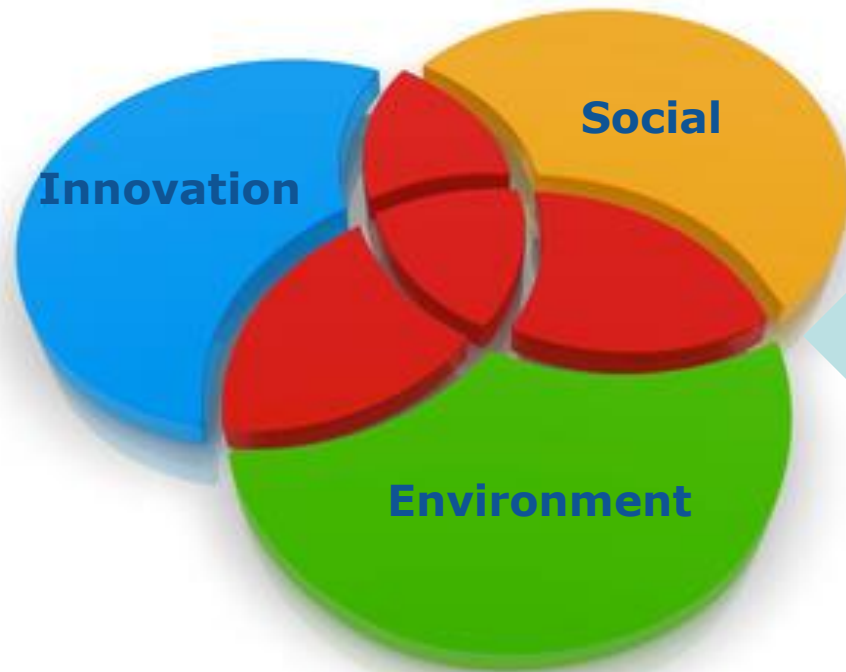
3. Better access (SMEs, cross-border trade)

5. Governance, professionalization of procurement

Timeline



Strategic Procurement



PP AS POLICY
INSTRUMENT

2020 Objectives

**SMART
GROWTH**

**INCLUSIVE
GROWTH**

**SUSTAINABLE
GROWTH**

More negotiations in procurement



Competitive procedure with negotiation

Competitive dialogue

Innovation partnership

e-procurement

Fully Electronic Communication:

- **Mandatory as from spring 2016**
- **Last respite until autumn 2018**



Implications

- *Rules will change midway through 2014-2020 programming period*
- *New rules = Uncertainty = RISK*
- *New rules = Strategic opportunity = improve systems (e.g. e-procurement)*
- *Need for funding for new e-procurement systems (Thematic Objectives 2, 11)*
- *Need for training!*

Technical Working Group on PP

(formally under ISG on Admin Capacity linked to ESI Funds)

Purpose: To develop common understanding of issues, and to prepare & deliver an Action Plan for improving Public Procurement performance for ESI Funded investments during 2014-2020

REGIO (Chair), GROW, EMPL, AGRI, MARE, EIB

- ✓ ESIF DG's most "in the field" knowledge from audits
- ✓ GROW primary focus is on policy (transposition and application of legislation) and on preparation for new PP Directives, but increasingly concerned about implementation

Action Plan

- ✓ **Stock-taking**/analysis of MS lessons learned, dissemination tools, good practices, etc.
- ✓ Training/Guidance on how to prepare and follow-up on **EAC Action Plans** to address weaknesses
- ✓ Prepare and appropriately disseminate **Practical Guidance** on "How to avoid common PP errors"
- ✓ Assessment of current practices and scope to improve PP **professionalization** linked to funds
- ✓ Training/networks on PP as a **strategic tool for Cohesion Policy** (Green PP, Innovation)

Guidance for Practitioners on "How to avoid common PP errors"

- **Guidance** structured around the main stages of a public procurement process, highlighting issue to look out for and potential mistakes to avoid, with links through to a more detailed ...
- **Toolkit** of resources addressing specific topics in greater depth and giving concrete examples on what to do and what not to do during the procurement and contract management stages of the project cycle.

Tips to avoid frequent errors

Examples of "DOs and DON'Ts"

Planning stage

Don't launch a procurement process without adequate planning, approval and control systems

Do spend sufficient time planning

Don't start procurement without advertising

Publish a Contract Notice in the OJEU for contracts with total value above thresholds

Award stage

Don't modify evaluation criteria after the opening of tenders

Apply transparent procedures

Don't allow anyone with a potential Conflict of Interest to be involved in preparing or evaluating a tender

Sign Conflict of Interest declarations

Recurring Procurement audit findings COCOF Note on Financial corrections, 2013

Additional works – award in absence of unforeseen circumstances

Unlawful selection and/or award criteria

Artificial splitting of projects

Restrictive time limits for tendering

Non-compliance with advertising requirements

Tender clarification – weaknesses

Audit trail

Direct Award

Unjustified use of negotiated or accelerated procedure

Respect of delivery deadline

Works started prior to completion of tender procedure

PP Stocktaking Study: Objectives

To compare and contrast the administrative capacities of EU fund management bodies across the EU as regards:

- **Organisational structures and governance** arrangements
- Dedicated **human resources** specialized in public procurement in all fund management bodies
- Specific **systems and tools** available to support and monitor public procurement by Contracting Authorities
- Experiences and **lessons from past capacity building measures** related to public procurement (Technical Assistance, training etc.)

Expected result: concrete country specific recommendations

Scope & Timeline

Scope: *Overview of all 28 MS systems (country fiches) with specific recommendations*

Detail:

- *15 field visits in Member States (11 weaker and 4 stronger/reformers)*
- *online survey 28 MS*
- *2 detailed cases studies*
- *Workshop in September 2015*

Conclusions

- *PP will continue as high profile topic*
- *Better coordination of all actions between DGs via Working Group*
- *Common Action Plan*
- *Two strategic orientations:*
 - Reduce errors
 - Improve strategic role of PP in policy delivery