

Quality of Public Administration A Toolbox for Practitioners



Theme 8: Public finance, procurement and EU funds management

Every administration is under the spotlight over its stewardship of the economy and public finances, which account for almost half of Europe's GDP. Across the EU, two of every five euros is contracted out for supplies, services and works: a market worth over €2 trillion annually. European Structural Investment Funds (ESIF) may comprise just 4% of Member State GDP at most, but up to 100% of public investment in some policy fields. Maximising the effectiveness and efficiency of expenditure means securing the greatest value from these spending decisions and avoiding waste, errors, fraud and corruption. This theme considers how administrations apply the principles of good financial governance and prepare, plan, execute, monitor and control their spending. It makes the case for simplified and e-procurement, and using the leverage of purchasing power to pursue societal goals, achieve efficiencies and spur innovation. It examines the role of structures, staffing, systems and governance arrangements in successful ESIF management: disbursing available funds fully, correctly, and most important of all, strategically.

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In a time of tight public finances, administrations have even more of a duty than usual to make best use of their resources, including European Structural and Investment Funds (ESIF).

This chapter:

- ✓ Describes how public administrations manage their budget preparation, including the pros and cons of input-based and performance-based budgeting, and the growing use of spending review and co-budgeting with citizens (also known as participatory budgeting);
- ✓ Explores the way in which administrations organise budget execution from expenditure authorisation to accounting and accountability;
- ✓ Outlines the implications of the 2014 EU directives for public procurement, to ensure purchasing is efficient (tendered and contracted quickly and simply within the rules), effective (achieving the best outcomes), and innovative, socially-responsible and sustainable;
- ✓ Sets out the ways in which Member States can develop their structures, staffing, systems and governance arrangements to spend ESIF fully, correctly and strategically, particularly to achieve TO11 on administrative capacity-building.

Introduction

Public spending accounts for almost half of GDP across the EU.¹ Given the impact on the European economy, this places a huge responsibility on public administrations to carefully plan and execute government expenditure at all levels. The capacity of each Government to deliver its political programme, strengthen the economy, enable the private sector to flourish, generate higher incomes and living standards for its citizens, ensure security and the rule of law, and preserve social cohesion - all on a long-term, sustainable basis - depends not just on the resources at its disposal, but how they are used.

Spending public funds obliges the Government to make choices on priorities, through a regular budgetary cycle of planning, negotiation and implementation. Maximising the effectiveness and efficiency of public expenditure means securing the greatest value from these spending decisions, applying controls and avoiding waste, errors, fraud and corruption. Public sector organisations have a duty to citizens and businesses to ensure that each euro is managed prudently.²

Public funds are disbursed through four routes: by delivering public services through own staff and facilities; by gifting grants and subsidies to businesses and other organisations, in line with State aid rules; by making social transfers to qualifying citizens, such as welfare payments and pensions; and by buying goods, services and works (buildings and infrastructure) to supplement in-house resources or to pursue policy goals. Public procurement accounts for almost 30% of public expenditure, which highlights the importance of applying the principles laid down in the EU's procurement rules - treating economic operators equally and without discrimination, and acting in a transparent and proportionate manner. The 2014 directives give fresh impetus and a modern direction to public purchasing, with greater flexibility (more emphasis on negotiation to achieve the best outcomes), administrative simplification (which should benefit SMEs especially), moving towards end-to-end e-Procurement, making best use of the single European market with joint and cross-border

¹ 47.3% in 2015 (Eurostat)

² See also [theme 1](#) on the topics and tools for better policy-making and implementation, [theme 2](#) on ethics and anti-corruption, and [theme 4](#) regarding the strategic and operational translation of these policies by public sector organisations.

procurement, and exploiting buying power to achieve social and environmental goals and stimulate innovation, for the benefit of businesses and citizens alike.

The largest components of public spending across the EU are health and social welfare, which have an indirect effect on economic performance. Other elements of consumption and capital spending offer more direct causality with economic development, short or longer term, especially education, scientific research, transport, communications and environmental infrastructure, and interventions in the economy to address market failures. The European Structural and Investment (ESI) Funds can represent as much as 4% of GDP, but can account for as much as 100% of public sector investment in some of these fields in many Member States. Many Member States have transformed their implementation structures for the current programming period, often quite radically, and needed to manage quickly the transition to the 2014-2020 governance arrangements through their staff and systems. In all cases, Member States needed to adjust to the demands of ESI Funds, and especially the focus on demonstrating results through the performance framework.

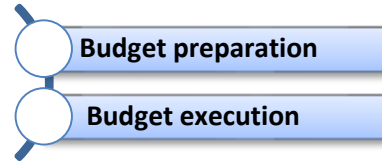
Within ESI Funds, around €4.2 billion has been assigned in 2014-2020 to achieving thematic objective 11: “*enhancing institutional capacity of public authorities and stakeholders and efficient public administration*”. Spread over 17 of the 28 Member States with a combined population of around 183 million, this represents a major contribution towards establishing good public governance, in the context of Europe 2020 and the European Semester of economic policy coordination.

In light of all of the above, this chapter focuses on the following questions, and sets out ways and tools to address them.

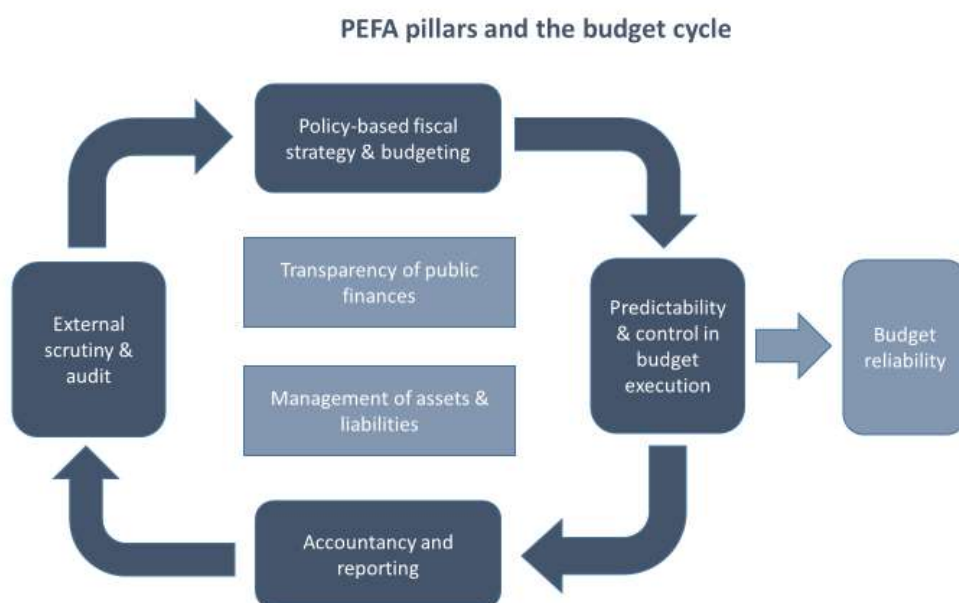
| Key questions | Ways and tools to strengthen capacity |
|---|--|
| 8.1 How do public administrations ensure that they fulfil the principles of fiscal governance when managing spending ? | <ul style="list-style-type: none"> ✚ Input-based v performance-based budgeting ✚ Spending reviews ✚ Co-budgeting ✚ Annual v multi-annual budgeting ✚ Financial management & control ✚ Budget information systems ✚ Public scrutiny, internal & external audit |
| 8.2 Given public procurement 's high share of government expenditure, how can public administrations make it more efficient and accessible, especially to SMEs and across borders, and use its leverage to boost innovation? | <ul style="list-style-type: none"> ✚ Simplified procedures ✚ Cross-border procurement ✚ End to end e-Procurement ✚ Green public procurement ✚ Socially responsible public procurement ✚ Pre-Commercial Procurement (PCP), Public Procurement of Innovative solutions (PPI) & Innovation Partnerships |
| 8.3 Given the principle of sound finance management, how best to strengthen administrative capacity to manage ESI Funds and modernise public administration? | <ul style="list-style-type: none"> ✚ Streamlining, delegation, coordination & continuity ✚ Managing human resources for ESIF ✚ Project preparation & selection ✚ Procurement tips and risk-scoring ✚ Programme & project monitoring ✚ ESIF governance |

8.1 Public finance management

Public administrations have a responsibility towards citizens to exercise care in their use of public monies, whatever the source: taxes, customs duties, fees, charges, tariffs or other revenues. This fiduciary duty is brought into sharp relief in times of restricted fiscal envelopes, as governments face pressure to justify every euro of expenditure, to drive down deficits and to erode public debt. In this context, spending at every level – national, regional and local - must be both efficient and effective. To ensure that public finances are managed prudently, every civil and judicial administration in the EU has its own arrangements for budgetary planning, execution, monitoring, control and auditing. These processes of public finance management (PFM) vary from country to country, but should always be underpinned by principles of good financial governance. These principles should be commonly applicable, irrespective of the policy field or institution, and most importantly, ensure the integrity and effectiveness of the whole PFM system.



Established in 2001, the [Public Expenditure and Financial Accountability \(PEFA\) programme](#) is sponsored by a multi-agency partnership comprising the European Commission, the French Ministry of Foreign Affairs, the International Monetary Fund, the Royal Norwegian Ministry of Foreign Affairs, the Swiss State Secretariat for Economic Affairs, and the United Kingdom's Department for International Development and the World Bank. Updated in 2016, the **PEFA performance framework**, shown graphically below, has been developed under the PEFA programme, as a contribution to the collective efforts of many stakeholders to assess whether a country has the tools to deliver three main budgetary outcomes: aggregate fiscal discipline; strategic resource allocation; and efficient use of resources for service delivery. While devised and designed by international organisations within a specific development context, the PEFA framework contains many transferable elements.



The PEFA Framework

PEFA is a methodology for assessing public finance management performance. It identifies 94 characteristics (dimensions) across 31 key components of public finance management (indicators) in 7 broad areas of activity (pillars).

The PEFA programme provides a framework for assessing and reporting on the strengths and weaknesses of public finance management (PFM) using quantitative indicators to measure performance. PEFA is designed to provide a snapshot of PFM performance at specific points in time using a methodology that can be replicated in successive assessments, giving a summary of changes over time.

The goals of the PEFA programme are to strengthen capacities to assess the status of country PFM systems and develop a practical sequence of reform and capacity development actions, in a manner that:

- ✓ Encourages country ownership;
- ✓ Reduces the transaction costs to countries;
- ✓ Enhances donor harmonisation;
- ✓ Allows monitoring of progress of country PFM performance over time;
- ✓ Better addresses developmental and fiduciary concerns;
- ✓ Leads to improved impact of reforms.

PEFA identifies seven pillars of performance in an open and orderly PFM system that are essential to achieving these objectives. The seven pillars thereby define the key elements of a PFM system. They also reflect what is desirable and feasible to measure. The pillars are as follows:

1. Budget reliability;
2. Transparency of public finances;
3. Management of assets and liabilities;
4. Policy-based fiscal strategy and budgeting;
5. Predictability and control in budget execution;
6. Accounting and reporting;
7. External scrutiny and audit.

Within the seven broad areas marked by these pillars, PEFA defines 31 specific indicators disaggregated into 94 dimensions that focus on key measurable aspects of the PFM system. PEFA uses the results of the individual indicator calculations, which are based on available evidence, to provide an integrated assessment of the PFM system against the seven pillars of PFM performance.

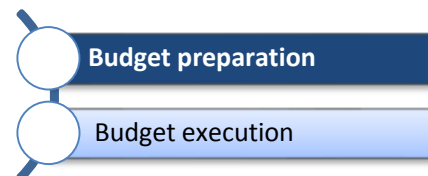
Most finalised reports are publicly available and can be accessed from the PEFA website.

For further information: <https://pefa.org/content/pefa-framework>

8.1.1 Budget preparation

Each Member State has its domestic systems of public expenditure, revenue and debt management, according to its laws, traditions, priorities, administrative structures and budgetary timetables. All operate within the overall **European framework** of the [Stability and Growth Pact \(SGP\)](#), the fiscal

surveillance mechanism grounded in the EU Treaty and reinforced by the legislative ‘six-pack’, and in the case of the euro area, the ‘two-pack’. The SGP was established to safeguard sound public



finances, based on the principle that economic policies are a matter of shared concern for all Member States.

Each European Semester, the European Commission analyses the fiscal and structural reform policies of every Member State, provides recommendations, and monitors their implementation. Beyond fiscal recommendations and decisions linked to the enforcement of EU fiscal rules (corrective surveillance), country-specific recommendations may also suggest structural improvements (preventive surveillance). These CSRs may, *inter alia*, address weaknesses in national 'budgetary frameworks', which are complementing the EU framework by facilitating the preparation, adoption and implementation of national budgets. From a conceptual perspective, national budgetary frameworks are usually composed of several building blocks³ that include:

- ✚ National fiscal rules with numerical targets for selected budgetary aggregates;
- ✚ Independent fiscal institutions;
- ✚ Procedures that cover the preparation, approval and implementation of budget plans; and
- ✚ Better coordination across the layers of government, particularly in highly decentralised systems.

In particular, soundly-designed national fiscal rules are conducive to the conduct of fiscal policies that are firmly oriented towards fiscal sustainability, while preserving room for short-term fiscal stabilisation. The key elements of fiscal rules, which typically cover budget balance, debt, expenditure and/or revenue, have been identified by DG ECFIN (below).

Key elements in the design of fiscal rules

Statutory base: Ideally, any rule should be backed by strong legal provisions signalling the importance attached by the government to fiscal consolidation (e.g., a law of fiscal responsibility). The legal statutory base should clearly establish the requirements for amending the rule, to enhance credibility. It should also specify the monitoring mechanisms and the pre-established enforcement procedures in case of non-compliance.

Multi-annual character: Rules embedded into a medium term budgetary framework, as a part of a comprehensive fiscal strategy, may better adapt to economic and country specific circumstances, and may facilitate the internalisation of the budgetary effects of current policies over the medium term. A multi-annual timeframe may limit the potential circumvention of the rule by postponing the recording of expenditures or the implementation of structural adjustments.

Accounting system: The use of the ESA95 methodology is consistent with the EU fiscal surveillance framework. However, data are more readily available on a cash basis. The need for timely monitoring therefore suggests a dual approach: a rule could be defined in cash terms with translation into ESA95 done on a quarterly basis.

Monitoring: The effectiveness of monitoring relies on two elements. First, to monitor compliance with the rule in an effective manner, updated and reliable data must be available. Where they are not, compliance can only be assessed with considerable delays. Second, an independent monitoring body is more likely to result in necessary adjustments of budgetary trends being implemented once they have been identified.

Enforcement mechanisms: The design of corrective and enforcement mechanisms is an important feature to ensure the proper functioning of fiscal rules. The actions to be taken in case of non-compliance should always

³ http://ec.europa.eu/economy_finance/db_indicators/fiscal_governance/index_en.htm

be defined ex-ante so as to make the rule credible and enforceable. Otherwise, the cost of non-compliance would be only reputational, which is insufficient in the presence of acute fiscal distress and weak budgetary institutions. The enforcement of corrective measures ought to be ensured by a non-partisan institution, legally endowed with the requisite competencies. Monitoring and enforcement could be carried out by the same independent body.

Sanctions: In the case of non-compliance with the rule, pre-established sanctions may supplement the enforcement mechanisms. They may adopt two different forms. In developed nations, non-compliance sanctions typically apply to institutions, comprising fines, automatic withholdings of transfers, restrictions on debt insurance, etc. (1) In developing countries, personal sanctions prevail, including dismissal procedures, obligations to resign, fines, or lower wages.

Escape clauses: Well-defined escape clauses constitute a key feature of good fiscal rules. They specify the circumstances under which departures from the rule are admissible: usually these include natural disasters or acute economic slowdowns or recessions. Precise escape clauses may reinforce credibility, while vague and non-concrete clauses may render the rule ineffective. Overall, the definition of escape clauses requires particularly attention: they should only allow for a limited number of circumstances.

Source:

http://ec.europa.eu/economy_finance/db_indicators/fiscal_governance/documents/analysis_national_fiscal_frameworks_pfr_2010.pdf

The majority of Member States operate within [Medium-Term Budgetary Frameworks \(MTBFs\)](#), in recognition of the fact that most fiscal measures have budgetary implications - commitments and liabilities - that go well beyond the usual annual budgetary cycle. MTBFs contain both expenditure and revenue projections at a fairly aggregated level for the budget year and beyond (usually two to four years after), as well as the resultant budget balances. As to the EU budgets, multi-annual programming is a core characteristic of ESI Funds, and hence even those countries that have traditionally functioned with annual fiscal programmes have introduced systems to plan and disburse EU funds over multiple years, especially under the N+ rule (see also [topic 8.1.2](#)).

In deciding how best to allocate scarce public resources, especially in times of fiscal consolidation, many Member States have turned to **three other instruments of budget planning** that may provide added value in comparison to the standard annual procedures used in the annual budget cycle, namely:

- ✚ Performance-based budgeting;
- ✚ Spending reviews; and
- ✚ Co-budgeting with citizens (participatory budgeting).

The attraction of **performance-based budgeting** (PBB), also known as ‘programme budgeting’, is that it suggests there is a clear relationship between policy objectives, public expenditure and policy outcomes (see also [topic 4.1](#) on results-based management). This contrasts with input-based budgeting, where spending plans are prepared on an inputs basis (salaries, equipment, consumables, etc.) for each governmental institution (budget beneficiary) and its individual units. The relative merits are set out in the table overleaf, which provides an overview and a comparison in budget preparation, negotiation and re-allocation. A [basic model of performance-based budgeting](#) is provided in a technical note from the IMF’s Fiscal Affairs Department, including some brief case studies.

There is an ongoing debate over the **pros and cons**. The explicit link to policy should make it a more rational technique of budget planning: policy precedes resourcing proposals. In principle, it should enable better decision-making on alternative spending options, facilitate better informed negotiations with the finance ministry, and offer line ministries and other budget beneficiaries more freedom to manage their own expenditure, by giving them more flexibility to re-allocate resources during budget execution. Programme budgeting is not simply about changing the way a budget is presented, but about changing the way policy officials, the public and government staff think about governance, and how they plan, manage and monitor their performance. Nevertheless, there have been criticisms that performance budgeting does not live up to the hyperbole. For example:

- ✚ Programmes that cuts across more than one ministry or agency can lead to no single organisation being responsible for achieving objectives and outputs, which acts against transparency in linking policy with resources. The role and contribution of each party needs to be visible, to be **accountable**.
- ✚ The move to programme budgeting is often accompanied by an explosion of **monitoring** indicators to assess performance, some of which fall foul of quantification (counting what can be counted), and if articulated as targets, run the risk of creating perverse incentives - directing resources to hit the targets, rather than to deliver excellent programmes and services (see [topic 4.1](#)).

Operational costs are hidden behind the programme budget, and hence it is harder to assess whether the budget beneficiary is being **efficient** in its resource allocation. In particular, the beneficiary's overheads might be disproportionately high, but if allocated across all its programmes, this masks the true scale. For maximum usefulness and openness, programme budgeting needs to reveal direct and indirect costs, link inputs with outcomes, and if necessary include a separate ring-fenced 'administration' programme.

Moreover, PBB should not be launched in isolation from a wider package of reforms towards **results-based management** to strengthen the effectiveness and efficiency of public spending, as the IMF technical note emphasises, including: civil service reforms to increase the motivation and incentives of officials; organisational restructuring to increase the focus on service delivery and improve coordination; and institutional and oversight changes to strengthen public accountability for performance (see [topic 4.1](#)).

Comparison of activity and performance budgeting

| | Input-based budgeting | Performance-based budgeting |
|---------------------|---|--|
| Overview | Spending plans are prepared on an inputs basis (salaries, equipment, consumables, etc.) for each governmental institution (budget beneficiary) and its individual units. Input budgeting lacks transparency, as it is unclear how these inputs are being employed by the public administration to deliver government goals and priorities, except in broad institutional categories (for example, 'energy ministry'), and hence it undermines the accountability of the administration. | Resources are allocated to governmental programmes, under which all the activities lead to a common objective, which integrates current and capital expenditure. Programme budgeting aims to allow the administration to track and control spending by usage, relate resources to their results, and evaluate whether policy objectives have been met and value for money has been achieved. It should enable citizens, businesses and other interested parties to judge more easily how public monies are being utilised and to hold government to account. |
| Preparation | Input-based budgets are easier to assemble, as they are mainly an exercise in extrapolating from the previous period's expenditure and projecting how many staff, supplies, etc., are needed or desired to implement the administration's programme. | Performance budgeting requires a different set of calculations for budget beneficiaries, as they must evaluate the costs of implementing their programmes. This can demand much less detail, especially if there is continuity from previous periods which sets a baseline position, and allows factors to be applied to it, such as general increases in input costs (for example, construction materials), planned expansion or expected higher take-up etc. Programme budgeting is more problematic when new programmes are introduced, because of the absence of clear reference points. |
| Negotiation | The disconnection with actual policy makes it harder for the beneficiary to justify proposed budgets, especially any significant increases, during negotiations with the finance ministry. The policy disconnect also tends to leave budgets exposed to significant swings in allocation, year-on-year, dependent on the negotiating skills and relative strength of position within the government of individual ministers. | Negotiations over programme budgets cover policy objectives, indicators and targets, and their relationship to requested resources. Budget beneficiaries can make a case for higher (or lower) programme allocations, based on 'facts on the ground' and changing circumstances and priorities over the previous period. Ultimately, the overall fiscal envelope is likely to be the dominant factor in determining the allocations to individual institutions and their programmes, with mandatory spending (for example, relating to [pre-existing liabilities) taking precedence over discretionary spending. |
| Reallocation | Control limits are usually applied to both individual budget beneficiaries (e.g. health ministry) and individual spending categories (salaries, etc.), with any reallocation subject to thresholds. This means that prior approvals must be sought before switching resources above these thresholds (for example, above 5% for beneficiaries and 15% for categories). | The means for achieving policy goals (inputs and activities) are less important than the results themselves, and hence it is normally easier to switch funds between budget lines within a programme, and even across programmes (unless programme budgets are ring-fenced), subject to overall control limits (total expenditure). Any controls depend partly on the fiscal rules, as some countries have historically made a distinction between current and capital expenditure, and have limited the scope to reallocate from capital to current budget lines, to ring-fence their investment plans. |

Source: Various studies

While the causal relationship between inputs and results in PBB is hard to establish, and tends to take the form of specific outputs rather than societal outcomes, it is also not obvious how performance data should be best used for **future budgeting**:

- ✚ Should **under-performance** lead to fewer resources to penalise failure (which could create a downward spiral) or an injection to raise standards?
- ✚ Should **over-performance** be rewarded with more funds, or alternatively, should resources be diverted into areas of greater need, which would then seem to punish success?
- ✚ How should **average performance** be treated? If programmes are meeting expectations, is this sufficient? Is there scope to ‘raise the game’ with a funding boost, or to ‘raise the stakes’ with a funding cut – premised (in either case) on stimulating better value for money?

These inherent dilemmas mean that performance data is likely to be only one factor in resource allocation. Moreover, the realpolitik is that some public services are either essential (including for statutory reasons) or high priorities, and hence starving them of finance is not a viable scenario. When services appear to be failing, or at least performing below par, studies on **decision-makers’ attitudes** have suggested that blame avoidance by politicians might feature as a factor, a theory that was tested among city councillors in Denmark. The findings of this specific study indicate that both high and low performance tend to encourage spending, while average performance acts as a disincentive to investment.

Influence of performance information on public spending

The model of performance-based budgeting as espoused by some of its proponents suggests that political decision-makers should reward high performers and punish low performers. Research on how they respond to performance information in practice is limited, and hence, a randomised survey experiment was conducted among 844 Danish city councillors, which looked at the effect of high, average and low performance on attitudes to spending and reform. Specifically, the study found that high and low performance had a positive impact on attitudes to spending, whereas information on average performance affected spending attitudes negatively. Moreover, information showing high performance rendered politicians less favourable to pursuing organisational reform. A greater appreciation of high performance among political decision makers, as opposed to merely singling out low performers or scandals, might in turn alter the incentives for public managers to focus not only on avoiding blame, but also striving for success.

*Source: P. A. Nielsen and M. Baekgaard (2015), “Performance information, blame avoidance, and politicians’ attitudes to spending and reform: Evidence from an experiment”, *Journal of Public Administration Research and Theory*, 25(2), pp 545–569.*

The review of past performance and the plans for future programmes during budget negotiation rely on comprehensive and high-quality intelligence, which heightens the importance of **policy evaluation** (see [topic 1.3](#)), which is more rounded and qualitative than raw data in monitoring indicators.

The invisibility of programme costs in PPB is more of a concern at times of fiscal tightening, with risks in both directions: on the one hand, it is not easy to discern whether there is scope for savings;

on the other hand, there is the chance that finance ministries will make blanket cuts which go beyond efficiency savings and undermine policy realisation, simply because it is not feasible to separate out direct and indirect inputs. In recognition of the validity of this critique, some experienced Member States have sought to change direction, as illustrated by the example of the Netherlands ‘**accountable budgeting**’ initiative which represented a major system overhaul, retaining the best elements of programme budgeting, while removing the opaqueness and improving the control.

Inspiring example: Reforms to Performance-Based Budgeting (Netherlands)

“An unknown person once noted that *a cynical person is an idealist who, at some point, made the mistake of turning his ideals into his expectations*. Looking at the increasing amount of critical studies on the impact of performance-based and program budgeting reforms, one could become a bit cynical towards this popular and ambitious type of budget reform. Not unlike the experience in other countries, the implementation of performance-based and program budgeting in the Netherlands over a decade ago has only partly lived up to its expectations.

There has not been much evidence that major reallocation of spending has taken place as a result of these reforms. In addition, the informational value of budgets and the administrative burden for line ministries have been continuous sources of debate. Nevertheless, the concept of linking funding to results has proven its usefulness in agency management and does help the Ministry of Finance differentiate between a powerful claim and a powerful claimant in the budget process. Neither is anyone inclined to give up the benefits of increased transparency and enhanced managerial flexibility that resulted from introducing a program budget. Instead of becoming cynical or glorifying the “good old days” of input budgeting, the Netherlands Ministry of Finance accepted the fact that it may have had some unrealistic expectations and that some of the criticism on performance budgeting as implemented actually made sense and demanded a solution. This resulted in a major overhaul of the budget presentation and program structure in recent years called “*Verantwoord Begroten*” (translated as *Accountable Budgeting*).

Following a decade of mixed results of the previous reforms, one of the lessons learned was that a political process such as budget allocation by Parliament will not be rationalised by only changing the budget structure. Secondly, it had to be acknowledged that a program budget can never live up to the expectation of being definitive, comprehensive policy document that contains all the policy information considered useful by every stakeholder. Finally, the shift to full program budgeting had left Parliament and line ministry financial managers with a significant loss of control over inputs that was dearly missed, especially in times of budget cuts.

The *Accountable Budgeting* reform was introduced in the 2013 budget documents and targeted some of the more persistent problems encountered with regards to performance-based program budgeting. These included limited usefulness of budgets and annual reports for financial analysis and unclear accountability for results, especially regarding policy outcomes. The changes introduced enable more detailed Parliamentary oversight of spending as well as enhance internal control by the Ministry of Finance and line ministries. To achieve this, more detailed financial information was presented following a uniform classification of financial policy instruments and categories of organisational expenses.

In addition, the use of policy information (performance indicators and policy texts explaining policy objectives) was curtailed and had to meet stricter conditions concerning the precise role and responsibility of government. As a result, about 50% of all performance indicators disappeared from the budget documents. The reason for this shift was that performance information in the old budgets had become more aimed at legitimising funding and compliance purposes than at providing useful insights for improving policy efficiency and effectiveness. Use of performance information for the latter purpose is more likely to occur following multiyear ex-post evaluation than in a cyclical annual way. For this reason, lessons drawn from evaluation reports gained a more prominent place in budget documents.

Another consideration was the fact that an increasing amount of information on policy effectiveness is becoming available from a diversity of sources within and outside of government. The concept of a budget document as a portal that electronically discloses the various sources of financial and policy information may better serve the information needs of today's citizen and parliamentarians than reliance on a limited set of indicators that may be susceptible to selective presentation and framing. With the *Accountable Budgeting* reform, the Netherlands has taken a step towards meeting the demands of budget and results accountability in the information age while trying to meet more realistic expectations with regards to performance-based allocation through its budget documents."

Source: IMF Public Financial Management Blog, <http://blog-pfm.imf.org/pfmblog/2013/01/recent-performance-based-budgeting-reforms-in-the-netherlands-another-lap-around-the-windmill.html#more>⁴
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Within the context of programme budgeting at central, regional or municipal levels that focuses on outcomes (as opposed to line budgeting that is limited to inputs), budgets can only be prepared and agreed effectively if they are well-informed by:

- ✚ **Robust financial data** on previous spending levels and forward commitments, including both actual liabilities (such as pension schemes) and contingent liabilities (that are only realised if called (such as export credit guarantees);
- ✚ Analysis of the current and future **policy context** for spending and revenue generation plans, to ensure budget preparation is evidence-based (see [topic 1.1](#) on policy design); and
- ✚ A **negotiating framework** between finance ministries / departments and line ministries / departments which is clear and coherent, involves a two-way dialogue over typically several iterations and enables officials to advise their politicians and set spending priorities on an informed and consistent basis.

In some countries, these three elements are brought together in **spending reviews**, which allow the public administration to evaluate whether expenditure is justified by policy objectives and outcomes. However, their history extends back to the 1980s and 1990s. During this time, extensive spending reviews were employed by countries that had experienced severe budgetary shocks (Canada, the Netherlands and Sweden). Such crises created a climate for conducting a comprehensive stock-take, as the springboard for re-establishing robust public finances, by putting all options on the table and considering funding choices with a fresh perspective. The classic spending review model is to go 'back to baselines', and oblige ministries and other spending bodies to justify every euro of their expenditure, as a bottom-up exercise. Every programme is put under the spotlight. This process leads to a re-prioritisation of public funding, and a renewed commitment to the selected public services.

Spending reviews can be either a one-off exercise, or the bedrock of the regular budgetary cycle - seeking evidence to validate whether established programmes should be rolled forward or phased out, and inviting fresh solutions to existing or emerging challenges. At least nine Member States

⁴ See also de M. Jong, I. van Beek and R. Posthumus (2013), [Introducing accountable budgeting: lessons from a decade of performance-based budgeting in the Netherlands](#), OECD Journal on Budgeting, Vol. 12/3.

have recently engaged in spending reviews in some form: Denmark, Finland, France, Ireland, Italy, the Netherlands, Spain, Sweden and the United Kingdom. In principle, they offer a more tailored and sustainable approach to managing public spending at a time of austerity, compared with across-the-board expenditure cuts, and allow the administration to discriminate in favour of activities that have a positive impact on economic growth and against actions with a negative impact on social welfare and cohesion. As [DG ECFIN's study](#) shows, there is no one-size-fits-all methodology but well-managed and implemented reviews are time- and resource-intensive, and the analytical, organisational and political hurdles should not be underestimated. Key success factors include political commitment, ownership by the administration, clear objectives and governance, integration in the budgetary process, anticipation of implementation, building of transformation capability and performance culture at all levels of public service.

In the spirit of co-decision (see [topic 1.1](#)), some Member States have also explored **co-budgeting with citizens** at the municipal level. For example, Lisbon City Council assigned 5% of its municipal budget to decision-making by the city's citizens. This is a fully participatory process, using offline and online tools, with the public both preparing proposals for how the resources are deployed and voting on projects. The initiative has evolved each year and its popularity has increased accordingly with a 10-fold rise in the number of participants.

Inspiring example: Collaborative budget 2.0 (Portugal)

As the crisis stuck hard around the world, Lisbon City Council tried to face new challenges with innovative solutions, by changing the paradigm with which they were working, breaking down hierarchical and inflexible structures, and calling civil society to play a part in the decision-making process. In Lisbon, civic participation and citizen collaboration are understood to be a strong pillar of democracy. Hence, they implemented an ambitious participation programme, aiming at higher citizen involvement in the management of the city. Connecting people and organisations within a strategic partnership is the goal, making citizens co-producers, instead of clients of municipal services. Lisbon aims at being a Smart City, a city of inclusion, innovation and improvement.

The most important feature of their participation programme is their 'Collaborative Budget 2.0' (CB). Lisbon was the first European capital to implement a participatory budget model (a programme highly praised by UN-Habitat), but with significant innovations that make it an important upgrade from the typical models. Currently heading into its fourth year of execution, the Lisbon CB gives effective initiative and decision-making power to the citizens, by allocating €5 million of the yearly municipal budget to them, representing 5% of the city's investment budget. The citizens are active in every step of the process, from drafting the proposals to submitting them and voting on the projects. Unlike typical participatory budget models, there are no restrictions on certain areas of intervention (as long as they are in the city council's field of competence). Up until now, winning projects have shown a rich diversity in their nature and in the fields of intervention.

The Lisbon CB is also different in another important aspect: it is a qualified online-based process, strongly supported by ICT. Its use enhances cooperation and interaction between municipality and citizens - it is, thus, 2.0. The process, however, is also supported by offline tools (participation-based meetings, a thematic bus, information meetings), to ensure social and age dependent inclusion. Each year, both awareness of the programme and the number of people participating have been increasing, representing a ten-fold growth between its start in 2008 and 2010. It is an evolutionary process, constantly improving, thanks to its ability to adapt to citizen's needs, as predicted in CB Charter of Principles. They work according to a motto of flexibility, letting citizens' input and needs shape the programme. In Lisbon, they see the CB as an important tool for democracy, for which they have received very positive feedback from the citizens.

Source: EPSA 2011

Other studies have been conducted of participatory budgeting at the municipal level in England for the [United Kingdom’s Department for Communities and Local Government](#), while there are also projects that are [tracking initiatives globally](#).

8.1.2 Budget execution

Once budgets have been approved, usually by act of parliament or assembly, the focus shifts to implementation, whether the ‘appropriations’ (voted budgets) are input-based or programme-based.⁵ Effective budget execution is about governments’ responsibility for the stewardship of taxpayers’ money. It has a direct impact on businesses, citizens and non-government organisations, as public service users (see [theme 5](#)), but also on the economy. Moreover, failure to manage the execution phase can have a detrimental, and sometimes devastating, effect on enterprises engaged in public procurement (see [topic 8.2](#)), if weak financial circuits lead to late payments and cash-flow insolvency (see [topic 6.2.4](#)). Contracted businesses, especially SMEs, should not become the informal source of working capital for public administrations, simply because there is insufficient revenue collection or inefficient budget disbursement.



As budget users can be found throughout the public sector, including arms-length institutions, good fiscal governance must permeate throughout the public administration, according to the scope of the budget law: departments of national, regional or local government, executive agencies, court administrations publicly-controlled enterprises, and potentially more.

Even as multi-year fiscal frameworks become increasingly the norm for budgetary planning (see [topic 8.1.1](#)), many Member States still operate **annual budgets**, and hence budget authorisations are made for a single year at a time. These budget systems typically recognise that liabilities can extend beyond budget years, as payments against earlier commitments can fall due in the next period. In particular, provisions have to be made for capital expenditure, such as infrastructure projects, which can extend over many years. However, most Member States – even those with MTBFs - draw the line at allowing unspent allocations (or ‘savings’) to be carried forward from one year into the next (‘carry over’ or ‘end of year flexibility’).

The exceptions are the Member States that operate **multi-annual budgets**, such as the United Kingdom and, of course, the EU itself for the European Structural and Investment Funds (see [topic 8.3](#)). Most recently, Ireland has extended its multi-annual budgeting from capital expenditure to current expenditure⁶. Multi-annual budgets are designed to avoid the end-of-year spending ‘splurges’, whereby budget users seek to disburse as much funding as possible, to demonstrate an artificial ‘demand’ for finance in the next budget round (known as ‘use it or lose it’). As finance ministries / departments often look to the previous year’s budget execution as the baseline to

⁵ If parliament or assembly has not approved the budget before the start of the budget year, it is often permitted under budget system law to permit budget users to engage in spending based on a temporary authorisation, subject to certain conditions and limitations.

⁶ See <http://circulars.gov.ie/pdf/circular/per/2013/15.pdf>

inform their negotiations with budget users, this creates an incentive to maximise spending, even if the expenditure is not strictly necessary (for example, stocking up with inventory) or poor value for money.

- ✚ The **advantage** of multi-annual budget cycles is that they encourage longer-term planning in the use of authorised expenditure, avoiding the rush-to-spend that wastes resource. They smooth the expenditure profile and reduce the peaks of spending just before the end of the budget year, which must be financed with higher receipts or borrowings. This can put added pressure on finance management at the budget year-end, as the finance ministry must match these commitments / payments with revenue generation and debt management (going to the money markets to raise funds).
- ✚ However, the **downside** of multi-annual budgeting is that it can disguise systemic underspends, tying up funds in budget users that don't actually need them, the mismatch between allocation and need only unravelling towards the end of the spending round (for example, in years 2 or 3), by which point it may be hard to re-assign the funds to more productive uses. Multi-annual budgeting can also be less predictable than the annual budgeting cycle, especially if early underspends lead to a surge of commitments and payments in the later years of the spending round; if this happens to coincide with an economic downturn (lower tax receipts, greater demands on welfare spending, reduced demand for bonds, etc.), the government can struggle to meet its commitments.

Hence, multi-annual budgeting tends to be more suitable for Member States with more robust public finances that can cope with fluctuations of incomings and outgoings over the economic cycle, and that exercise rigorous financial management and control, including planning and monitoring of budget execution.

Each country has its own methodologies and procedures for budget (classification systems⁷, approval circuits, etc.), which may provide interesting lessons for other Member States, but are not considered here. More important for good fiscal governance, linked to the SGP and European Semester, are the foundations on which these practices are constructed, and the rigour in which they are implemented and enforced. To ensure spending is tightly controlled, budget execution typically comprises six steps:

Six steps of budget execution



⁷ For an overview of the importance, features, structures and pre-conditions for successful implementation of budget classification systems, please see the Technical Guidance Note of the IMF's Fiscal Affairs Department, <https://www.imf.org/external/pubs/ft/tnm/2009/tnm0906.pdf>. For guidance on programme classifications for performance-based budgeting, the World Bank's Independent Evaluation Group (IEG) has produced: http://ieg.worldbankgroup.org/Data/reports/performance_based_budgeting_bb.pdf

In broad terms, these steps can be broken down as follows (see also [IMF's guidelines](#) for public expenditure management on budget execution for a comparison of different global systems):

- ✚ **Expenditure authorisation:** In some countries, the adoption of the budget law automatically confers the requisite powers for budget users to engage in public spending. However, some systems involve the finance ministry releasing funds (as authority to spend, or transfers to budget users' accounts) in stages (e.g. monthly or quarterly), or delaying commitments to avoid or address cash flow difficulties. Some Member States require budget users to submit financing plans after their budgets are authorised, on monthly or longer-term basis.
- ✚ **Commitment:** Budget execution is triggered when the budget user makes a commitment to pay at a future date, by signing a contract or making a purchase order. The budget execution system should keep a record of these future obligations, including projections of when the goods, services or works will be performed and payment will be due, in the interests of cash flow management.
- ✚ **Verification:** After the goods have been delivered, services performed or works completed, either fully or according to agreed stages, the budget user checks compliance with the contract or order technically (the product, service or works meets the specification), financially (the invoice corresponds with the agreed amount) and legally (the terms and conditions of the contract / order have been fulfilled).
- ✚ **Payment authorisation:** Following verification, there is typically a process of authorising payment, which is often performed by a separate finance / accountancy team conducting compliance checks, triggered by a payment request from the spending unit. Depending on the system, this may result in a transfer of funds from the government's consolidated account held by the finance ministry or state treasury (normally in the central bank) to the budget user's account, either also at the central bank or a commercial bank.
- ✚ **Payment:** At this stage, the invoice is paid, possibly by cash or cheque, but more usually electronic transfer. Depending on the system, this is either centralised (payment is made directly from the finance ministry, department or treasury's consolidated account) or made by the budget user from their own account.
- ✚ **Accounting:** The transaction is recorded and reconciled in line with agreed government accounting practice, and will be later subject to audit.

The primary constraint on any budget user is the **'control total' (or 'control limit')**. This is the ceiling on authorised expenditure, which may be defined in gross terms, or net (taking account of fees, charges or other revenue that can be assigned to the budget line). Typically, budget users should be restricted by the budget execution system from breaching these limits ('over-spending'), if internal controls are working. Budget systems may define separate control totals for capital and current expenditure, and may distinguish between administrative and non-administrative costs within current expenditure. They might also distinguish between expenditure that users should be able to

plan, and expenditure which is demand-led and hence cannot be reasonably forecast (for example, certain kinds of welfare payments).

Governments may need to make in-year adjustments to allocations in the light of unforeseen events, which increase either due to sudden budgetary pressures (for example, due to economic downturns or crises, such as natural disasters), or simply to manage allocations efficiently by switching resources from budget lines with persistent underspends. Hence, expenditure ceilings may be subject to re-allocations (**'virements'**) between budget lines or institutions. The authorisation and adjustment mechanism should be formalised and set out in advance, so the rules are clear to all budget users. The approval process typically depends on three factors:

- ✚ **The scale of virement:** For example, switches of more than, say, 5% or 10% of the original allocation may be subject to a more stringent process;
- ✚ **The type of expenditure:** For example, distinctions may be made between capital and current expenditure, or between administrative and operational;
- ✚ **The destination of the virement:** Budget systems often allow switches *within* programmes or institutions to be sanctioned by the budget user themselves (either unlimited or within a certain percentage), whereas *across* programmes or institutions may require a higher authority, for example, finance ministry authorisation, government decision or parliamentary approval, depending on system and/or scale.

In some cases, Member States may wish to impose 'ring-fences' on spending, which only allow re-allocations *into* the budget line, but not out of it. This mechanism serves to protect programmes which have a high priority or which would not be viable below certain funding levels. Ring-fenced expenditure does restrict the flexibility of budget users to manage their own resources, however.

The transition from expenditure authorisation to actual commitment is the **most crucial phase** of budget execution. Fiscal discipline is not just a matter of managing spending plans within control totals. Budget users also have a fiduciary responsibility to execute spending in line with three recognised principles of good fiscal governance:

- ✚ **Legality (also known as 'regularity')**: Every item of expenditure must be legitimate. In other words, spending should be both legally authorised (voted by parliament/assembly) and fully compatible with all relevant laws (for example, environmental, fundamental rights, state aid, planning, etc.). This principle overrides any consideration of political expediency, such as verbal or written directions from elected to appointed officials. Politicians cannot instruct public servants to violate laws, without the servants themselves also becoming party to law-breaking.
- ✚ **Propriety**: Good governance is not just about legal compliance - this is the minimum requirement. Public servants should also act ethically, in the public interest, which translates as 'doing the right thing'. This is a more subjective judgement than the objective compliance with established law, and where ethics and dilemma training can be valuable tools in helping

officials to avoid pursuing personal, private or political agendas, and becoming trapped by conflicts of interest (see [theme 2](#)).

- ✚ **Value for money:** Ethical standards show the right path to take, but budget users also need guidelines to ensure best use of made of finite public finances. Here, the aim is to extract the most added value from the available funding. This entails striking the right balance in pursuing policy objectives with public spending between achieving the maximum results (benefits) and securing the lowest cost (both financially and time taken). This is integral to the concept of most economically advantageous tender (MEAT) in the EU's public procurement directives (see [topic 8.2](#)). It requires officials to focus simultaneously on the relevance, efficiency, effectiveness and impact of public spending, and the durability of outcomes that are being purchased with public money (sustainability).

To some extent, the principles of legality and propriety can be integrated into budget execution systems through internal checks and controls, verified and validated through internal and external audits⁸. But financial management and control (FMC) should not just be about the 'C' (control), it should start with the 'M' (management). All **public officials** with powers to propose, commit, verify and/or authorise spending should be thinking about these three principles - legality, propriety and value for money - in their daily work. This puts demands on officials, and especially managers responsible for overseeing decisions, to exercise their judgement to ensure scarce public resources are used as prudently as possible.

Inspiring example: Public Spending Code (Ireland)

All Irish public bodies are obliged to treat public funds with care, and to ensure that the best possible value-for-money is obtained whenever public money is being spent or invested.

The Public Spending Code is the set of rules and procedures that apply to ensure that these standards are upheld across the Irish public service. The Code brings together in one place all of the elements of the value-for-money framework that has been in force up to now, updated and reformed in some respects. The Code is maintained on the website (<http://publicspendingcode.per.gov.ie/>) under the management of the Central Expenditure Evaluation Unit (CEEU) of the Department of Public Expenditure & Reform as a resource for the entire Irish public service. In September 2013, Departments and Offices were formally notified by circular that the Public Spending Code is in effect.

The Public Spending Code is structured as follows:

- ✚ The Introduction sets out the core principles of the Public Spending Code, including the new principle of consultation and participation. As a general working principle, amendments to the Public Spending Code will be subject to peer review by stakeholders. In keeping with this approach, some elements of the Public Spending Code are flagged as "consultative drafts", and will not be formally in effect until the peer review process has been completed.
- ✚ Part A of the Code sets out general provisions, which apply in principle to all types of spending at different stages of the project life-cycle. Part A includes a map or overview of the entire Public Spending Code, and is a useful starting point for public service users wishing to know what elements of the Code apply to their work.

⁸ See DG BUDGET's Public Internal Control (PIC) Compendium for the state-of-play in Member States http://ec.europa.eu/budget/pic/compendium/index_en.cfm

- ✚ Part B of the Code relates to the appraisal and planning of public projects, before expenditure is incurred.
- ✚ Part C concerns the ongoing management, control and ongoing review / evaluation of expenditure projects and programmes that are underway.
- ✚ Part D brings together user-friendly guidance material on the analytical techniques that are applied in appraisal of both capital and current expenditure. These elements of the Code deal with basic introductory material, through to more technical and advanced guidance on how the analytical techniques are applied.
- ✚ Part E is a technical reference section, showing the up-to-date standard parameter values for use in technical analytical techniques. This section also includes a useful glossary of technical terms used throughout the Public Spending Code.

Source: <http://publicspendingcode.per.gov.ie/>

The OECD Council has recently adopted recommendations for member countries comprising a set of **principles on effective public investment** to strengthen performance across all levels of government, both national and sub-national.

OECD principles on effective public investment

Effective public investment requires close co-ordination across levels of government to bridge information, policy or fiscal gaps which may occur. It also requires the capacity at different administrative levels to design and implement public investment projects. The principles, therefore, relate to how to coordinate public investment across levels of government, how to strengthen the capacity to carry it out and how to ensure a sound framework for planning it. Since public investment projects are rarely planned, financed and implemented by a single authority, different levels of government at various stages of the process are involved which accordingly need to work together. Public investment also tends to require involvement at local level even when carried out by central government since it is essential to take account of local needs, possible bottlenecks and particular territorial factors if it is to be effective. Accordingly, even if they have no funding or decision-making responsibilities, local authorities can increase (or reduce) its results and impact.

To help countries address these challenges, the OECD has developed a set of principles on effective public investment across levels of government. The goal is to help governments at all levels to assess the strengths and weaknesses of their public investment capacity and to set priorities for improvement. The Principles are combined into three groups, which represent systemic multi-level governance challenges for public investment:

- a) **Co-ordination challenges:** Cross-sector, cross-jurisdictional, and intergovernmental co-ordination is necessary but difficult in practice. The constellation of actors involved in public investment is large and their interests may need to be aligned.
- b) **Capacity challenges:** Where the capacity to design and implement investment strategy is weak, policies may fail to achieve their objectives. Evidence suggests that public investment and growth outcomes are correlated with the quality of government, including at the sub-national level.
- c) **Challenges in framework conditions:** Good practice in budgeting, procurement and regulation is integral to successful investment but is not always consistent across levels of government.

OECD member countries should take steps to ensure that national and sub-national levels of government use resources for public investment on territorial development effectively, in accordance with the principles set out overleaf:

Coordinate public investment across levels of government and policies:

- ✦ Invest using an integrated strategy tailored to different places.
- ✦ Adopt effective means of coordination across national and sub-national governments.
- ✦ Co-ordinate among sub-national governments to invest at the relevant scale.

Strengthen capacity for public investment and promote policy learning across levels of government:

- ✦ Assess upfront the long-term effects and risks of public investment.
- ✦ Encourage stakeholder involvement throughout the investment cycle.
- ✦ Mobilise the private sector and financing institutions to diversify sources of funding and strength- en capacity.
- ✦ Reinforce the expertise of public officials and institutions throughout the investment cycle.
- ✦ Focus on results and promote learning.

Ensure sound framework conditions for public investment at all levels of government:

- ✦ Develop a fiscal framework adapted to the investment objectives pursued.
- ✦ Require sound, transparent finance management.
- ✦ Encourage transparency and strategic use of public procurement at all levels of government.
- ✦ Strive for quality and consistency in regulatory systems across levels of government.

Source: European Commission (2014), *Sixth Cohesion Report*

More information at: <https://www.oecd.org/effective-public-investment-toolkit/>

Efficient budget execution requires that **financial circuits** are well-functioning, and ensure the timely transfer of authorised funds to meet commitments to staff, contractors, service users, welfare and grant recipients, and other beneficiaries of public spending. Weaknesses in budget execution can reveal themselves in poor policy delivery due to delayed financing of front-line services, and SMEs in financial distress arising from late payments.

This also implies high quality **information systems (IS)** enable budget users to track progress on spending, ideally in real-time, and monitor performance on utilising funds as a management tool, including cash flow planning. Budget IS, such as the example developed by Austria's Federal Ministry of Science, Research and Economy let managers know whether resources should be re-deployed by creating a feedback loop from budgeting to execution (and inspection) to budget amendments.

Inspiring example: Budget Information System (Austria)

Ineffective budgeting processes within the Federal Ministry of Science, Research and Economy (FMSRE) necessitated the implementation of the Budget Information System (BIS). Before the start of the project, demands for new ways of thinking, transparency, and democratisation of knowledge were identified. Five objectives were distinguished to enable a new work philosophy, which allows a high-quality outcome in one of the most sensitive areas of Austria's society, such as tertiary education and research:

- ✦ Introducing a transparent and standardised budgeting process to reach a higher planning quality;
- ✦ Introducing a business performance management system as a precondition for an efficient and transparent accounting;
- ✦ Introducing newly acquired knowledge;
- ✦ Introducing a basis for high quality budgeting and efficient budget planning; and
- ✦ Introducing a framework for the Austrian Federal Budget Reform.

This unprecedented system allows accurate and high-quality budgeting. The pioneering budget components bring about high transparency during the standardised budgeting process. This allows for a detailed and, at the same time, easily understandable representation of the ministry's budget and traceability as the history is documented during budget planning. Additionally, the high training efforts during project runtime allowed and

supported intra-organisational learning. As the BIS system is based on a standard solution of an international vendor, this ground-breaking system is transferable not only within Austria's public sectors but also to public sectors of other European countries. The implementation excels due to its resource-saving functions as state-of-the-art technologies and methods were used to reduce expenditures during the project runtime. In-house knowledge was acquired to maintain and adapt the BIS for the future. This strengthens the autonomy of the ministry and helps to save resources in the long run.

The BIS represents a state-of-the-art solution, with unprecedented functionalities in the Austrian public sector. The most important innovation of the project is the re-design of the budget planning process that ensures enhanced quality, while simplifying and standardising procedures, introducing more transparency and clarity and nevertheless saving time, due to fewer steps in the process. A kind of zero-base budgeting allows for an annual review of the services and contributes to efficient resource distribution. The standardised and consistent budgeting process makes the derivation of performance indicators possible which helps to reach the ministry's goals. The biggest achievement is the existence of a standardised process turning the previously complex budgeting process into a concise, decentralised and collaborative one. The budget components allow an innovative and detailed view on the budget and an outlining of gender-specific projects and their pecuniary resources. The budgets become understandable even for people unfamiliar with budget law, due to the speaking names of the budget components. BIS makes an effective, efficient and outcome-oriented budget planning possible and leads to an increased self-management. By implementing a new culture of participation and an intra-organisational knowledge transfer, the self-responsibility in budgetary matters and the identification with the own pecuniary resources were established. The implementation of a cutting-edge Data Warehouse as a central storage point with a planning and reporting tool allows business performance management and makes a real-time fiscal surveillance possible. The BIS easily allows adaptations to meet future requirements without changing the developed standardised budget planning process. In addition to merely planning budgets, BIS is also used for reporting, controlling and forecasting, serving as a valuable support all along the control cycle.

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As the PEFA framework indicates, budget information systems deliver the data that enables governments to demonstrate the credibility of the budget, including the actual out-turn of expenditure against the original approximations voted on account. As the goals of France's AIFE suggest, the publication of public expenditure information also helps to improve **accountability** by allowing citizens and businesses to scrutinise how taxes and other revenue sources are deployed (see also [principles and values of good governance](#), regarding public participation and transparency).

Openness alone is not sufficient, however. Raw data on its own is not always helpful, especially if it lacks any reference framework that allows conclusions to be drawn. Simply knowing that EUR millions or billions has been spent on education, justice or industrial aid only serves to confuse: public spending data becomes just a set of large numbers. Readers need help in **understanding the data**, in a way which should be designed to avoid either biasing the audience's interpretation or presenting an over-simplified analysis in a complex policy field. The aim of providing spending and other data should be to provide a full and balanced picture, to avoid misleading both the public and policy-makers.

- ✚ **Provide reference points:** Data is more meaningful if it allows comparisons, whether this is change over time (trend data), or relative to other territories (countries, regions, cities, municipalities) or institutions (hospitals, courts, universities, etc.). Readers relate better to spending per person than whole numbers, or shares of total spending, so percentages or fractions are more easily comprehended.

- ✚ **Provide explanatory information:** However, crude comparisons can misrepresent the complexities of the situation ‘on the ground’. For example, ‘league tables’ can be useful motivators if they encourage improvement, but they run the risk of implying that all the myriad factors affecting policy outcomes can be reduced to a single metric or a few indicators. This can distort decision-making, also by putting the emphasis on competition to improve rankings (which will always remain relative), if this is not the appropriate solution to the policy challenge. The presentation may benefit from an accompanying package of explanatory information to make sense of the data being presented in a particular domain (such as spending on primary schools) and to help the reader to qualify the analysis (for example, socio-economic background of the community, linguistic and physical abilities of the children, school funding levels over time and per pupil, performance by cohort, etc.).
- ✚ **Provide a narrative:** Moreover, data only takes you so far. People tend to relate better to real-life stories than pure numbers, and hence some ‘typical’ examples of how resources are being used and the range of outcomes that are being achieved, to accompany the facts and figures, can be illuminating.

Checks and balances are always needed to ensure that the principles and values of sound finance management are observed in practice. Budgetary credibility is also aided by the **rigorous scrutiny** of auditors, both internal and external to the public administration. This scrutiny should be risk-based, identifying the weak points in the budget system for auditing, particularly spending which is vulnerable to weak controls and corruption (see [theme 2](#)), with respect to payroll, procurement, transfer payments (e.g. welfare) and grant-giving.

Internal controls provide the most immediate scrutiny, including the role of **internal audit** in pursuing risk-based assessment of budget execution, including legality, reliability, efficiency, effectiveness of spending, integrity of operational information, and performance of required checks and controls. Internal audit units are part of the fabric of central government across the EU, but less well established in lower tiers of government. An innovative approach to internal audit among municipalities has been pioneered in Romania through a partnership arrangement.

Inspiring example: Partnership for internal audit in local administrations (Romania)

Since the implementation of the internal audit function in the Romanian public administration in 2003, significant progress has been achieved at the central level, but there is poor progress at the level of local public administration (functionality of only 27%), especially in rural areas.

Difficulties relate to recruiting qualified personnel as internal auditors, due to scarce human resources available in rural areas, the non-attractive salary level in local public administration, and the heavy financial burden for small public entities that have sometimes 10-15 staff. Institutions like rural town halls would have to make great financial efforts to sustain an internal audit unit, requiring at least two internal auditors by law. In view of other challenges at the local level, such as applying and implementing European funds, or introducing new working methods (managerial control and operational procedures), mayors lacked a tool offering them objective support to take appropriate decisions. This void was filled by the internal audit function. Hence, its proper implementation was of utmost importance.

The proposed solution – a partnership model between small public entities – came from national and European experience, implemented locally. The project’s aim was to implement it nationally across all local

public administrations in Romania. Some partnerships were already functioning in other areas of town halls, like civil safety (e.g. fire brigade) or waste management. This existing cooperation was a good basis for the start of the new internal audit function.

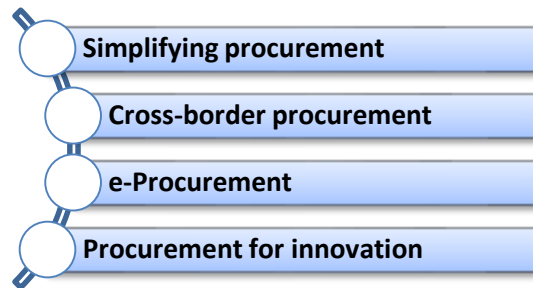
In 2009-2010, a twinning project with partnerships from Austria and France was carried out to identify good practices regarding the association process of small public entities for assuring the internal audit function. Eight partnerships were set up as pilot centres. At the end of the project, the Romanian partners continued disseminating the partnership model. Crucial support was received from the Association of Communes from Romania (ACoR) that later became an indispensable partner in assuring the sustainability and the dissemination of the association process throughout the country. It was crucial to get on board the mayors of communes as key actors of the internal audit model. The result of the joint efforts is signed partnership agreements. Based on the success of ACoR's achievements in implementing the internal audit function, other kinds of associative structures, like the Associations of Intercommunity Development, joined the path of cooperation and the process is expanding step by step. Now approximately 40% of the local public administration is covered by the internal audit function. There was also a mental blockage that this approach overcome, that the concept of "cooperation" that was blamed, being linked to the previous political regime in Romania, now shows its benefits and could act as a tool for further development.

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External scrutiny from outside the executive is provided by **supreme audit institutions (SAIs)** that are fully independent of government and report directly to parliament. Financial audits examine *inter alia* the legality and propriety of transactions, as well as the functioning of internal controls and the reliability of the financial statements that are available to the public. Where they are also part of the SAI's scope and work programme, performance audits explore the value for money of incurred expenditure (see [topic 1.3.1](#)). SAIs make a vital contribution by both identifying waste and ways in which public administrations can function better. Audit findings should be presented to parliament and made public, providing the necessary reassurance to citizens (see [topic 2.3.2](#)).

8.2 Public procurement

Almost 30% of total public spending in the EU is contracted out for supplies, services and works⁹, valued at over €2 trillion. This makes procurement pivotal to the public administration's interaction with the business community, as well as an instrument for modernising public services, giving it **strategic importance** as a policy tool to achieve economic, societal and environmental outcomes. At the same



time, this huge purchasing power is a potential source of conflicts of interest and corruption. The [effective governance of public procurement](#), maximising the benefits and minimising the burdens, can make a major contribution to attaining the Europe 2020 growth goals, and also on making best use of European Structural and Investment Funds (see [topic 8.3](#)). In November 2016, the Commission published a series of [thematic factsheets](#) on public administration under the European Semester, including a [factsheet on public procurement](#).

European Public Procurement Package

The European Commission launched a [public procurement package](#) in October 2017 to support development of more modern, digital and professional public procurement in the Member States. Public procurement with a focus on transparency, simplicity, sustainability and citizen value (rather than price only) can contribute enormously to the EU's social and economic development goals, ensuring that taxpayer money is spent efficiently and effectively.

Careful, upfront planning of procurement is essential, to maximise impact and avoid mistakes. The Commission's [Public Procurement Guidance for Practitioners](#) recommends early **engagement with key stakeholders**, which may be individuals, groups or sub-groups of the clients (including internal clients), customers/users or other parties (e.g. utility companies affected) that have an interest in the contract (see also [topic 5.6.4](#) regarding collaborative commissioning). As the contract progresses and its focus changes, the stakeholders and their needs may also change. Consulting with stakeholders will allow them to have a say in how the contract should be specified, without compromising the integrity of the procurement process and the independence of the contracting authority's decision, or creating conflicts of interest or breaches of equal treatment and transparency.

Around 1 in every 5 euros spent on public procurement, worth €425 billion, exceeds the thresholds in EU legislation.¹⁰ In 2014, there was a major overhaul of the procurement [rules](#) that provide the overarching framework for **public purchasing above the EU thresholds**, compared to their 2004

⁹ According to Eurostat, total government expenditure in the EU-28 stood at €6.95 trillion in 2015, and its share of GDP was 47.3%. Every year public authorities in the EU spend around 14% of GDP (approximately €2 trillion) on works, goods and services. This can be interpreted as purchases which could have been publicly procured, a rough estimate for all public procurement in the EU. The latest EU-wide estimate (2015) of procurement's share does not include utilities (it does include defence). Former estimates (up to 2011) also included utility procurement and were around 19% of GDP (around €2.3 trillion).

¹⁰ European Commission (2014), *Annual Public Procurement Implementation Review 2013*.

predecessors. Both the '[classical directive](#)' and the '[sector directive](#)' for procurement in the water, energy, transport and postal services utilities were revised and a new directive was adopted on the [award of concession contracts](#)¹¹. Member States had until April 2016 to transpose the new rules into their national laws, except with regards to e-Procurement, where the deadline for the full implementation is October 2018.

The main procedures governed by the 'classical directive' for awarding contracts for public works, supplies and services are summarised below:

Main procurement procedures under the 2014 classical directive¹²

| Type | Summary description |
|---|---|
| Open procedure | Any interested economic operator may submit a tender in response to a call for competition. |
| Restricted procedure | Any economic operator may submit a request to participate in response to a call for competition, but only those economic operators invited by the contracting authority following its assessment of the information provided may submit a tender. |
| Competitive procedure with negotiation | Any economic operator may submit a request to participate in response to a call for competition. Only those economic operators invited by the contracting authority following its assessment of the information provided may submit an initial tender which shall be the basis for the subsequent negotiations. Contracting authorities may award contracts based on the initial tenders <i>without</i> negotiation where they have indicated in the contract notice or in the invitation to confirm interest that they reserve the possibility of doing so. They may also award the contract following negotiations of all aspects of the procurement, except the previously announced minimum requirements and the award criteria. See Article 26 for conditions. |
| Competitive dialogue | Any economic operator may submit a request to participate in response to a contract notice. Only those economic operators invited by the contracting authority following the assessment of the information provided may participate in the dialogue, the aim of which shall be to identify and define the means best suited to satisfying their needs. The contracting authority may discuss all aspects of the procurement with the chosen participants during this dialogue. See Article 26 for conditions. |
| Innovation partnership | Any economic operator may submit a request to participate in response to a contract notice. In the procurement documents, the contracting authority shall identify the need for an innovative product, service or works that cannot be met by purchasing products, services or works already available on the market. It shall indicate which elements of this description define the minimum requirements to be met by all tenders. The contracting authority may decide to set up the innovation partnership with one partner or with several partners conducting separate research and development activities. The innovation partnership shall aim at the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided they correspond to the performance levels and maximum costs agreed between the contracting authorities and the participants. The innovation partnership shall be structured in successive phases following the sequence of steps in the research and innovation process, which may include the manufacturing of the products, the provision of the services or the completion of the works. The innovation partnership shall set intermediate targets to be attained by the |

¹¹ Concessions are partnerships between the public sector and mostly private companies, where the latter exclusively operate, maintain and carry out the development of infrastructure (ports, water distribution, parking garages, toll roads) or provide services of general economic interest (for example, energy, water distribution and waste disposal). Concessions are the commonest form of public-private partnership (PPP).

¹² Also, available as procurement options under the directive are framework agreements, dynamic purchasing systems, electronic auctions and electronic catalogues. The directive also covers the organisation of design contests. Please see the directive itself for further and more precise details.

| | |
|---|--|
| | <p>partners and provide for payment of the remuneration in appropriate instalments. Based on those targets, the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts, provided that the contracting authority has indicated in the procurement documents those possibilities and the conditions for their use. Unless otherwise provided for, contracting authorities shall negotiate with tenderers the initial and all subsequent tenders submitted by them, except for the final tender, to improve the content thereof.</p> |
| Negotiated procedure without prior publication | <p>The Classic Directive allows use of this procedure in nine cases, and the Utilities Directive in 10 cases. Bearing in mind that not all these cases are applicable to all three types of contracts (works - W, supplies - SU and services - SR), these cases can be summarised as follows:</p> <ul style="list-style-type: none"> a) where a prior award procedure results in the absence of (suitable) tenders or requests for participation (W, SU, SR); b) the contract can only be awarded to one specific economic operator because of technical reasons or the existence of exclusive rights (W, SU, SR); c) because of urgencies due to force majeure situations (W, SU, SR); d) for contracts for the purposes of research, experiment, study or development (SU only in Directive 2014/24/EU); W, SU, SR under the Utilities Directive); e) in respect of certain works or services which are a repetition of previous works or services, that were part of the same, common project (W and SR); f) for certain additional supplies (SU); g) for supplies quoted and procured on a commodity market (SU); h) for particularly advantageous purchases from suppliers that are ceasing their activity (SU, SR); i) for service contracts awarded to (one of) the winner(s) of a preceding design contest (SR). <p>The Utilities Directive provides for a further case, in which use of a procedure without a call for competition is allowed, namely, j) for certain bargain purchases (sales etc) (SU only).</p> |

Please note: 'Economic operator' means any natural or legal person, public entity, or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of works and/or a work, the supply of products, or the provision of services on the market.

The 2014 directives preserve every Member State's freedom to choose how public works or public services should be organised, whether they are performed in-house using the public administration's own staff and resources, or outsourcing them to external enterprises. It is only in the case of outsourcing that the rules on public contracts and concessions apply. They provide greater legal certainty, especially regarding cooperation between public authorities and the use of concessions, and contain two important shifts in approach to achieve better outcomes.

- ✚ First, the 2014 'classical directive' clarifies the definition of **most economically advantageous tender** as the criterion for awarding contracts, and no longer presents lowest price as its direct alternative (although it remains an option). Public administrations are able to place more emphasis on quality, innovation, social and environmental objectives¹³, alongside price or cost, which can be defined on a life-cycle basis (all the costs of goods, services and works from research to disposal, including carbon footprint and other objectively quantifiable externalities). Moreover, the 2014 package incorporates tougher rules on 'abnormally low bids' due to non-compliance within EU social, labour and environmental protection legislation.

¹³ For example, the employment of long-term unemployed or disadvantaged people or the use of environmentally-friendly materials could be a determining factor in the choice of contractor.

- ✚ Second, Member States now have greater flexibility over their choice of procurement procedure. The open and restricted procedures remain the default options for tendering works, supplies and services, especially for off-the-shelf solutions where the marketplace contains many economic operators. However, more satisfactory and tailored outcomes can result from **negotiation with potential providers** over the terms of the contract. This is reflected in the strong growth in the use of the competitive dialogue procedure by value in recent years, which has been simplified and made more practicable in the 2014 directive. Similarly, ‘negotiated procedures with prior publication of contract notices’ under the previous 2004 classical directive proved to have a high success rate with cross-border tenders; this has been replaced by the ‘competitive procedure with negotiation’ in the 2014 directive, which is better structured to ensure fairness, transparency and efficiency. These options are especially valuable for services, works or supplies with a strong design or innovation element, such as non-standard buildings, intellectual services, or major ICT or transport projects, or where the financing arrangements are complex. Negotiation allows the contracting authority to test the market and customise solutions to best meet its needs, subject to safeguards to ensure equal treatment and transparency, including minimum requirements, award criteria and weightings that are specified and not to be negotiated.

The directives provide two approaches for situations when a public procurer needs an **innovation solution** that does not exist yet on the market. There is the new ‘innovation partnership’ that enables the purchase of R&D¹⁴ and resulting end-products in one and the same procedure. There is also the possibility (that existed previously) to purchase R&D and final end-products via two separate procurement procedures, for example via a pre-commercial procurement for the R&D and a separate procurement procedure (at the choice of the contracting authority, an open or a restricted procedure, a competitive procedure with negotiation or a competitive dialogue) for the public procurement of innovative solutions.

Given the volume of public funds assigned to it, procurement is particularly vulnerable to conflicts of interest, favouritism, bribery and other forms of **unethical behaviour and corruption**, especially where risk management and control mechanisms are inadequate (see [topic 2.2](#) on managing integrity and corruption risk). Serious loopholes in public procurement controls create a significant risk of diversion of public funds, including bribery and extortion with the intention of fraudulently awarding contracts irrespective of their merit or value for money. Corruption in public procurement in just five sectors in eight Member States¹⁵ has been estimated to cost from €1.4 billion to €2.2 billion.¹⁶ The 2014 directives include provisions concerning centralised data on corruption, fraud and conflicts of interest, the obligation to draw up special reports on public procurement including a description of detected conflicts of interest and measures taken, clear and detailed rules governing modification of contracts, broader exclusion criteria, preliminary market consultations, keeping and

¹⁴ Provided the directives do not apply. Where they do apply, pre-commercial procurement may not be chosen, as the methods proposed do not conform to requirements of the directives.

¹⁵ The sectors being road and rail, water and waste, urban/utility construction, training, and research and development, and the Member States being France, Italy, Hungary, Lithuania, Netherlands, Poland, Romania and Spain.

¹⁶ PricewaterhouseCoopers and Ecorys (2013), *Identifying and Reducing Corruption in Public Procurement in the EU – Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption*.

ensuring access to contracts over €1 million (€10 million for works) at least during their duration, and monitoring of concluded contracts.

Corruption in public procurement

The European Commission's phone-based "Flash Survey" of EU businesses in manufacturing, construction, energy, telecommunications, healthcare and financial sectors, conducted in 2013, found that more than 37% had participated in at least one public tender or public procurement procedure in the last three years, mostly on multiple occasions (29%), with public spending accounting for an average of 27% of their turnover. Construction companies are the most likely to have taken part in public tender or procurement procedures in the last three years (46%), followed by the ICT sector (35%). Micro enterprises (< 10 employees) are the least likely to have participated in a public tender or public procurement process (31% vs. 54%-56% for other size groups). The longer a company has been in operation, the more likely they are to have participated in at least one of these procedures: 22% of companies operating for less than one year have done so, compared to 40% of companies operating for 11 or more years.

Companies that say corruption in national public procurement is widespread are less likely to have participated in a public tender or procurement process (35%) than companies that say this corruption is rare (43%). Almost one third of companies that have participated in a public tender or procurement process in the last three years say that corruption prevented them from winning the contract (32%), while companies from the 12 Member States from the 2004 and 2007 enlargement rounds are much more likely to say that corruption prevented them from winning this kind of contract (47%) compared to companies in the previous EU-15 countries (28%). Companies with more than 250 employees are much less likely to say corruption prevented them from winning a public tender or procurement contract (12%) compared to smaller companies (30%-35%). Companies with a turnover of more than €10 million are less likely to say corruption prevented them from winning such a contract (9%-11%) compared to companies with a smaller turnover (25%-45%).

Companies that have not participated in a public tender or procurement procedure in the past three years were asked if it was for one of a particular set of reasons. One in five (21%) say that the procedure seemed too bureaucratic or burdensome, while 16% say the criteria seemed tailor-made for certain participants. All companies were asked how widespread they thought a range of practices related to public procurement procedures were in their country. In each case, at least four out of 10 companies think the practice is widespread. Companies are most likely to say this about specifications tailor-made for particular companies (57%), conflict of interests in bid evaluation (54%), collusive bidding (52%) and unclear selection or evaluation criteria (51%). Companies are least likely to say that the practice of amending contract terms after the conclusion of a contract is widespread, but even so 44% say this.

Source: European Commission (2014) "[Flash Eurobarometer 374: Businesses' attitudes towards corruption in the EU](#)"

Irrespective of the choice of procedure, contracting authorities must ensure equal treatment of all tenderers, especially in providing information which must not discriminate or give some tenderers advantages over others. The 2014 classical directive clearly defines **conflicts of interest** (see [theme 2](#)) for the first time as "*any situation where staff members of the contracting authority, or of a procurement service provider acting on behalf of the contracting authority, who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure*". *Inter alia*, the new rules require that contracting authorities take appropriate measures to effectively prevent, identify and remedy any conflicts of interest that arise during the procurement process. By regulating concessions, the new rules also reduce the scope for contracts to be awarded without any transparency or competition, with the consequent risks of favouritism, fraud and corruption.

The [Single Market Scoreboard](#) provides a rating of Member States' performance under the procurement directives, based on qualitative policy judgments on what constitutes good practice and recent data, using bidder participation, accessibility and procedural efficiency as metrics and a 'traffic light' presentation. The [Single Market Strategy](#) sets out the European Commission's plans to unlock the full potential of the Single Market, including speeding up investment and avoiding protracted litigation, by assisting Member States with a voluntary, ex-ante assessment mechanism of the procurement aspects of certain large-scale infrastructure projects, promoting networking between first instance review bodies, providing legal and technical assistance for EU countries to establish fast and fair remedy bodies. The Commission and Member States will also establish contract registers covering the life cycle of contracts, to improve the transparency and quality of national procurement systems, and support the development of a data analytics and anomaly-detection tool.

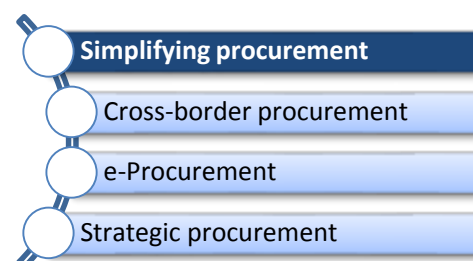
The 2014 framework and its provisions set the scene for **national and cross-border rule changes** to simplify procurement, make the process both fairer and more flexible, and reduce the scope for conflicts of interest and corruption - by cutting paperwork, shortening deadlines where justified, and using electronic means for information exchange and transactions. The new regime removes barriers to market access by SMEs which, alongside the greater emphasis on negotiation, quality and innovation, create opportunities that administrations across Europe can seize to deepen the economic and employment impact of public expenditure.

The implications of these developments are spelled out in the following four sub-topics. The main message is modernisation: seeing public purchasing as a strategic opportunity, not just an operational necessity. Policy-makers and practitioners are increasingly challenged to make procurement simpler for all parties - while retaining safeguards to ensure integrity and protect public funds - and to make the most of their leverage to achieve better outcomes. In this way, public administrations can extract true value from their purchases. This requires **capacity-building and professionalisation** of procurement, which is part of the **European Public Procurement Package** of October 2017.

8.2.1 Simplifying procurement

Each Member State operates its own national public procurement system, in line with EU directives, but these often follow sophisticated rules that are sometimes unclear to the tenderer, and which are rarely aligned across the EU, increasing costs and reducing competition within the internal market. Reducing unnecessary complexity in procurement procedures is an integral part

of the administrative burden reduction agenda (see [topic 1.2.1](#) on regulatory reform). As with other aspects of the public-private interface (see [theme 6](#)), purchasing should be 'business-friendly' within the limits of the law, especially towards SMEs that have tended to be under-represented in public awards. This means implementing procurement rules in a manner which ensures tendering,



contracting and payment are transparent, fast and cost-effective for all parties, encourages fair competition and achieves high value outcomes.

The 2014 directives introduce a number of simplified and standardised procedures, with less ‘red tape’, easier access to procurement markets, and modernisation through e-Procurement (see [topic 8.2.3](#)):

- ✚ Businesses will find it easier to bid for public tenders with **less paperwork**, by using the [European Single Procurement Document \(ESPD\)](#), which relies on self-declarations that the tenderer meets the eligibility criteria. Only the successful bidder must be asked to provide the full documentary evidence (original certificates and attestations). However, if the contracting authority can obtain the documents directly from national databases, then the contracting authority will itself have to retrieve them if they are indicated in the ESPD. The Commission estimates that this should reduce the administrative burden on companies by over 80%.
- ✚ Contracting authorities are encouraged to split large contracts into **smaller lots**, through the “apply or explain” principle, to make it easier for smaller firms to bid.
- ✚ Contracting authorities should accept all bidders with an adequate financial status for the contract. In the past, smaller bidders were often excluded because the contracting authorities asked for high annual turnover figures as proof of financial capacity even for contracts of a low monetary value. In the future, the directives **cap the minimum turnover** required to take part in a public tender at a maximum of twice the estimated value of the contract, except in duly justified cases.
- ✚ Contracting authorities should be allowed to **shorten certain deadlines** applicable to open and restricted procedures and to competitive procedures with negotiation where the deadlines in question would be impracticable because of a state of urgency, which should be duly substantiated by the contracting authorities. The ‘extreme urgency’ rule permits the possibility of using a negotiated procedure without prior publication, in the event that even the shortest deadlines allowed for are inappropriate.

The sum effect is that it should be easier and less costly to participate, which should open up bidding opportunities, especially to **SMEs**.

The 2014 framework also reduces the **burden on contracting authorities**, especially “sub-central contracting authorities” (regional and local authorities), which will be able to advertise their contracts via prior information notices, which involve less work than full EU-wide contract notices. As with all other contracting authorities, local authorities will also be able to benefit from the new simplified regime put in place for social, health, cultural and assimilated services.

The scale of the public procurement market contrasts with the **fragmentation of the procurement system**, estimated to comprise around 270,000 contracting authorities and entities across the EU.¹⁷ Given this fragmentation, public administrations can seek ways to improve the efficiency and economic impact of procurement through partnership arrangements, which enable **aggregation of demand** and can achieve better value for money. Coordinated procurement through a central purchasing body was allowed under the 2004 directives, as exemplified by Catalonia's public corporation, CTTI, which procures ICT solutions on behalf of all of the region's ministries and public enterprises.

Inspiring example: An innovative sourcing process through public-private collaboration (Spain)

CTTI is a public corporation assigned to the Department of Enterprise and Labour of the Generalitat de Catalunya to integrate all computer services, telecommunications infrastructure and their administration and management. The Generalitat de Catalunya is organised in 12 ministries or departments; CTTI serves all of them and their public companies regarding ICT.

Until 2011, the Catalan ICT model was organised in a decentralised way, with manifold contracts, suppliers and infrastructures that required excessive resources, thereby hindering investment, service improvement and innovation, whereas ICT had the potential to improve productivity. The challenge was on the table. CTTI's working model needed to be transformed regarding service improvement at a lower cost, using public-private cooperation for new infrastructure, more effective procurement, and attracting investment to Catalonia, while transforming the Catalan ICT sector. CTTI decided to use competitive dialogue as the procurement formula, as designing and validating the model with suppliers enhanced the chances of getting the best solution in each case, and taking advantage of public-private partnerships allowed long-term contracts, creating interest in the bidding process and attracting investment. For the competitive dialogue, the CTTI was re-organised in three major teams: one focusing on the new ICT model (design, developing and bidding); another on guaranteeing service delivery; and the last one on designing the governance model.

The procurement process had three phases:

- ✚ Announcement of the project through a public presentation to the whole ICT sector;
- ✚ Competitive dialogue, which involved all the selected companies developing the most suitable solutions for each area in three dialogue rounds, so that the contracting authority could define the most appropriate solution in the end;
- ✚ Bidding and tender awarding.

During this process, the governance model was also discussed with the companies of the competitive dialogue and subsequently tendered for the machinery parts. A transformation office started to work preparing supplier changes, and a continuity plan was activated to assure services. The results of the project include: greater management efficiency from reducing 300 suppliers to 21; cost reduction of 28%, investment from companies worth €2,808 million, 8,454 jobs created, empowerment of the ICT sector in Catalonia and a high capacity network available.

Due to the completion of contracts, CTTI proceeded in the spring of 2016 to the bidding process for sector-based suppliers, to achieve better efficiency, effectiveness, management flexibility and quality of service. CTTI is also working on new forms of public-private contract that incorporate the experience of the first competitive dialogues of 2011 and new concepts that allow us to be more effective, faster and better in a clear orientation of service to our citizens.

For further information: David Puentes i Jurado, Corporate Development & Institutional Relationship Director, david.puentes@gencat.cat

¹⁷ European Commission (2014), *Annual Public Procurement Implementation*

At the local level, the ‘Localret’ shared system in Catalonia was established to purchase telecommunications services on behalf of over 800 Catalan municipalities.

Inspiring example: ‘Localret’ system for purchasing telecommunications services (Spain)

‘Localret’ is a local consortium of more than 800 municipalities (90% of the municipalities of Catalonia, 99% of population) set up to create services for the municipalities and turn these services into value, helping them to be adaptable and ready for changes of the information society.

With this aim, ‘Localret’ proposed to all local entities from Catalonia the necessity to join efforts to achieve a common shared system for purchasing telecommunications services provided at municipal level. ‘Localret’ is acting as ‘central purchasing body’ with two features: it concludes a framework agreement for services, and acquires such services on behalf of the municipalities. It should be noted that, since 1998, it became compulsory to purchase telecommunications services by means of a public tender, but usually each municipality decided to purchase according to its own procedure. Therefore ‘Localret’, aware of the costs of telecommunications services that municipalities must bear and the need to achieve economies of scale, promoted the achievement in 2006 of a Homologation Framework Agreement for telecommunications services providers. Thus, ‘Localret’ studied the needs of municipalities and established three batches:

1. Fixed telecommunications services.
2. Mobile telecommunications services.
3. Internet access and data transmission services.

To this effect, the homologation process took account of several aspects, including technology, service quality, penalty mechanism. After prequalifying providers through the homologation process, it is stated that the preselected providers of the corresponding batch hold a mini-competition, where they submit their bids for the particular call-off and the contract is awarded to the provider which has submitted the most economically advantageous tender on the basis of the award criteria. Therefore, all municipalities from Catalonia may use a single procedure to purchase their telecommunications services based on a Homologation Framework Agreement for telecom service providers, which is fully adaptable to their needs and features (territory, population, etc.). Nevertheless, the homologation was thought as a first step and, at a second stage, ‘Localret’ implemented the features of a central purchasing body to gather the telecommunications services needs of several municipalities and purchase them in a joint public procurement procedure.

As a result of this initiative to cut red tape, it is possible to quote better use of taxpayer’s money by means of the incipient economies of scale, getting lower prices for the same or even better services. This joint public procurement system also has an important impact on local economic policies as it allows the savings to be invested in other actions. Nowadays, the solution of ‘Localret’ has become a one-stop-shop for the telecommunications services of municipalities and ‘Localret’ is successfully deploying a new version of the Homologation Framework with the consent of the service providers. This commitment to improve the efficiency and the cost-based results of the purchasing process was recognised last December in the Interconnèctes Forum held in Lyon (France) organised by the Réseau des Territoires innovants. Currently, ‘Localret’ has become a reference in Spain thanks to the wide usage of its service addressing the Digital Agenda and its model of public cooperation. Furthermore, ‘Localret’ has been entrusted by several public bodies in Spain to check adaptability and implementation of its model for purchasing telecommunications services.

For further information: Xavier Furió, General Director, xfurio@localret.cat

The 2014 framework ends any legal uncertainty regarding cooperation between public authorities making it easier for contracting authorities to bundle their purchases above EU thresholds by using joint procurement procedures or purchasing through a **central purchasing body (CPB)**. This can be done on a national or a cross-border level - reaping the full benefit of the single market.

The new directives also cover cases where contracting authorities are concluding contracts among themselves without creating a ‘controlled undertaking’. For example, several municipalities could decide to **pool their resources** in the field of waste management, with participating municipalities performing specific services for all members of the cooperation (see also [theme 3](#) on government structures – organisation, cooperation and coordination).

Public administrations can also anticipate future procurements and prepare themselves by investing in **identifying and publishing standards**, as illustrated by Ökokauf Wien, which has produced around 100 product catalogues for supply, construction and other services regularly procured by the City of Vienna, to ensure the tender documents comply with environmental legislation and expert practice. By sharing this information with both public authorities and potential bidders, the city administration improves the quality of bids and saves time and costs for bidders. Such examples become even more relevant in the context of the new EU directive framework, which allows environmental and other considerations to be factored into the award criteria.

Inspiring example: Ökokauf Wien (Austria)

‘ÖkoKauf Wien’ is a cross-departmental programme attached to the Executive Group for Construction and Technology of the City of Vienna. The aim of the ‘ÖkoKauf Wien’ programme is to enhance the environmental compatibility of the city’s procurement system in line with the principles of climate protection and EU procurement regulations. - For this purpose, texts for invitations to tender, criteria catalogues and other guidelines that can be used in the field of procurement are being developed. By now, there are about 100 such product catalogues for supply, construction and other services regularly procured by the City of Vienna. An important factor for the success of the ‘ÖkoKauf Wien’ programme is its broad structure which involves more than 200 experts from all spheres of the Vienna City Administration, as well as a number of external experts.

The programme is organised across different municipal departments and uses the existing structure and resources of the City of Vienna, thereby avoiding separate personnel expenses and related costs for offices, etc. Most of the staff members involved in the programme are employees of the City of Vienna and perform their programme tasks in addition to their actual functions. The programme is implemented at the administrative and organisational level by using the City of Vienna’s existing human and technical resources. The financial resources required for the award of external contracts to support work on the programme by, for example, studies, investigations or tests are primarily provided by the City of Vienna. Staff members’ motivation to participate in the programme is solely based on the opportunity to contribute their expert knowledge from their main fields of professional activity to the ‘ÖkoKauf Wien’ programme and, building on this knowledge, to develop generally applicable regulations, which can be used by all procurers in their everyday work, once they have been published.

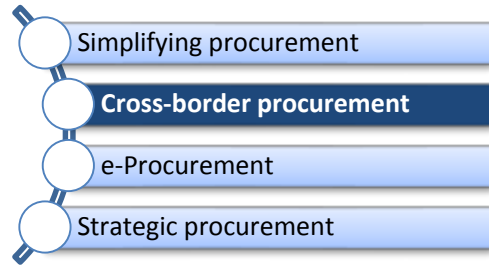
The current 25 working groups develop, evaluate and update relevant ecological criteria in the fields of printing and paper, electrical and electronic appliances, construction, and heating, ventilation and air conditioning systems, vehicle fleet, food, disinfectants and cleaning agents, textiles, events etc. Advisory committees, supporting the working groups, have been established for public relations and legal issues. Intensive public relations work helps to make the results of ‘ÖkoKauf Wien’ available to all interested parties, such as public procurers, commercial enterprises and the citizens.

Before being published, the results of the ‘ÖkoKauf Wien’ programme are legally reviewed to ensure they can be applied without any problems. Cautious calculations of the outcome of ‘ÖkoKauf Wien’ revealed that by applying the results of the ‘ÖkoKauf Wien’ programme, the City of Vienna saves about €17 million and 30,000 tonnes of CO² emissions each year.

For further information: Georg Patak, Deputy Project Manager, georg.patak@wien.gv.at

8.2.2 Cross-border procurement

Tendering within national systems is complicated enough, but is harder still when bidders wish to take advantage of the single market to apply for contracts in other EU countries, above or below the EU thresholds. It is in the mutual interest of all Member States to open procurement to effective EU-wide competition, particularly within the context of tight public finances to achieve efficiency savings, but more importantly to widen access to the best quality solutions. Cross-border procurement takes two main forms:



- ✚ **Direct:** firms operating from their home market bid and win contracts for invitations to tender launched in another Member State;
- ✚ **Indirect:** firms bid for contracts through subsidiaries; domestic bidders include foreign subcontractors: foreign bidders submit offers in consortia with local firms to participate in competitive procurement; or a domestic firm imports goods to supply them to a contracting authority or entity.

Research in 2011 for the European Commission showed that 88% of all direct cross-border procurement in the EU and 60% of all indirect through affiliates was awarded to economic operators in another Member State in 2007-2009. SMEs won 47% of direct cross-border procurement contracts, while indirect cross-border procurement through affiliates was dominated by large enterprises. Nevertheless, these figures must be seen in the light of **overall low levels** of cross-border procurement: just 1.6% of all awards involve direct cross-border procurement and 11.4% indirect through affiliates; by value of contracts, the numbers are not much higher, 3.5% and 13.4% respectively.

There are many factors shaping this situation. Some services are inherently ‘non-tradable’ (highly localised and hence less suitable for import-export), such as certain social, health and educational services, hotels and catering. In other cases, international trade only becomes viable with contract values that are **sufficiently large to overcome the transactions costs** (for example, emergency services and prison services).

These transaction costs include legal requirements leading to **market entry barriers** in the awarding country (e.g. special permits or procedures necessary for offering services abroad). These obligations were ranked 4th among surveyed businesses in the European Commission’s study in a list of the most relevant obstacles (after lack of experience with doing business abroad, language barriers, and strong competition from national bidders). Such market entry barriers can be lowered by public administrations (see [topic 1.2.1](#) on regulatory reform and [theme 5](#) on the ease of doing business).

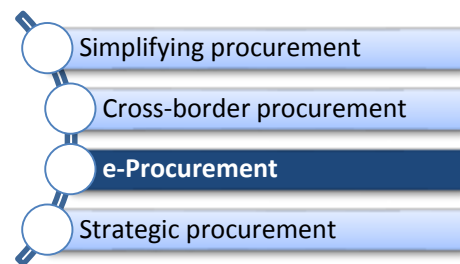
To achieve the economies of scale that would make cross-border tenders more attractive, Member States have the possibility of **joint public procurement**, either by purchasing from central purchasing bodies in other Member States or jointly awarding public contracts. This was theoretically possible

under the 2004 framework, but faced legal and practical difficulties from conflicting national laws, and is specifically covered by the 2014 classical directive (article 39).¹⁸

Cross-border activity can also be better enabled by public administrations take-up of **e-Procurement** ([topic 8.2.3](#)), which is an obligation for purchases above EU thresholds in the 2014 directives framework, and by using open standards in ICT procurement, for example.

8.2.3 e-Procurement

e-Procurement is the use of electronic communication by public sector organisations when buying supplies and services or tendering public works. The drive to digitalisation of public administration provides a path to streamlining and speeding up national systems, through electronic tendering, invoicing and payment. It has huge potential to achieve multiple goals in parallel, including:



- ✓ Achieving **efficiency savings** for both buyer and provider, through lower prices, transaction costs, duration times and error rates;
- ✓ Improving the **environmental impact** of procurement, by reducing paper and energy consumption and archiving space;
- ✓ Reducing the opportunities for illicit activity, by increasing **transparency** and by removing discretion where it is not necessary (see [theme 2](#));
- ✓ Opening-up **competition** domestically and EU-wide, thereby strengthening the operation of the internal market;
- ✓ Increasing access to tender opportunities by **SMEs** (99% of which have access to the Internet¹⁹), as a contribution to the 'Think Small First' agenda (see [theme 6](#)); and
- ✓ Benefitting the implementation of **European Structural and Investment (ESI) Funds**, which is highly reliant on efficient procurement (see [topic 8.3](#)).

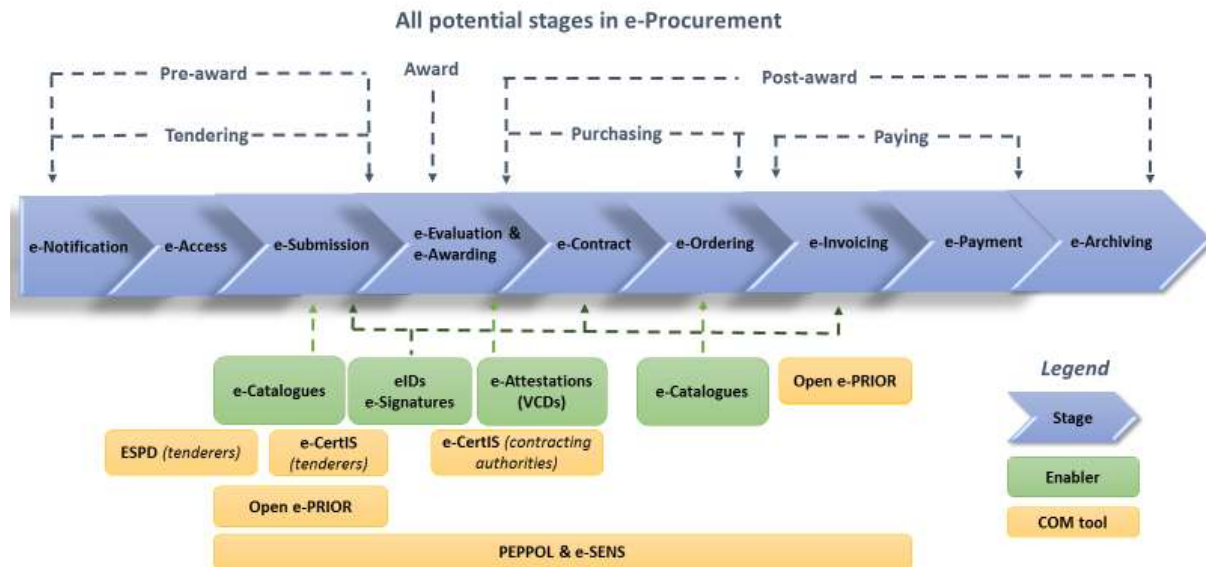
As noted in the 2014 Annual Growth Survey under the [European Semester](#), increasing the use of ICT and further deployment of eGovernment services in Europe, such as e-Procurement, can help to increase efficiency and reduce costs in the order of 15-20%.²⁰

¹⁸ Joint public procurement for Member States is a significant topic for the Horizon 2020 ICT8 call for proposals (see the note on "EU support for PCP and PPI" in [topic 8.2.4](#)).

¹⁹ Source: Eurostat

²⁰ Source: Public Services Online, eGovernment benchmark insight report for the European Commission

Like the purchasing process itself, e-Procurement can be broken down into several phases. Electronic information exchange and transactions can be applied to **any stage of the procurement process** – before (pre-award), during and after (post-award) the contracting authority awards the contract for services, works or supplies.



e-Notification is the announcement of calls for tender (CfTs) through the publication of appropriate prior information notices (PINs) and contract notices in electronic format in the relevant official journal at the European and/or national levels, depending on the chosen procedure and contract value (above or below EU thresholds). This is illustrated by the example of Finland's HILMA, a centralised channel that also generates statistical data to meet regulatory requirements.

Inspiring example: HILMA – Centralised e-Channel for publishing contract notices (Finland)

Since 2007, all contract notices exceeding national thresholds and EU thresholds have been published on HILMA (www.hankintailmoitukset.fi), a single, centralised electronic channel maintained by the Ministry of Employment and the Economy. Via HILMA, notices are also forwarded to the Supplement to the Official Journal of the European Union (S series) and the TED database. Businesses can use HILMA free of charge, to acquire real-time information on procurement notices made, and prior information on future contracts. A total of 18 064 notices were published in HILMA in 2014. HILMA is also used as a tool for collecting statistical information on public procurement notices, in accordance with public procurement directives, reducing the administrative burdens on contracting authorities and entities involved in responding to data requests. In the utilities field (Directive 2014/25/EU), approximately 90% is collected via HILMA and 10% through responses to data requests.

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e-Access involves the contracting authority providing electronic access to all the information required by economic operators that enables them to prepare their bids without favouring any interest. This includes: publishing tender documents and specifications: providing supporting documents, such as the European Single Procurement Document (ESPD), e-Catalogues, and answers

to frequently asked questions (FAQs); and responding to requests for clarification as they arise. It may also include information for the negotiation under Competitive Dialogue, Competitive Procedure with Negotiation, and Negotiated Procedure without Prior Publication.

e-Submission involves the economic operator submitting their offers in electronic format to the contracting authority, which can receive, accept and process it in compliance with legal requirements. This is the most critical phase for getting SMEs engaged with procurement, so it is critical that contracting authorities make e-Submission as painless as possible, and remove any barriers that might discourage new bidders. Following transposition of the 2014 directives, economic operators will be able to use the ESPD to simplify their submission, and hence only when the award takes place will they need to provide full and original documentation, which can also potentially be done electronically, by using e-Attestations. **e-Awarding** is the opening and evaluation of the electronic tenders received, and award of the contract to the best offer based on the selection and award criteria. As the submission and evaluation process may take place over several rounds (under the restricted, negotiated and competitive dialogue procedures and innovation partnerships), there is potentially an overlap and iterative process for these two stages.

Once the decision is taken to make the award, the **e-Contract** is the conclusion of an agreement between the contracting authority and the successful tenderer through electronic means to provide works, goods and/or services, which may be subject to amendment in the same manner. The monitoring of the e-Contract may also involve the contractor submitting performance data electronically, for checking by the contracting authority (possibly accompanied by an e-Invoice), although any site visits to check or audit compliance with the terms of the contract will continue to be conducted physically. In the case of purchase orders, these may be issued through **e-Orders**, including for example the acquisition of small quantities of supplies by the contracting authority.

Inspiring example: Public Administration e-Marketplace (Italy)

The Italian Public Administration e-Marketplace (MePA) was introduced in 2003. It is one of the several electronic procurement tools managed by Consip SpA on behalf of the Italian Ministry of Economy and Finance (MEF), a virtual market in which any Public Administration (PA) can buy goods and services offered by suppliers, for purchases with a value below the European threshold (circa €200,000). It is open to qualified suppliers according to non-restrictive selection criteria. The entire process is digital, using digital signatures to ensure legal compliance and overall transparency of the process. It works just like a real market, as the same products are sold by different and several suppliers at different prices, terms and conditions. Suppliers may decide on the geographical area in which they wish to deliver their product/ services and can optimise their selling strategy, at any time, by improving the quality or the price conditions of their products or even by promoting new ones. Thus, the dynamic dimension of the e-Marketplace strongly enhances competition.

In the past, the Italian public procurement system was characterised by having no digital system to manage purchases below the EU threshold, with a consequent significant lack of transparency, market openness and competition. Each PA followed its internal rules when performing purchases below the EU threshold.

The rules that suppliers must observe to enrol and sell in the MePA are set in specific public notices published by Consip according to different product categories. The MePA connects thousands of public bodies and suppliers distributed all over the Italian territory, both at a central and local level. Registered purchasing administrations can use the two purchasing tools offered by the MePA:

1. The 'Direct Order' (DO), by means of which PAs buy directly from the e-catalogue a product or a service offered by the economic operator since the offer meets the needs of the administration. Once

the product or service has been chosen, the PA agrees on the price and delivery conditions offered, fills in the purchasing order indicating the amounts needed, signs it digitally and sends it to the supplier. At this stage, the order represents a legally valid contract between the supplier and the buying administration.

2. The 'Request for Quotation' (RfQ) is used when the e-catalogue offer does not meet the needs of the PA. In fact, it allows the buyer to negotiate the price and service conditions issuing a RfQ through which a pool of qualified suppliers is invited to make a customised quotation responding to the needs expressed. Bidders provide both a price quotation and the details of technical/quality improvements. Hence, more than one offer from various suppliers, stimulating strong competition and more favourable conditions than the ones offered in the e-catalogue DO, can be achieved. The role of Consip is to define supplier qualification requirements and terms of conditions, as well as to monitor that transactions are performed according to the MePA rules. Consip acts as a market maker and does not play any role during the transaction phase.

With the introduction of the MePA, the Italian public procurement system is populated by a growing number of PAs and suppliers using digital, transparent and tracked purchasing procedures. During its first 10 years of existence, the MePA has registered a constant growth. In fact, at the end of 2015, around 40,000 public buyers were actively using the MEPA for their purchases and circa 46,000 suppliers were selling and making business on the MePA, especially SMEs (98%) and micro-enterprises (68%). In 2015, almost 650,000 electronic orders were issued through the system representing a global transaction value exceeding €2 billion. The MePA today offers more than 8 million items!

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Once the works, services or supply is underway, the focus shifts inevitably to implementation and payment arrangements. **e-Invoicing** is the preparation, transmission and receipt of billing and payment information between buyer and provider in a structured electronic format which allows for its automatic and electronic processing²¹ and leads to **e-Payment** for the ordered goods, services or works. The creation of the Single Euro Payment Area (SEPA) lays the foundations for pan-European e-Invoicing, with savings estimated at around €64.5 billion per year for businesses.

e-Invoicing has moved on from simply emailing invoices in pdf format, by providing all data in digital format and transferring electronic files (e.g. flat files, xml, edi, etc.) that can be read by the buyer's system, with web-based solutions able to ensure rapid reconciliation. Such e-Invoicing offers substantial benefits over paper-based invoicing with better data quality, faster processing time, fewer errors, reduced printing and postage costs and, most importantly, fully integrated processing. The Commission estimates that implementation of e-Invoicing in public procurement across the EU could generate cost savings of up to €2.3 billion a year. Several Member States have already undertaken initiatives on e-Invoicing, at significant cost and effort, some of which have even made it mandatory in public procurement (such as Denmark, Sweden and, since 2014, Austria for suppliers to the Federal Government).

e-Archiving is not strictly a stage of procurement process, but storing all documentation for possible compliance checks through external audits in the future is essential to the integrity of the whole procurement system. Archiving in a digitalised format saves space and improves accessibility so that data can be easily retrieved later.

²¹ https://ec.europa.eu/growth/single-market/public-procurement/e-procurement/e-invoicing_en

As the diagram indicates, the move to e-Tendering, e-Purchasing and e-Invoicing, especially across EU borders, is underpinned by the development of ‘**key enablers**’ (which are also explained further in [topic 5.4](#)), including electronic identification (eID) and electronic documents such as the European Single Procurement Document (ESPD), introduced in [topic 8.2.1](#). Other enablers which are specifically significant in the context of e-Procurement are:

- ✦ **e-Signature** is a form of electronic Trust Services (eTS), alongside eID, and is basically data in electronic form which serves as a method of verifying the identity of the enterprise or individual, and enables e-Documents (such as the ESPD) to be authenticated. A [new regulation on eID and eTS \(known as ‘eIDAS’\)](#), was adopted on 23 July 2014, which is explained further in [topic 5.4](#).
- ✦ **e-Attestations** are the set of certificates and other documents in electronic format that tenderers are obliged to provide to the contracting authority to prove compliance with the selection and exclusion criteria of a procurement procedure. With the transposition of the 2014 directives, tenderers will no longer be required to submit attestations with their ESPD, and will only be asked to provide documentation if they are successful, typically in the form of a Virtual Company Dossier (VCD). With e-Attestations, the contracting authority itself can easily access this information, saving the business further time. The Commission’s [e-CertIS database](#) is a free, online information tool which aims to help: businesses at the submission stage (especially first time bidders in their home countries or cross-border bidders) who need to find out which certificates issued in their country they need to include in tender files; contracting authorities who wish to establish at the evaluation stage which documents issued by a partner country are equivalent to the certificates which they require to confirm the eligibility of the tender. The information contained in the e-CertIS database covers the most frequently requested documents of the EU-28 (along with Iceland, Liechtenstein, Norway and Turkey), is provided by the national authorities themselves and is updated on a regular basis.
- ✦ **e-Catalogues** are electronic catalogues that provide details of approved suppliers, and their products, that are approved to. Such catalogues can be useful during the submission stage, as they inform the preparation of offers (e.g. by an engineering firm looking to tender for a public works and supply project), but is more crucial for e-Ordering (e.g. by a contracting order looking to purchase office materials).

The potential of e-Procurement to improve the efficiency, integrity and transparency of supplies purchasing, and to generate time and money savings, is well illustrated by the Slovak Republic’s EKS.

Inspiring example: Online procurement through the e-marketplace (Slovak Republic)

The Ministry of Interior of the Slovak Republic is an administrator of the **electronic contracting system ‘EKS’** (from the Slovak acronym) to procure supplies online and anonymously through the e-marketplace. EKS is obligatory for public procurement, but also available to anyone for purchasing and offering. It is a fully electronic purchasing system free of charge that allows any potential supplier to register for free, and:

- ✓ Enables the placement of orders (by contracting authorities) and offers (by prospective suppliers);

- ✓ Creates a structured description of the order subject in a standard layout form;
- ✓ Automatically notifies all relevant suppliers that are relevant to the order subject and registered on the system and invites them to join the open competition;
- ✓ After 72 hours of anonymous bidding (longer, in the case of complicated trades), evaluates the offers;
- ✓ Automatically generates contracts based on the results of competition using the order placement information, the details of the winning bid / bidder, and the general contract terms specified in the business terms on the electronic market place.

The tables below show the trajectory of electronic purchasing/auction systems and contracting since 2010. From modest origins - just 3 in 2010 (EVO and private auction systems) - the number of executed e-auctions surpassed 5,000 in 2015. EKS now plays a major role in contracting since it went into testing phase in 2014 and finally went 'live' in February 2015, with more than 51,000 contracts generated by the system by October 2016, and an increasing number of organisations registering as contractors or suppliers.

| | | | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|-----------|------|------|-------|----------------------|-----------------------|-----------------------|
| Neelektronická forma Non-electronic form | Vyhlasené verejné obstarávanie Announced public procurements | | * | * | * | 9 929 | 3 178 | * |
| Elektronická forma Electronic form | Počet realizovaných e-aukcií Number of executed e-auctions | EVO | 3 | 864 | 1420 | 1280 | 1356 | * |
| | | PROe.biz* | * | * | * | 3 150 | 3 707 | 5 460 |
| | Počet začatých zákaziek Number of started order placements | EVO | 53 | 899 | 973 | 777 | 727 | * |
| | Počet obchodov Number of contracts | EKS | * | * | * | * | 214 ⁽¹⁾ | 22 433 ⁽²⁾ |
| | | | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| Počet zaregistrovaných organizácií / objednávateľov Number of registered organisations / contractors | EVO | 87 | 281 | 441 | 618 | 1007 | * | |
| | EKS | * | * | * | * | 1915 ⁽¹⁾ | 6 116 ⁽²⁾ | |
| Počet používateľských prístupov / dodávateľov Number of user accesses / suppliers | EVO | 328 | 1215 | 1793 | 2 370 | 3 576 | * | |
| | EKS | * | * | * | * | 3 817 ⁽¹⁾ | 10 291 ⁽²⁾ | |

* Information is not available, is available only for completed calendar years or system did not exist
(1) Testing phase (2) Data up to 23.09.2015, 'live' phase commenced 02/2015

As at October 2016, it was calculated that there was an average of 4.2 bidders for each placed order, and where there were three or more bidders, the average increased to 6.

The system offers several significant advantages to participants on both sides of the procurement process:

- ✚ **Economy:** As at October 2016, it was calculated that the system had achieved more than €170 million of savings from all concluded contracts (over 51,000).
- ✚ **Efficiency:** The competition time for procurements has fallen from an average of 3 months to 5 working days. The process is also more flexible in both the time and place in which the bidder prepares their tender, with a lower administrative burden.
- ✚ **Integrity:** As the competition takes place online anonymously with the minimum of personal intervention, and the contracts are generated automatically, this reduces significantly the risk of corruption (see [theme 2](#)).
- ✚ **Transparency:** The participants are publicly disclosed following evaluation of the bids, when the results are available and the contract agreement has been generated. The results are published through EKS's open data section, which had registered almost 9,000 visits by October 2016. Direct and unlimited web access helps to spread knowledge, along with FAQs, a view of all executed contracts (recorded in a central register), and a support centre which provides information to contractors and suppliers.

Development of EKS is an ongoing process and in 2016, the system has three modules in place: the e-

marketplace for both below threshold and above threshold contracts, dynamic procurement system and electronic support of processes of information provision, communication, explanation and electronic delivery.

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The European Commission has been heavily involved in **facilitating e-Procurement** through both words and actions, within the context of the [Digital Single Market](#) and the eGovernment Action Plan 2011-2015 (see [topic 5.4](#)), including a [strategy for e-Procurement](#), action plans, modernising the legislative framework in line with the [2011 Single Market Act](#), a Communication on [end-to-end procurement](#), and [leading by example](#)²² with its own procurement practices, including [e-Tendering](#) and e-Invoicing. The Commission established an e-Tendering Expert Group (eTEG) and a [Multi-Stakeholders Expert Group on e-Procurement \(EXEP\)](#), which liaises closely with the European Multi-Stakeholder Forum on e-Invoicing (EMSFEI) and with national forums.

Consultants working on behalf of the Commission have also produced a [Golden Book of e-Procurement](#), analysing around 30 electronic platforms in depth and presenting both good and bad practices. Furthermore, the Commission has organised three annual conferences on e-Procurement²³ over 2012-2014. The programmes and presentations are available online, including case study materials from Member States.

Under the 2014 procurement directives, e-Procurement will be **mandatory** for Member States purchasing above EU thresholds by September 2018. Member States play the key role in implementing end-to-end e-Procurement, and will need to establish and implement actionable strategies to govern the transition and address operational issues. Estimates in 2012 suggest that e-Procurement was being used in just 5-10% of procurement procedures carried out across the EU.²⁴ Out of the 22 Member States which had established strategies for e-Procurement, just eight had set e-Procurement take-up targets²⁵, and e-Procurement was mandatory only in Portugal.

Inspiring example: Portugal did IT

The public procurement reform of 2007 created a new paradigm in Portugal and affected all aspects of the system (legal, regulatory and economic). One of the most central and powerful elements of the reform was the adoption of e-Procurement, which led to impressive results in terms of savings, transparency and enhanced competition. Three new pillars supported the reform:

1. The new Public Procurement Law of 2008, the Code of Public Contracts (CPC) to transpose the EU Directives 2004/17 and 2004/18 and to consolidate, modernise and adapt the legal building for public procurement.
2. The creation of a Central Purchasing Body (CFB), Agência Nacional de Compras Públicas EPE (ANCP) in 2007 the entity in charge of managing the mandatory Portuguese public procurement system, Sistema Nacional de Compras Públicas (SNCP), for central administration and public institutions. In

²² Thanks to the e-Prior project, e-Invoicing has been live at the Commission's Directorate General for Informatics (DIGIT) since 2009, and since the start of 2012, e-Invoicing (and gradually other e-Procurement processes) has become mandatory for other Directorate-Generals of the Commission and European Agencies using DIGIT's Framework Contracts.

²³ [Electronic Procurement, Challenges and Opportunities](#) (26 June 2012);

[Modernising public administration: the role of e-procurement and e-invoicing](#) (18 September 2013);

[Smart Public Procurement: Efficient Management through e-Procurement](#) (20 June 2014)

²⁴ http://europa.eu/rapid/press-release_IP-12-389_en.htm

²⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0453&from=EN>

2012 ANCP was merged with two other public entities, and became the Shared Services Entity for the Public Administration (eSPap), keeping its role as managing entity of the SNCP.

3. The introduction of mandatory e-Procurement for all public bodies for tendering and awarding all public procurement procedures above €5000 as of 01/11/2009.

The top-down approach, the substantial role of the CPB, in connection with the SNCP and the usage of e-Procurement, were essential for the broad consolidation of the Portuguese e-Procurement plan.

The deployment of e-Procurement was based on privately owned systems that were offered to the national public contracting authorities on a software as a service (SaaS) model. The experience of six years using these e-Procurement solutions at the national level made it necessary to review the rules and regulation of these private operators. This led to a new e-procurement law in 2015 to address the main issues of quality of service, cost of services rendered and interoperability.

Being inspired by different European experiences, eSPap's key values, such as transparency, equal treatment, fair competition, promoting sustainability, etc., are aligned with EU and international standards. eSPap's main objectives concern economic goals, by increasing savings in public procurement (contributing to sound and better usage of taxpayers' money) and environmental goals (green public procurement) by gradually incorporating environmental requirements in the selection / qualification and awarding criteria in public tenders. At the same time, SNCP involved all major players in the reform.

SNCP is a hybrid system, based on a CPB (eSPap) which operates a network structure, with the Ministerial Purchasing Units (MPUs) – one in each ministry – acting as mini-CPBs and focal points between the eSPap and the contracting authorities from central administration and public institutions. The SNCP can also be used voluntarily by other public bodies establishing direct relations with eSPap, like municipalities, state owned companies, public associations and regional and local entities.

Since 2010, eSPap has awarded more than 38 framework agreements in 19 different categories of transversal goods and services, which included about 400 qualified suppliers. SNCP comprises currently 13 MPUs, about 1800 mandatory purchasing entities and over 623 voluntary contracting authorities. Between 2008 and 2014, the SNCP generated over €250 million in savings. Since November 2009, eSPap makes available free of charge, for the whole SNCP, an e-platform where the contracting authorities must launch their call-offs under eSPap's framework agreements.

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e-Notification and e-Access to procurement documents are mandatory from April 2016, according to the 2014 Directives, but there is a **mixed picture** on progress with the later key stages of procurement.

- ✚ e-Submission will become mandatory for all contracting authorities by October 2018. A [2015 study](#) commissioned by the European Commission's DG GROW estimated the level of e-Submission at just 36% in 2013 (up from 27% in 2012).
- ✚ According to the DG GROW study, e-Invoicing is sometimes not considered to be directly related to public procurement, while electronic invoicing for business-to-government (B2G) was not available as a function in seven Member States in 2012 and 2013. The take-up level on e-Invoicing across the EU was estimated at just 18% in 2013 (up from 9% in 2012), although significantly higher than the 2012 level (9%).

The ultimate goal is **end-to-end e-Procurement**, with all stages from notification to payment being conducted online.²⁶ As with other aspects of eGovernment (see [topic 5.4](#)), e-Procurement is not simply about IT solutions that just digitalise the existing paper-based processes, it requires a fundamental re-think of the way that processes are organised. Some Member States are more advanced in moving towards this advanced status, as exemplified by Cyprus, which has a single, free-of-charge, e-Procurement system for all contracting authorities, which includes e-Registration for businesses wishing to tender, and gathers e-Statistics on procurement performance.

Inspiring example: e-Procurement total solution (Cyprus)

In Cyprus, there is currently only one e-Procurement system, serving all contracting authorities for free, for all types of competition and for all types of procedure. The system must be used for publishing procurement opportunities at least. This system was designed, developed and deployed by the Treasury of the Republic with the assistance of the Department of Information Technology Services. The spark for the introduction of e-Procurement was given by the EU Action Plan included in the Lisbon Strategy and the developments in e-Governance and Better Regulation. This system is easily accessible for free from interested economic operators all over the world, who can register and receive notifications every time a competition falling under their scope of operations is procured.

In forming the project implementation strategy, they have avoided any strict policy or decision-making actions being transferred to the system, to fit all contracting authority needs, allowing them to use the system in as much depth as they feel appropriate, to work on change management. However, it is mandatory in all procurement competitions by all contracting authorities in Cyprus, including local authorities and bodies governed by public law, to publish electronically the tender documents, including the handling of all communications up to the tender submission via the e-Procurement System. This is to secure the initial system utilisation and to concentrate all procurement opportunities in Cyprus in a single web page. In addition, for competitions above the EU thresholds it is obligatory that the submission of tenders is conducted electronically.

The system functionalities were extended to include the e-Catalogues and e-Ordering modules, which are incorporated in the core e-Procurement System. This enabled the Treasury of the Republic to utilise the potentials, and currently there is an electronic shop where all contracting authorities in Cyprus (including local authorities and bodies governed by public law) can click and shop instantly for over 5000 products of common needs. Promotion and change management activities were emphasised via a dedicated promotion contract.

The system functionalities cover all the procurement procedures covered by the EU's classical directive on public procurement (i.e. open, restricted, negotiated, etc.), as well as Cyprus-specific procedures for low value items (simplified procedures). It also covers repetitive procurement through Framework Agreements, with or without e-Catalogues' support. Furthermore, specific orders can be concluded either by direct ordering (through e-Catalogues or not) or by reopening competitions (through selecting specific products of supplier catalogues and requesting better prices). The system modules are as follows:

- ✚ **e-Registration:** Free registration of economic operators, which needs to be verified by the administrators; controlled registration of contracting authorities by the administrators;
- ✚ **e-Notification:** electronic preparation of CFTs and Notices, publication of tender documents and define tender structure in the OJEU and aOG, questions and answers, clarifications, addenda, automated notifications; Upon Publication of a Tender, all EOs are notified if it is in their line of business;

²⁶ See also: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "[End-to-end e-procurement to modernise public administration](#)" COM(2013) 453 final.

- ✦ **e-Tendering:** electronic preparation and submission of tenders; online/offline tender preparation tools, tender verification with immediate EO feedback; tender encryption, tender time stamping; two-phased tender submission for large tenders;
- ✦ **e-Evaluation/e-Awarding:** secure electronic tender opening, automated evaluation using lowest price or MEAT, contract-awarding process handling and communications, support for lots;
- ✦ **e-Auction:** used as extension to the tender evaluation process; Support for three auction types, user's connection monitoring tool, chat-based communication for online support;
- ✦ **e-Catalogues / e-Ordering:** support under FAs or for below threshold procurements; UBL support, FA mini competitions (reopening), e-Auction on e-Catalogue products; and
- ✦ **e-Statistics:** statistical analysis and reporting; regulatory reporting on annual procurement activity, regulatory reporting per CfT and possibilities to extract specific customised information.

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The introduction of e-Procurement solutions inevitably incurs some up-front costs, but experience shows that these can be recouped in a relatively short time, and that investing in e-Procurement secures a strong **return on investment** in the medium term. Member States with experience of introducing e-Procurement have reported cost savings of 5%-20%. Given the size of the public procurement market, the potential benefits across the EU would be around €100 billion annually for each 5% saving.²⁷

To achieve the full benefits of **e-Procurement across the single market**, effective administrative cooperation is necessary for the exchange of information when conducting award procedures in cross-border situations (for example, verifying the grounds for exclusion, applying quality and environmental standards, sharing lists of approved economic operators). The functioning of the internal market has been hindered by interface complexity: there are currently around 300 e-Procurement systems in Europe. Even though many exhibit excellent performance, reliability and security, some systems are not easily accessible to foreign users, who may need to use country-specific tools to access them, which increases transactions costs and deters usage. The proliferation of user interfaces makes it difficult for companies to respond to calls for tenders run on multiple platforms, which also lack the common 'look-and-feel' that exists in many private sector e-Commerce tools (e.g. airline booking websites).

As with other eGovernment initiatives, the foundation of e-Procurement is **interoperability**, the ability of units within the public administration and their information systems to work together, and with the systems of tenderers and contractors (see [topic 5.4](#) for more details). This is particularly crucial for cross-border procurement. For example, most e-Invoicing systems where they exist use national standards which are almost always incompatible with each other. A [new directive on e-Invoicing](#) was adopted in April 2014, and does not replace national systems, but instead removes access barriers, thereby ensuring interoperability and the fuller functioning of the single market. The directive requires Member States to ensure their contracting authorities and entities can receive and process e-Invoices which comply with a new European standard on e-Invoicing. The standard sets

²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (2012), [A strategy for e-procurement](#), COM(2012) 179 final.

out the elements that an e-Invoice must contain, not its technical format. The publication of the standard in kicks off the implementation stage.

e-Invoicing

[Directive 2014/55/EU on e-Invoicing in public procurement](#) was adopted on 16 April 2014, and calls for the development of a new European e-Invoicing standard, which will be developed by the European Committee for Standardisation (CEN) and is expected to take approximately 3 years.

Member States are required to adopt, publish and apply the provisions necessary to comply with the obligation that their contracting authorities and entities can receive and process e-Invoices that comply with the new standard, not later than 18 months after the publication of the standard's reference in the Official Journal of the European Union. However, Member States will have the possibility to postpone this deadline by a further 12 months for regional and local authorities, due to the special requirements of these bodies, such as their more limited resources and potentially less developed infrastructure. The deadline for transposing the directive is 27 November 2018.

The new Directive does not replace existing e-Invoicing standards, so if a national e-Invoicing system is put in place before the new European standard is ready, nothing in principle prevents its continued use if a Member State wishes to do so. The new standard will consist of a list of elements which every e-Invoice must contain, without specifying the technical format in which those elements should be presented and define their meanings (it will be in the form of a so-called semantic data model). As such, any existing e-Invoicing system or platform can very easily be adapted to allow the reception of e-Invoices in the new standard. The new standard will be based to a large extent on already-existing specifications and on work which has already been undertaken by CEN. As such, it should not be radically different from most of the systems and standards already in use. Some of these systems may need to be adapted slightly, but this should not pose any significant technological problems.

e-Invoicing is generally more advanced in the business-to-business sector than in business-to-government, and hence businesses are among the strongest proponents of e-Invoicing. By providing the market with a European e-Invoicing standard and obliging all contracting authorities and entities to accept e-Invoices sent in this standard, the EU initiative gives assurance to businesses that, provided they make a single initial investment in the European e-Invoicing standard, their e-Invoices will be accepted by public authorities throughout the EU. The initiative will therefore facilitate participation in cross-border public procurement, creating potentially significant new business opportunities. However, the Directive does not in any way place an obligation on businesses to use the new standard, or even to send invoices electronically. Therefore, there are no additional costs or burdens on businesses – on the contrary, the Directive offers the possibility to benefit from potentially significant savings and simplification, but leaves it entirely at the discretion of the businesses themselves if and when they chose to take advantage of this by moving to e-Invoicing. The Directive aims to facilitate the transition to e-Invoicing for businesses – by giving them the guarantee that their e-Invoices will be received by all contracting authorities and contracting entities in the EU if they are in the new European standard – while leaving them the freedom of taking this step at their own pace. However, if Member States wish to go further and mandate that only electronic invoices will be accepted in public procurement, there is nothing in the Directive which prevents them from doing so.

In support of end-to-end e-Procurement, both nationally and across borders, the Commission has been particularly active in producing **ICT tools** in partnership with Member States that can be adopted more widely:

- ✚ The **e-PRIOR** platform, which was developed under the [ISA programme](#), started life as an in-house solution for the European Commission, its Executive Agencies and their suppliers through its e-Request and e-Invoicing modules, and since 2014, also e-Submission. This platform is now freely available to Member States in open source format, known as [Open e-PRIOR](#).
- ✚ The e-PRIOR pilot paved the way for the use of these standards by the **Pan-European Public Procurement On-Line (PEPPOL)**, a Large-Scale Pilot (LSP)²⁸ funded by the EU's Competitiveness and Innovation programme (CIP) and completed in 2012. PEPPOL project developed cross-border interoperability bridges between existing e-Procurement platforms, such as e-Catalogues, e-Ordering, and e-Invoices, the validation of e-Signatures and the reuse of company information required for bidding. This LSP involved authorities from 10 Member States plus Norway as participating partners, and is now being taken forward by the non-profit international association, OpenPEPPOL.
- ✚ Since 2013, the **Electronic Simple European Networked Services (e-SENS)** LSP has been building on the achievements of the preceding LSPs, including PEPPOL, and extending their potential by consolidating them into public service building blocks (eID, e-Sign, e-Delivery, e-Invoicing, etc) that can be re-used by any policy domains. e-SENS partners include 20 participating Member States, as well as OpenPEPPOL.

e-SENS lays the ground for the **Connecting Europe Facility (CEF) Digital Services Infrastructure**. Its goal would be to support investment in the deployment of infrastructures required to enable the delivery of cross-border public services. The proposed budget for these infrastructures is around €12 billion and e-Procurement would be one of the key services under consideration. It is currently estimated that projects funded under the CEF will come on-stream in 2014-2015. Moreover, the Commission will use Structural Funds under the proposed Common Strategic Framework (CSF) to complement investments made by the CEF and to support the use of e-Procurement across public administrations in Europe (see [topic 8.3](#)).

As part of the [EU's eGovernment Action Plan 2016-2020](#), the Commission is committed to ensuring the long-term sustainability of cross-border digital services infrastructure. Other actions to support e-Procurement are set out overleaf.

²⁸ The full range of LSPs are described under [theme 5](#) on service delivery and digitalisation.

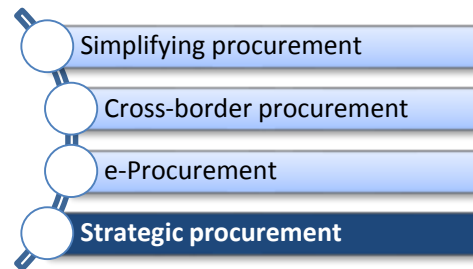
Support to e-Procurement in the eGovernment Action Plan

With the focus on the European Single Procurement Document, e-Certis and e-Invoicing and a coordinated approach to development of the national e-Procurement systems, the objective is that companies will be able to bid for public procurement contracts anywhere in the European Union electronically by 2018, and by 2019, e-Invoicing will be accepted by public administrations in the EU. Further efforts by all administrations are needed to accelerate the take up of electronic identification and trust services for electronic transactions in the internal market (eIDAS services). The Commission has coordinated with Member States the development of a [prototype for a 'European Catalogue of ICT standards' for public procurement](https://joinup.ec.europa.eu/collection/european-catalogue-ict-standards-procurement), which will support interoperability in the acquisition of digital solutions by encouraging the reference to common sets of ICT standards and profiles in public procurers' calls for tenders. For more information, see: <https://joinup.ec.europa.eu/collection/european-catalogue-ict-standards-procurement>

The Commission will gradually introduce the 'digital by default' principle (see [topic 5.4](#)) when interacting online with external stakeholders, using eIDAS services (in 2018), e-Invoicing (in 2018) and e-Procurement (in 2019). To reduce the administrative burden, the Commission will also gradually roll out the 'once-only' principle (see [topic 5.4](#)) in its interactions with suppliers.

8.2.4 Strategic procurement (green, socially-responsible, innovative)

Conventionally, public procurement has been perceived as simply the end of a chain of events, which starts with policy design (identifying needs, deciding on the way forward, selecting the optimal path), leads to implementation (in the case, spending public funds on the chosen solution), and finally moves on to the mundane but important matter of finding a contractor who can



satisfy the required specification at the lowest cost or best value for money. From this perspective, procurement is simply a practical, rules-based mechanism, comprising a set of processes, some of which can be automated through e-Procurement to increase their efficiency and effectiveness. Increasingly, however, public administrations are seizing on the potential leverage of **procurement as a policy instrument**, as public purchasing accounts for around 1 in every 5 euros spent in the European economy on goods, services and especially construction²⁹.

Many Member States are now exploiting their purchasing power to pursue wider **socio-economic goals**, encouraged and enabled by EU initiatives and now the 2014 directives. The European Commission has published [a study on the strategic use of public procurement](#) by 10 selected Member States to promote green, social and innovation policies.

Green public procurement (GPP) has been defined by the Commission³⁰ as “a process, whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary

²⁹ Public expenditure finances 2 out of every 5 euros spent on buildings and infrastructure in the EU.

³⁰ [Communication \(COM \(2008\) 400\) "Public procurement for a better environment"](#)

function that would otherwise be procured.” The 2014 procurement directives³¹ make it possible to ensure greater inclusion of common societal goals in the procurement process, including environmental protection, combating climate change and other contributions to sustainable development. Guidance is available on the [European Commission’s GPP website](#), managed by DG Environment, including the [‘Buying Green!’ Handbook](#). GPP will also be promoted through actions set out in the 2015 Commission Communication [‘Closing the Loop’](#).

GPP techniques include **life-cycle costing (LCC)** to identify the most economically advantageous offer. This means considering all the costs that will be incurred during the lifetime of the product, work or service:

- ✓ Purchase price and all associated costs (delivery, installation, insurance, etc.);
- ✓ Operating costs, including energy, fuel and water use, spares, and maintenance;
- ✓ End-of-life costs, such as decommissioning or disposal.

LCC may also include the cost of externalities (such as greenhouse gas emissions) under specific conditions laid out in the directives. Specific rules also apply regarding methods for assigning costs to environmental externalities, which aim to ensure that these methods are fair and transparent. The main potential for savings over the life-cycle of a good, work or service are:

- ✓ Savings on use of energy, water and fuel;
- ✓ Savings on maintenance and replacement;
- ✓ Savings on disposal costs.

As with GPP, the 2014 public procurement directives³² also offer greater opportunities and flexibility to those contracting authorities that wish to pursue the achievement of social objectives through public purchases. **Socially responsible public procurement (SRPP)** can incorporate social considerations such as employment opportunities, decent work, compliance with social and labour rights, social inclusion (including persons with disabilities), equal opportunities, accessibility and design for all that takes account of sustainability criteria, ethical trade issues, and wider voluntary compliance with corporate social responsibility. The new EU rules allow public authorities to impose conditions as regards the production process (e.g. involvement of disadvantaged or unemployed) or take account for the total lifecycle costs (e.g. goods with low carbon footprint). Public authorities can also reserve contracts for sheltered employment undertakings or non-profit undertakings delivering certain health, social and cultural services.

Strategic procurement - complying with EU directives

When defining technical specifications and/or award criteria of a contract, public authorities must always comply with the requirement of the directives for linking those technical specifications or award criteria to the subject matter of the contract. This means that they can only include **those requirements that are related to the production of the goods, services or works** being purchased, rather than those which relate to the general

³¹ Specifically, Articles 42, 43, 67, 68 and Annex VII of Directive 2014/24/EU; and Articles 60, 61, 82, 83 and Annex VIII of Directive 2014/25/EU.

³² Specifically, Articles 20, 42, 43, 67, 70, 74-77 and Annexes VII & XIV of Directive 2014/24/EU; and Articles 38, 60, 61, 82, 87 and Annex VIII of Directive 2014/25/EU.

practices or policies of the operator. Hence a contracting authority could, for example, provide that the contract is awarded to the offer committing to the employment of the highest number of disadvantaged persons in the performance the contract. Examples of criteria that are not permitted, include:

- ❌ Requiring a vehicles supplier to use recycled paper in its administration or to serve organic food in its canteen;
- ❌ Specifying, as a contract performance condition in a tender for consulting services, that the contractor applies a company policy of teleworking to all its employees. (It is, however, allowed to request that such conditions apply to the staff working on the contract);
- ❌ Establishing a contract award criterion whereby more points are awarded to a company which commits to, for example, investing in the education system in a certain geographical area.

As always, the contracting authority must ensure that the principles of non-discrimination, equal treatment, transparency and proportionality are respected when specifying materials or production methods.

To facilitate the inclusion of environmental considerations by public authorities, the European Commission has developed **practical sets of GPP criteria** (technical specifications and award criteria) for different product groups that contracting authorities can directly use if they wish to procure green:

http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm.

Labels can be used in two different ways in the context of technical specifications:

- ✅ To help you draw up your technical specifications, to define the characteristics of the goods or services you are purchasing;
- ✅ To check compliance with these requirements, by accepting the label as one means of proof of compliance with the technical specifications.

By providing a means of third party verification, labels can help to save time while ensuring that high environmental standards are applied in public procurement. Labels which refer to the environmental characteristics of the product, work or service in question may also be used to help draft and assess award criteria. When making use of specific labels, contracting authorities should have in mind that the characteristics covered by the label referred to should also comply with the requirement for **link to the subject matter of the contract**. Also, when considering offers, contracting authorities should accept bidders which, although not holding the specific label that is referred to in the technical specifications/award criteria, are able to prove that their goods/services/works comply with the requirements of the label.

A **lighter regulatory regime** applies to the contracts listed in Annex XIV of the new public procurement regime – these are exclusively services related to **cultural, health and social activities**. A higher threshold of €750 000 applies to these services, meaning that the provisions of the Directive and the Treaty principles do not apply when these services are procured below the threshold. Furthermore, for above threshold procurement of these services contracting authorities are only required to publish either a contract notice or a PIN and, at the end of the procedure, a contract award notice. The Directive does not further regulate the procurement procedures to be applied to these services, but only requires contracting authorities to comply with the following principles: transparency, equal treatment of operators, quality, continuity, affordability, availability and comprehensiveness of the service. This means, in practice, that contracting authorities are free to run the procedure as they prefer, so long as they comply with the above principles. Please note however that national legislation may still regulate these procurements. For some of these services, which are listed exhaustively in Article 77 of the Directive, it is possible (but not compulsory), if national laws allow it, to reserve the procurement procedure to organisations meeting five conditions: they must pursue a public service mission; reinvest profits in the organisation's objective; they must be managed on the basis of employee ownership or participatory principles; they must not have been awarded a contract within the past three years. Contracts awarded using this option cannot have a duration of more than three years.

Regardless of the type of contract (supply, works, service) and its subject matter, contracting authorities can either reserve the participation to the tendering procedure to **sheltered workshops and economic operators whose main aim is the integration of the disabled or disadvantaged**, or to provide that the contract is performed by a sheltered workshop having these same main aims. Tenders may be validly considered only if at

least 30% of the staff employed in the performance of the contract is composed by disabled or disadvantaged persons. If the contracting authority decides to make use of this option, it must clearly specify the reserved nature of the procurement in the contract notice.

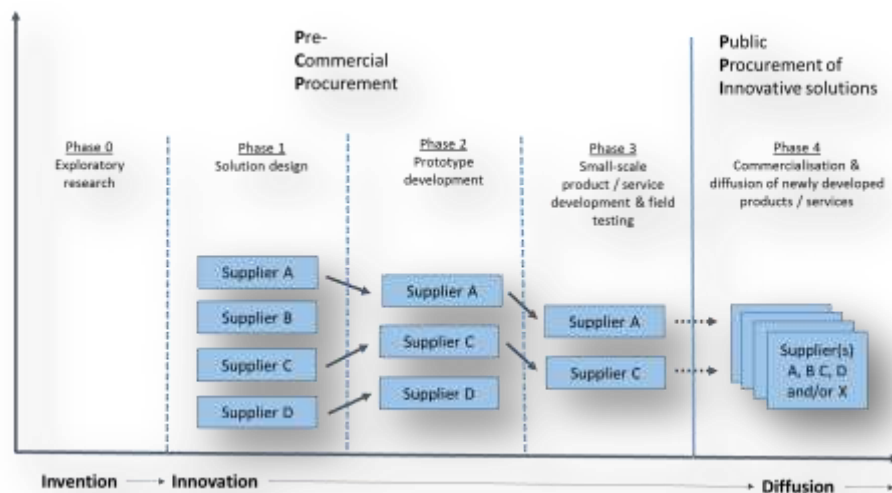
The acquisition of innovative goods, works and services contributes to resolving society's challenges with tomorrow's technologies; it simultaneously stimulates the business base to be creative, according to the [European Public Sector Innovation Scoreboard](#). **Innovation procurement** is about administrations addressing a market failure. There is no shortage of innovative ideas. But governments have traditionally tended to purchase mainly what is already on the marketplace, so the demand for new goods and services is weak. At the same time, potential suppliers often do not spend the time and resources in developing new concepts to the point that they are ready to sell to governments, because the uncertainty of future sales means the risk of not getting a return on their investment is seen as too high. Unlike selling to households or to other businesses, the private sector is less able to 'create' new markets with new offerings - they are dependent on the purchasing decisions of public administrations. The planning of public purchases is often opaque, sending too few signals of future intentions to the private sector.

Governments are already acting to stimulate research and development (R&D) in the private sector, with grant aid, tax breaks, and partnerships with universities, *inter alia*. But when the public sector is the buyer, it can also draw **lessons from private enterprise**, which has learned the benefit of incentivising R&D in its supplier base. In many manufacturing industries, such as automotive, aerospace and ICT, buyers at the top of the value chain which are reliant on innovation for success (such as Airbus, Volkswagen, etc.) develop long-term relations with their selected suppliers and involves them in joint R&D programmes.

This has prompted a recognition of the government's role as '**lead market**' in goods, services, buildings and infrastructure in which public administrations are the major buyers. Although spending is often spread over many individual contracting authorities, the public sector has the leverage to stimulate research & development (R&D) and the launch of new products, processes and service offerings with wider economic and societal benefits, if the power of procurement is used creatively. This may mean setting aside dedicated budgets for procuring R&D and innovative solutions, or contracting authorities acting in partnership, through central purchasing bodies or joint entities. Increasingly, public administrations in Member States have been pioneering or employing variants of two instruments, which are possible under EU directives:

- ✚ **Pre-Commercial Procurement**, which allows the procurement of R&D to trigger the development of new innovative solutions from the demand side; and
- ✚ **Public Procurement of Innovative solutions**, which focuses on the deployment of commercial volumes of end-solutions.

These two instruments follow the classic model of **invention-innovation-diffusion** of new technologies, beginning with a new discovery or concept (invention), developing it into a commercial application that meets customer needs (innovation) and introducing it into the market place, leading hopefully to widespread dissemination and take-up (diffusion), as the following diagram shows:



With **Pre-Commercial Procurement (PCP)**, public procurement budgets are used to support the initial phases of R&D before a new product or service has been launched in the market place. PCP covers the invention and innovation phases: basic research, design, prototyping, and original development and testing of small volumes of new products and services that have the potential to be commercially viable. PCP is appropriate when there are no near-to-market solutions available to meet concrete public sector needs, and investment in R&D is needed. Through PCP, both the risks and the benefits are shared by the procurer and the developers (the potential suppliers of the products or services), within competitive conditions.³³

How does it work? The public administration buys R&D from several alternative suppliers at the same time, and then compares and evaluates the best value for money solutions at every phase of validation, reducing the number of participating suppliers each time. R&D services are exempted from the scope of EU procurement directives but the EU Treaty principles and competition rules still apply. Each national approach has its own flavour, in terms of implementation approach, stages and timescales, but the phased R&D and multi-vendor competition remains the same:

- ✚ The public procurer buys R&D services to address an identified procurement need from several suppliers who design solutions to the PCP challenge (e.g. A, B, C and D in the diagram).
- ✚ The best suppliers with the most feasible designs continue to prototype development (e.g. A, C and D),
- ✚ The prototypes are assessed, and the most suitable go forward for original development and testing of the first products (e.g. A and C).

This allows the public administration to incentivise investment in R&D by private and other providers, thereby developing innovative solutions to the societal challenges of the future. As the first buyers of the R&D, PCP drives innovation from the demand side and creates opportunities for

³³ For further information on PCPs: <https://ec.europa.eu/digital-single-market/innovation-procurement>

enterprises, acting as a "seal of approval" confirming the market potential of new emerging technological developments, thereby attracting new investors.

The first public procurers in Member States to adopt PCP in Europe were in Norway, Italy, Sweden, the Netherlands and the United Kingdom. The Lombardy Healthcare PCP is an example of a regional PCP implemented without EU funding.

Inspiring example: Lombardy Healthcare PCP (Italy)

The PCP conducted in collaboration by Niguarda hospital, Lombardy region and the regional purchasing agency (ARCA) addresses the problem of the long transport times and the high rate of accidents and functional limitations of socio-health workers tasked with moving, via manual pushing and pulling, the hospital beds. At the same time, the PCP aims to reduce the cost of solutions by opening up the market to new innovative providers that were not able so far to enter this highly concentrated supplier segment. The PCP also encourages the development of more sustainable / environmentally friendly solutions by comparing alternative solutions based on their life-cycle-cost.

The PCP is challenging suppliers to develop the best possible new and cost-effective automated universal medical device for moving hospital beds (and possibly also gurneys), that is easy to use and to manoeuvre for a single operator, equipped with all anti-collision and safety systems, reduced in size, which does not need tracks or guide lines and which can also be used on non rectilinear routes and in all hospital spaces (rooms, lifts, corridors and diagnostic ward spaces), which result in a significant advance in terms of technology and performance and, at the same time, cost reduction.

The PCP works with six suppliers in phase 1, four in phase 2 and two in phase 3. The PCP is successfully enabling new innovative players (mainly SMEs) to become active in this market. Savings of at least 40% are expected through increased efficiency of hospital operations, reduction in accidents and lower cost, higher sustainability of the solutions. The multiplier effect of the impacts is considerable as there are roughly 40000 hospital beds in Lombardy alone.

Source: extensive case description on INSPIRE project website (<http://inspirecampus.eu>)
[http://www.ecoprocura.eu/fileadmin/editor_files/images/EcoProcura_2014 - Sara Bedin TEH Ambrosetti.pdf](http://www.ecoprocura.eu/fileadmin/editor_files/images/EcoProcura_2014_-_Sara_Bedin_TEH_Ambrosetti.pdf)

More recently, procurers in other Member States have launched, piloted or planned PCP initiatives including Austria, Belgium, Finland, Spain and Sweden. An increasing number of countries and regions have set targets to allocate percentages of public procurement budgets to innovation procurement, and created competence centres that offer practical assistance and financial support to procurers to undertake PCPs and PPIs. Fourteen on-going EU funded PCP projects are also spreading the experience of undertaking joint cross-border PCP procurements with buyers' groups made up of procurers from several European countries. A prime example of a joint cross-border PCP is CHARM, a partnership of road authorities from Belgium, the Netherlands and the United Kingdom, seeking to improve traffic management through more advanced ICT solutions.

Inspiring example: CHARM PCP (United Kingdom, the Netherlands and Belgium)

CHARM is a cooperation between three road authority procurers: Highways England (United Kingdom), Rijkswaterstaat (the Netherlands), and the Flanders Department of Mobility and Public Works (Belgium). Highways England and Rijkswaterstaat (RWS) formally joined forces in April 2011 to improve their traffic management centres (TMCs), with the aim of improving their effectiveness while reducing their operational costs. The Department of Mobility and Public Works (MOW) became a preferred partner, and the consortium was further extended with the UK-based Technology Strategy Board (TSB), known as Innovate UK, and the

Netherlands Enterprise Agency (RVO) for their expertise in procurement and innovation projects.

The CHARM contracting authorities jointly procure R&D services via PCP to move towards a flexible, open, modular, high-level ICT architecture for TMCs. Three separate PCP Challenges were defined to develop software modules in the following fields:

- ✦ **Challenge 1: Advanced distributed network management.** This module would allow automated support for management of large (nationwide) traffic networks. The module should be a multi-layered, self-learning engine, able to manage large networks and balances between different types of goals.
- ✦ **Challenge 2: Detection and prediction of incidents.** This module would provide early identification and prediction of near future events on the road network (accidents, queues, etc.), called "virtual patrolling". Detection and prediction should be targeted at the top 3 incidents: accidents, car breakdowns and queues.
- ✦ **Challenge 3: Support of cooperative ITS functions.** This module would support the implementation of cooperative system services requiring a participation of intelligent infrastructure, to optimise the performance of the road network.

The move from proprietary solutions to a common architecture with open interfaces, defined together by the CHARM procurers, is expected to reduce the vendor lock-in in this market, reduce the cost of traffic management centres by 20%, and enable new innovative players to deliver new application modules to all road management authorities. The project is cooperating with the Conference of European Directors of Roads (CEDR), and preparing the way for standardisation to make their solutions available also to other procurers.

The CHARM PCP project commenced in September 2012, with €2.8 million of EU funding towards a total cost of €4.1 million. It consists of 3 phases:

- ✦ Phase 1: Solution design
- ✦ Phase 2: Prototype
- ✦ Phase 3: Pre-production testing

Phase 1 attracted 11 competing vendors/consortia across the three challenges, of which eight moved to phase 2 (three under challenge 1, two under challenge 2 and three under challenge 3), which commenced in April 2015 and was completed in March 2016. All eight were invited to tender for phase 3, which was slated to run from August 2016 to July 2017. The PCP has successfully attracted new players (including SMEs) to become active in this market.

Sources: http://cordis.europa.eu/project/rcn/106218_en.html, <http://www.rws.nl/english/about-us/doing-business-with-rijkswaterstaat/charm-pcp/index.aspx>

In some cases, public sector challenges can be addressed by innovative solutions that are close to being launched on the market, or already available in small quantities, and don't need new R&D. This is when **Public Procurement of Innovative solutions (PPI)** can be used effectively. PPI covers the final stages of innovation (commercialisation), and leads into the initial stages of the diffusion phase by supporting early adoption of the new product, process or service.

In many ways, PPI draws on long-standing private sector experience in supply chain management. In manufacturing, businesses have seen the benefits of signalling their future procurement intentions to suppliers, enabling them to plan ahead with confidence and to innovate, secure in the knowledge that there is a willing buyer for the new technological development. In the case of PPI:

- ✚ The customer is one large buyer or a buyers group, which can be a combination of public and private procurers, which presents a critical mass in terms of purchasing volume that is sufficient to make mass production for suppliers viable.
- ✚ This ‘critical mass’ of demand triggers potential suppliers to make the necessary investments to adapt/scale up their activities (including organising their supply chains) by a specified date and thereby meet the performance and price requirements for mass market deployment.
- ✚ To allow time for adjustment, there is a gap between the early announcement of the intention to buy and the launch of the PPI tender.
- ✚ In this intervening period, the buyers group typically holds an ‘open market consultation exercise’, which can be accompanied with a test/certification/product labelling event to check that industry solutions have actually attained the procurers’ standards and requirements.
- ✚ The PPI tender is then published, open to all suppliers on the market, and hence fully competitive.

Before becoming an EU-wide initiative, PPI was already being pioneered in several Member States, for example as the Forward Commitment Procurement (FCP) in the United Kingdom, and also in Sweden as Teknikupphandling. In many cases, the genesis of new initiatives has been market failures in innovating for sustainable development. FCP was originally developed in recognition of two factors: the lack of ‘market pull’ for environmental innovations, and the Government’s role as a key player in the environmental market.

Inspiring example: Forward Commitment Procurement (United Kingdom)

Forward Commitment Procurement (FCP) is an early market engagement tool that creates the conditions needed to deliver innovative, cost effective products and services. Designed mainly for use by the public sector, the FCP approach was developed to be consistent with value for money policy and the legal framework that governs public sector procurement. FCP provides the supply chain with information of specific unmet needs and, most crucially, with the incentive of a forward commitment: a commitment to purchase a product or service that currently may not exist, at a specified future date, providing it can be delivered to agreed performance levels and costs. FCP provides the incentive, confidence and momentum for suppliers to invest and deliver innovative solutions. While the original aim was to address the specific market barriers that are faced by environmental innovations, the approach can also be applied to procuring innovative solutions in other markets.

The first completed FCP project was the procurement by Her Majesty’s Prison Service (HMPS) of a fully managed Zero Waste Mattress system. In a typical year, HMPS would purchase around 53,000 foam mattresses and 48,000 pillows, and would dispose in the order of 40,000 items due to soiling, misuse, and wear and tear. Each prison area handled their own arrangements for disposal through local contracts. The majority of ‘end of life’ mattresses were being sent to landfill, with the remainder classed as clinical or hazardous waste, which incurred high disposal costs. As such, the situation was environmentally unsustainable, and the combined cost of supply and disposal was estimated conservatively to be in the region of £2.8 million per year. As well as the financial cost of this disposal, individual prisons were finding it increasingly difficult to have the products taken away by contractors, due to the increasing demands and restrictions on the use of landfill sites. This practice was not only uneconomical, but out of step with sustainable development policy, including the Sustainable Procurement Action Plan (SPAP). To compound

matters, disposal costs were also set to rise due to regulatory drivers, such as the EU's Landfill Directive and Waste Framework Directive. The situation required a radical rethink. FCP provided a way to do this.

To engage with the market, HMPS conducted a three-stage process:

1. Publication of a Prior Information Notice.
2. Market Sounding “call for innovative ideas and information”
3. Concept Viability workshop

Because of the market engagement, an OJEU competition was launched for the supply of a ‘Fully Managed Service for Mattresses and Pillows’. The tender documents made it clear that they needed to be environmentally friendly, at the very least cost neutral, and achieve a Zero Waste solution by 2012. HMPS signed a supplier contract for a ‘Zero Waste Mattress and Pillow Solution’ in 2009. The outcome was a solution achieved sooner than expected, with significant cost savings estimated to be in the region of £5 million over the life of the contract. It is interesting to note that the new contract was awarded to the incumbent supplier.

For further information:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32438/11-996-case-study-fcp-in-practice.pdf and

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32446/11-1054-forward-commitment-procurement-buying-innovative-solutions.pdf

The experience of FCP comes with **four tips** which are useful guidance on how to perform PPI:

 **Give the supply chain time to innovate:**

- ✓ Think ahead
- ✓ Signal your long and medium term ‘direction of travel’ to the market
- ✓ Communicate your forthcoming needs and procurement plans in advance

 **Allow room for innovation:**

- ✓ Communicate your needs in outcome terms.
- ✓ State what you want, not what you think is available or affordable.
- ✓ Look for progressive improvements and future proofing.

 **Invite feedback from the supply chain:**

- ✓ Market sounding and market consultation allow you to test out your requirements and iron out problems in advance of the invitation to tender.

 **Facilitate communication between suppliers:**

- ✓ Consultation workshops, site visits and publishing a directory of companies that have expressed interest all help.

Other examples of PPI initiatives by Member States can be found here: <https://ec.europa.eu/digital-single-market/en/news/innovation-procurement-initiatives-around-europe>. The HAPPI healthcare project is an example of joint cross-border PPI, involving healthcare purchasers from France, Belgium, Italy, Luxembourg and the United Kingdom.

Inspiring example: HAPPI (France, Belgium, Germany, Italy, Luxembourg and United Kingdom)

The HAPPI project (Healthy Ageing - Public Procurement of Innovation) is financed by the European Commission and aims at detecting innovative solutions which address the needs of an ageing society to disseminate them in hospitals and nursing homes across Europe.

10 European organisations from France, United Kingdom, Italy, Belgium, Luxembourg and Germany, including healthcare Central Purchasing Bodies, form the consortium of the project and launched the first joint cross-border procurement in the healthcare sector on 30th September 2014.

Following a phase of identification of products and services via the HAPPI platform, expert committee meetings were held in London, Turin and Paris, gathering professionals such as geriatricians, biomedical engineers, hospital managers, etc. Five topics of interest were then selected by the project partners and composed the five lots of the HAPPI tender:

- + Lot 1: Fall detection and alert system
- + Lot 2: Treadmill for rehabilitation and analysis of walking disorders
- + Lot 3: Walking course for preventing falls and maintaining independence
- + Lot 4: Bed thermoregulation system
- + Lot 5: Chair enabling users to maintain independence and reducing effort for aides

The deadline to bid for the tender was 1 December 2014.

During January and February 2015, the purchasers of the consortium analysed the seven offers received, regarding the design specifications and performed the tests for each lot as was planned.

Two important meetings were then held in Paris.

- + The Technical Committee #4, organized on the 12 March 2015, involved the participation of the consortium's five Central Purchasing Bodies. The analysis reports were presented and discussed, consolidated versions were realised including the points of view of each purchaser, and the final ranking of the offers received was defined for each lot.
- + Two weeks later (25 March), the representatives of the 10 project partners attended the Steering Committee #5 and the Advisory Committee #2 meetings, so that the consortium purchaser could present the work performed during the previous year to the non-purchasers, as well as the final consolidated version of the analysis reports before the official validation of the final ranking of the offers by all project partners.

After the Steering Committee and following the public procedure, the French lead procurer RESAH sent rejection letters to the suppliers that had not been selected, before sending notification letters to the three awarded suppliers.

Under French law (2015), RESAH could sign contracts with the selected suppliers on behalf of the whole group of procurers. Through the Agreement Establishing the European Purchasing Group that HAPPI signed with RESAH, the Central Purchasing Bodies of the consortium are then able to set up specific contracts under their own national legislation to purchase the solutions selected under the framework agreement.

Hence, since mid-April 2015, the following Healthy Ageing innovative solutions were available for European healthcare organisations with special conditions and prices through the HAPPI contracts:

- ✓ Lot 1: The French SME, C2S, with its innovative fall detection and alert system called VAC
- ✓ Lot 2: The Dutch company, Forcelink, with its IT Treadmill called C-MILL
- ✓ Lot 3: The French SME, Alter Eco Santé, with its innovative walking course developed in collaboration with experts and specialists of fall prevention.

To purchase these innovative solutions, European healthcare organisations contact the Central Purchasing Bodies of the consortium, depending on their countries, to obtain the contracts. For the partners, the next steps of the project were monitoring the market execution and dissemination phase.

For further information: Louis Potel, European Project Manager, RESAH, happi@resah-idf.com; <http://www.happi-project.eu/>; https://twitter.com/HAPPI_Project

The Europe 2020 flagship initiative [Innovation Union](#) underlines the importance of both PCP and PPI: *"From 2011, Member States and regions should set aside dedicated budgets for pre-commercial procurements and public procurements of innovative products and services. This should create procurement markets across the EU starting from at least €10 billion a year for innovations that improve the efficiency and quality of public services, while addressing the major societal challenges. The aim should be to achieve innovative procurement markets equivalent to those in the US. The Commission will provide guidance and set up a (financial) support mechanism to help contracting authorities to implement these procurements in a non-discriminatory and open manner, to pool demand, to draw up common specifications, and to promote SME access."*

The EU is supporting both PCP and PPI financially through its 2007-2013 FP7 and CIP research and innovation programmes, and through its new 2014-2020 Horizon 2020 research and innovation programme. Further details of **EU assistance under the Digital Single Market (DSM)** can be found [here](#).

EU support for PCP and PPI

Since 2009, the Commission has launched calls for proposals to support the establishment of networks of public procurers on PCP and PPI. These actions have raised awareness and helped share best practices. This has encouraged cooperation among public procurers from different Member States and has led to ideas for jointly implemented PCPs and PPIs. Since 2012, the Commission has co-financed pan-European consortia of public procurers that wish to undertake PCPs and PPIs together on topics of common European interest, through the **7th Framework Programme for Research and Technological Development (FP7)** and **Competitiveness and Innovation Framework Programme (CIP)**.

This support is being extended through financial support in 2014-2020 under **Horizon 2020**. The EU will be providing incentives through the PCP and PPI Co-Fund actions for consortia of public procurers who implement joint PCP and joint PPI procurements within different domains of public interest defined under the different Horizon 2020 programmes. This can speed up the development of innovative solutions by encouraging cooperation between procurers from across Europe, either by supporting networks of procurers to prepare joint PCPs and PPIs or by co-funding the procurement cost and the related coordination and networking activities to manage the procurement: <http://ec.europa.eu/programmes/horizon2020/>. The specific requirements that Horizon 2020-financed consortia must meet are set out in Annex D and E of the Horizon 2020 work programme.

The Innovation Procurement Platform, supported by the European Commission, is an online hub that helps public authorities, procurers, policy makers, researchers and other stakeholders by providing information on upcoming calls, events, and a forum where international stakeholders can share and discuss ideas. <https://www.innovation-procurement.org/>.

The Commission has also supported a series of annual conferences on innovation procurement since 2006. Further details and some presentations from the Commission and Member States, can be found here:

- ✚ Post-2014 events: <https://ec.europa.eu/digital-single-market/node/76799>
- ✚ Pre-2014 events: http://cordis.europa.eu/fp7/ict/pcp/events_en.html


The Commission is currently appointing experts to provide training, promotion and local assistance on PCP and PPI (including legal assistance) to procurers across all EU Member States that intend to start concrete PCP and PPI procurements, based on a toolkit that will be developed on how to practically implement PCP and PPI. The target is to kick-start between 2015 and 2018 six new PCP and six new PPI procurements in the ICT domain. In total, 12 events will be organised in different EU countries to provide information and training on PCP and PPI.


The European Commission has also produced an innovation procurement brochure containing an [overview of 26 EU-funded PCP and PPI projects in the ICT domain](#), with further information covering both ICT and non-ICT projects on the [DSM website here](#).

For further information: <https://ec.europa.eu/digital-agenda/en/news/eu-policy-initiatives-pcp-and-ppi>

The 2014 directives for public procurement retain the exemption for R&D services which enables Member States to continue to pursue PCP to procure R&D and a separate PPI procedure afterwards for deploying the final end-products. The new directives also contain a new procedure called the **innovation partnership** procedure that combines the purchase of R&D and resulting end-products in one and the same procedure.

Pre-commercial public procurement and innovation partnerships are two alternative approaches that correspond to different needs and/or situations:

-  **Innovation partnership** covers both the procurement of R&D and commercial volumes of end-products into one procurement procedure that is subject to the public procurement directives. As stipulated in the directives, innovation partnership cannot be used in cases where it would prevent, restrict or distort competition. The 2014 State aid framework for R&D&I clarify that the Commission considers that there is no State aid awarded in procedures such as innovation partnerships that combine the purchase of R&D with commercial volumes of end-products into one procedure in the exceptional case of unique / specialised products (situation where there are no other potential providers on the market outside of the partnership) as in other cases giving preferential treatment to participant providers for the supply of commercial volumes of end-products would cause foreclosing of competition and crowding out other R&D investments.

-  **Pre-commercial procurement** covers only the procurement of R&D services and is exempted from the public procurement directives. The 2014 State aid framework for R&D&I reassures procurers that the Commission considers that no State aid is awarded when using pre-commercial procurement (PCP) and subsequently a separate procedure to procure innovative solutions resulting from the preceding R&D procurement (PPI) and reminds procurers of the conditions illustrated in more detail in the PCP communication to be kept in mind to ensure open, fair, transparent competition in doing so. As the approach of two separate PCP and PPI procedures for buying R&D and resulting end-products enables all vendors on the market to compete again for supplying final end-products, it can be used in all situations without involving State aid, not only for unique/specialised products.

In the innovation partnership procedure, public purchasers call for tenders to solve a specific problem without pre-empting the outcome, select partners on a competitive basis and have them

develop an innovative solution tailored to their requirements. The innovation partnership model is based on the procedural rules that apply to the competitive procedure with negotiation. It aims to provide the necessary market pull for suppliers to develop innovations for unique/specialised products where the market would lack the incentives to bring such products to the market without upfront commitment to buy final end-products from one of the vendors in the innovation partnership. Innovation partnerships can comprise several distinct stages, in two main phases:

- ✚ **Tendering phase:** The contracting authority selects the most suitable partner(s) to develop an innovative solution tailored to the needs of the buyer, on the basis of their skills, abilities and price. The minimum time limit for economic operators to submit requests to participate is 30 days from the date of the contract notice. Contracts shall be awarded on the basis of the best price-quality ratio.

- ✚ **R&D and commercialisation phase:** The partner(s) will develop the new solution, as required, in collaboration with the contracting authority. This phase can be structured in successive stages, following the sequence of steps in the research and innovation process, which may include the manufacturing of the products, the provision of the services or the completion of the works. The innovation partnership shall set intermediate targets to be attained by the partners and provide for payment of the remuneration in appropriate instalments. Based on performance against those targets, the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts (as set out in the procurement documents).

The innovation partnership model allows a degree of flexibility over timescales and costs. The classical directive requires only that *“the duration and value of the different phases reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution not yet available on the market”*. Furthermore, *“the estimated value of supplies, services or works shall not be disproportionate in relation to the investment required for their development”*.

The classical directive also gives greater weight to innovation in all purchasing decisions, by allowing buyers to take account of total life cycle costs when evaluating tenders, which would include the R&D element. It also promotes innovation in social and health services through a more flexible, simplified system. Specific provisions for cross-border joint procurement will also make it easier to share the risks associated with innovative projects, and make them more attractive to bidders by aggregating demand.

The European Commission has made guidance available to Member States on PCP and PPI through its website on [European Assistance for Innovation Procurement \(eafip\)](#), including answers to [frequently asked questions](#), and a toolkit for policy-makers and practitioners (see below).

The eafip Toolkit

The Toolkit aims to provide support to policy makers in designing and implementing PCP and PPI strategies, through three modules:

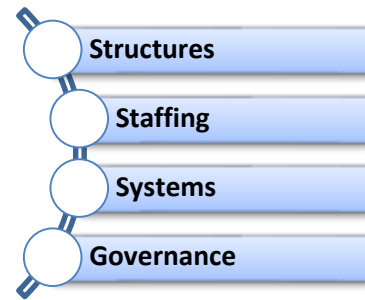
1. A **strategic module** addressed to policy makers, providing economic and case evidence about the impacts and benefits of PCP and PPI, together with concrete guidance on how to embed PCP and PPI into innovation strategies;
2. An **operational module** addressed to public procurers aimed at clarifying the pre-requisites and key steps to design and implement an innovation procurement process (PCP and PPI); and
3. A **legal / operational module** addressed to legal services aimed at clarifying legal issues and provide practical ‘how-to’ guidelines, supported by templates.

Source: <http://eafip.eu/toolkit/>

The Directorate-General for Regional and Urban Policy has also published [guidance for policy-makers and implementing bodies](#) on **enabling synergies** between European Structural and Investment Funds, Horizon 2020 and other research, innovation and competitiveness-related Union programmes, which is highly relevant to the next topic.

8.3 Managing European Structural Investment Funds

The European Structural and Investment Funds (ESIF) aim to strengthen national and regional economies, and aid transnational and cross-border cooperation, to promote convergence and competitiveness, to achieve the ESI thematic objectives, and to realise the Europe 2020 goals of smart, inclusive and sustainable growth. Within the overall framework of the Common Provisions Regulation (CPR), the five ESI Funds are governed by a set of EU **regulations**: the European Regional Development Fund (ERDF), the



European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD), and the European Maritime and Fisheries Fund (EMFF).³⁴ These regulations feature a number of innovations for 2014-2020, such as simplified reimbursement methods, which *inter alia* will significantly enhance the conditions for beneficiaries to access EU funds, as well as reducing the administrative burden on all parties.

ESI Funds are available to complement national spending, alongside loans from international financial institutions (IFIs) where appropriate, according to established principles. These include the principle of sound finance management, which obliges public administrations to ensure they have the most appropriate structures, staffing, systems and governance arrangements to make best use of ESIF within their national contexts. To achieve success in ESI Funds management, Member States need to **organise their resources** to achieve three fundamental goals: to maximise the implementation rate (spending available funds fully); to minimise irregularities (spending them correctly); and most important of all, to maximise impact and sustainability (spending them strategically).

Striving towards each goal should not disrespect achieving the others. If too much weight is placed on rapid spending without proper attention to systems and safeguards, there is the risk of inefficiencies and errors; without a coherent and well-considered



strategy for using the funds, the socio-economic benefits will be limited and unsustainable. Equally, an over-emphasis on controls and compliance mechanisms can hold back implementation and endanger impact; this is often the greatest threat facing inexperienced institutions. Finally, strategic objectives cannot be fully achieved if Member States fail to disburse funds, focus too much on financial progress, or must recoup erroneous or fraudulent payments. A balance must be struck, but ultimately these goals should be **mutually reinforcing**.

The [Commission's Sixth Report on Economic, Social and Territorial Cohesion](#) sets out the challenge facing Member States, based on the **experience from 2007-2013**. The message of the critical

³⁴ For CPR, ERDF, ESF, Cohesion Fund & EAFRD: http://ec.europa.eu/regional_policy/information/legislation/index_en.cfm
For EMFF: http://ec.europa.eu/fisheries/cfp/emff/index_en.htm

importance of good public governance and institutional capacity for achieving the EU's economic and social objective has been further re-confirmed in the [Seventh Cohesion Report](#), published in October 2017.

Poor governance limits the impact of Cohesion Policy

According to the latest data available (21 May 2014), Member States had absorbed (or spent) only 68% of the available EU funds on average³⁵, ranging from Romania (46%), Slovak Republic, Bulgaria, Italy, Malta and the Czech Republic (less than 60%) to Finland, Estonia, Lithuania and Portugal (over 80%). The slow rates of absorption in the countries concerned could be due to a number of reasons, not least a lack of competence in Managing Authorities, or Governments more generally, or insufficient staff. Whatever the reason, it could mean that Member States are unable to spend the funding available to them in the time allowed and accordingly lose some of it (under the de-commitment, or 'n+2', rule) or spend the funding inefficiently in an attempt to spend it in time.

Many of the difficulties of managing Cohesion Policy programmes are of an administrative nature related to human resources, management systems, coordination between different bodies and the proper implementation of public procurement. Strategies developed to meet EU policy objectives are sometimes not adhered to because of political pressure. In some countries, particular efforts are needed to strengthen both project pipelines (selection criteria, project preparation and tendering) and implementation (contracting and project management). In a number of Member States, it has proved difficult to carry out major projects within the time limits set for expenditure to be eligible for co-financing. A common problem is that regional and local authorities have limited capacity to prepare and implement complex projects, so that efforts to build capacity need to be targeted at all administrative levels and not just the national.

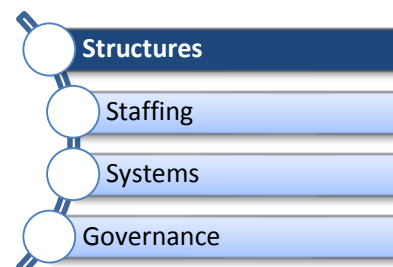
Problems of coordination can occur between different national horizontal (i.e. sectoral) programmes, as well as between national and regional programmes. In addition, the delegation of tasks by Managing Authorities to intermediate bodies can become overly complex and dilute accountability.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

In supporting Member States in their ESIF activities, the Commission sets store by peer-to-peer sharing of experience and know-how.

8.3.1 Structures

The 2014-2020 ESIF regulations set out a **new operating environment**, to which Member States must quickly adapt to implement their OPs successfully. As with previous financial perspectives, the regulations afford public administrations flexibility to identify the most suitable constellation of managing authorities (MAs), intermediate bodies (IBs), certifying authorities (CAs) and audit authorities (AAs) to fit their national administrative systems (ministries, regions and municipalities), in agreement with the Commission under the principle of shared management.



³⁵ In the sense of claiming and receiving payment for expenditure carried out under the Structural Fund and Cohesion Fund programmes. These figures include advance payments.

These implementation arrangements are formalised and described in each ESIF programme. Among the **key factors** that influence this overall architecture are:

- ✚ The size and geography of the country;
- ✚ The programme structure in the case of ERDF and ESF, including whether all NUTS 2 regions are covered;
- ✚ The scale of each programme - volume of funds to manage; and
- ✚ The degree of (de)centralisation of mainstream public governance, including whether there are federal, regional or provincial levels of government.

In the new programming period, there will be an increase in the overall number of programmes, with strong regionalisation in some Member States. The greater differentiation can be found in the structure of programme management (MAs and IBs), where some Member States have a high number of administrations involved in ESIF implementation, with both upward and downward delegation between different central and regional government bodies. For the majority of Member States, the CA and AA roles remain centralised at national level, though a few have also distributed the certification and audit tasks across more bodies. Some Member States have a large number of IBs on a 'cascaded' or tiered basis, reaching up to 100+ bodies for some programmes.

Once programmes are approved, most of the underlying factors are largely fixed (country and programme size, etc.). However, a political decision to move towards or away from the initial system of governance during the financial perspective - generally, or for ESIF specifically - can have implications for implementation structures. While stability of the management and control system is one of the key factors for successful implementation, the reality is that these **structures are not set in stone**, nor are the relationships between bodies. The administrative architecture described in programming documents often evolves over time for a variety of reasons:

- ✚ Sometimes, changes are driven by **political** factors, such as a Government set-up, or a change of Government following elections, leading to new ministries being assigned (see also [topic 1.2.3](#)). In these cases, the adjustments can be largely cosmetic, such as a change of ministry or departmental title, or the wholesale relocation of a specific unit to another public institution, without any functional or staffing changes that would affect responsibilities and relationships. In other cases, however, the shake-up can be used to overhaul ESIF management, by merging or abolishing units, and/or assigning functions to different or new institutions, including public bodies at a lower or higher tier of government.
- ✚ Other times, changes are driven by **performance** factors, usually as a result of reviews which suggest the current set-up is inefficient or insufficiently effective. This may arise from an interim evaluation, the implications of an annual implementation report, or the decisions of a monitoring committee. Equally, it may arise from an internal assessment by the MA, and put to the monitoring committee for its consideration.

There are myriad examples of both phenomena, including recent documented experiences³⁶. Hence, Member State administrations and ESIF monitoring committees must always be alive to both reacting to political decisions and activating performance improvements.

Various models have been tried and tested in Member States, especially regarding the **dynamics of MA-IB and MA-CA arrangements**, as well as the roles of **coordinating bodies**, where established. The experience of past financial perspectives has yielded lessons with four main messages:

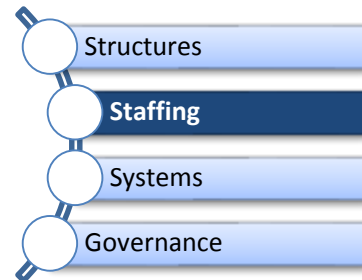
- ✚ **Streamlining:** Generally, Member States should avoid over-complicated structures, which add excessive layers of administration and complex lines of communication. This does not imply a single managing-certifying authority with no IBs is the optimal model: the emphasis should be on fit-for-purpose structures that balance on the one side appropriately assigning competences with achieving maximum simplicity on the other.
- ✚ **Delegation:** Whatever the structure, it is most critical to define clearly the division and ownership of tasks between MAs and IBs, and between different levels of IB (first and second tier) if such an implementation model is being followed. The definitive principle is that MAs are responsible for managing the programmes: they may delegate specific functions and tasks to IBs, while avoiding repetition of work. Ultimately, accountability always remains with the MA.
- ✚ **Coordination:** In some Member States, each fund has a single MA which is also responsible for coordinating the actions of IBs (if they exist); in others, there are several MAs per fund. In either scenario, some Member States have also elected to designate an overarching coordinating body, typically in the centre of Government, which has a supervisory role across all MAs and/or all of ESIF. This body usually acts as the main policy interface with the European Commission, for example in discussions about legislative/policy developments, future programming rounds, etc. Where this model is followed, Member States need to ensure that the coordinating body has sufficient powers and capacity to take up that role. That body needs to stimulate an on-going exchange of experience and know-how with/between Managing Authorities and, on that basis, work for the simplification of the processes and any national regulations that may impede implementation.
- ✚ **Continuity:** Member States may need to alter their implementation structures if ‘facts on the ground’ change. If competences are re-assigned across the administration in the day-to-day activities of government, a specific institution suffers from serious under-performance, or a working relationship between two or more institutions is not working, then adjusting the architecture may be unavoidable. Otherwise, any fundamental re-allocation of responsibilities should be carefully contemplated: it is important to weigh up the costs and time against the expected benefits to ESIF management. These costs are not just financial,

³⁶ See, for example, R. Michie and K. Granqvist (2012), *A balancing act: managing the programmes, closure and preparations for 2014-20*, Review of programme implementation, Spring - Autumn 2012, IQ-Net Review Paper, 31(1), European Policies Research Centre, University of Strathclyde; and S. Kah (2012), *Planning for the future while maintaining focus on spending. Review of programme implementation: Winter 2011 - Spring 2012*, IQ-Net Review Paper, 30(1), European Policies Research Centre, University of Strathclyde. http://www.eprc.strath.ac.uk/eprc/publications_Y_links.php

but potentially in productivity and effectiveness too. Any loss of institutional memory and/or individual expertise, which arise from the replacement of staff or introduction of new systems, can generate short-medium inefficiencies that might more than offset any longer-term performance gains.

8.3.2 Staffing

The recruitment, retention and development of competent staff for ESIF programming, management and implementation is a complex issue, particularly within the context of the broader administration. Some 20-25,000 full-time equivalent staff were involved in managing just ERDF and Cohesion Fund in the 2007-2013 programming period, at a total administrative cost (including external services, consultants and overheads) estimated at around €12.5 billion, 3-4% of total eligible expenditure.



To perform the wide range of ESIF management functions, Member States must ensure a **full complement of required personnel in place** in its MAs, IBs, CAs and AAs, capable *inter alia* of:

- ✚ Preparing strategies and programmes within the EU regulatory framework;
- ✚ Planning and overseeing implementation to maximise draw-down of EU co-financing (avoiding de-commitment) and maximising impact of ESIF on objectives and results;
- ✚ Marketing ESIF to potential beneficiaries, communicating with the public, and ensuring visibility guidelines are followed;
- ✚ Developing and operating procedures to ensure compliance with EU regulations and national rules;
- ✚ Generating, appraising and selecting projects in the full range of policy fields covered by the five Funds;
- ✚ Checking and processing payment claims from beneficiaries and to the Commission;
- ✚ Monitoring project and programme performance;
- ✚ Supervising the conduct and use of ex ante and interim evaluations;
- ✚ Developing and using ICT tools in support of programme management and operations;
- ✚ Managing the performance and integrity of the entire ESI Funds system, and maintaining high ethical standards.

EU competency framework for the management and implementation of ERDF and the Cohesion Fund

DG REGIO has published a study that developed a competency framework for efficient management and implementation of the European Regional Development Fund (ERDF) and the Cohesion Fund (CF). The global objective of the study was to produce concrete results and tools that will support further professionalisation of the management of these funds. The results should help Member States and regions to structure their administrations in an efficient way and identify gaps with regards to competencies and skills among their staff and thus define training and recruitment needs. The results can also be used for development of training modules at both national and European level on management of the ERDF and the Cohesion Fund.

The deliverables of the study are a set of practical tools that support human resources development:

- ✦ **A competency framework** covering institutions involved in the implementation of the ERDF and the Cohesion Fund. The competencies identified are not only based on the requirements in the regulatory framework, but also go beyond these to achieve efficient and effective implementation of the funds.
- ✦ **A competency self-assessment tool** which enables self-assessments by each member of staff of the competences required for their job profile, as well as an analysis at institution level yielded by aggregation of the individual assessments. The tool provides an important basis for both developing individual development plans and overarching human resources strategies for a whole organisation, which can be used for identifying and addressing competency gaps at individual and institutional level.
- ✦ **A blueprint for training** with the purpose to address competency gaps. Four training programmes are suggested for addressing different proficiency levels – with different learning methods suggested for each level. The blueprint is accompanied by an inventory of education and training programmes already available on the market as well as of existing knowledge exchange networks and platforms.
- ✦ **The results of a stock-taking exercise** in terms of the organisation of structures as an important base for the competency framework and the good practices in competency management in eight Member States.

The study can be found at: http://ec.europa.eu/regional_policy/en/information/publications/studies/2016/eu-competency-framework-for-the-management-and-implementation-of-the-erdf-and-the-cohesion-fund

In delivering all the responsibilities of ESIF implementation, Member States must also develop the necessary competences to comply with the specific EU rules, such as financial management and control, State aid and environmental legislation. Taken together, this demands well-developed **human resources management (HRM) for ESIF**, within the broader overall context of the public administration: leadership, recruitment, remuneration, staff training and development, etc. (see [theme 4](#) for more detail). The Commission's Sixth Cohesion Report sets out the challenges facing Member States in high staff turnover, and ensuring there are sufficient, appropriately qualified and experienced personnel, based on experience from the last programming round.

Performance in 2007-2013: human resources

Overall staff numbers vary widely between Managing Authorities, which differ too in the extent to which they rely on in-house as opposed to outside staff and whether there are dedicated or partially-dedicated personnel in specific roles (managing, certifying, auditing and implementing). Problems caused by simply not having enough appropriately qualified personnel can be long-term and systemic (as in Bulgaria or Romania, for example) or temporary (as in the case of auditing in Austria). High turnover of staff is a recurrent problem at all administrative levels, particularly in some EU-12 countries. In several countries, funding for technical assistance is used to pay salaries or even bonuses to strengthen specific functional areas (which has prompted the launching of a study by the Commission to clarify the situation). Spending the funding available is a necessary but not sufficient step for achieving a strong impact of Cohesion Policy. This also depends on what the funding is spent on, whether the projects concerned deliver value for money and whether there is general confidence that they will be completed. The skill and intent of the politicians and the national and regional authorities responsible for managing the funds are important here. The lack of skills can be overcome by training and hiring more staff, so long as the need to do so is recognised.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

Programmes that wish to invest more in innovation (see [topic 8.3.3](#)) may be at a disadvantage, as dealing with innovative actions requires a larger staff to spending ratio. As programmes become smaller due to more favourable socio-economic conditions, it also makes sense that they focus more on innovation. However, these conditions also mean that labour cost is generally higher. Programmes wanting to invest in innovation, hence needing to employ more and more expensive staff to manage the programme, to be paid from a decreased budget (due to technical assistance being a fixed percentage of a decreasing programme budget), should think carefully how to deal with this challenge. Extra funding from national sources may be required. Another option is to fund trusted intermediaries that can provide general innovation support, including to potential ESIF beneficiaries. An example of the latter would be to fund the setting up and running of an innovation lab such as Denmark's Mindlab (see [topic 1.1](#)), but then specifically dedicated to working with ESIF-financed projects.

High **staff turnover** can be especially toxic to ESIF management, as the specialist knowledge of relevant processes and procedures for EU funds implementation - which is built up on-the-job over time through 'learning by doing' - is lost, undermining institutional memory. Member States then must incur costs and time to recruit and develop replacements, who may themselves leave within a short time. All Member States use EU technical assistance to co-finance salaries, many also funding top-ups and/or bonuses. In some cases, higher remuneration *inter alia* has helped to reduce staff turnover (for example, Poland has seen rates fall from 20-25% at the start of the programming period, to less than 5%).

As well as ensuring that required staff is in place, and not subject to rapid turnover, Member States also need to build up **sufficient capacity in key skillsets**, especially analytical and programming capacity to develop and deliver results-oriented programmes. Public administrations need to strengthen their internal capacity. To support Member States in building their administrative capacity for the better management of the European Structural and Investment Funds, the Commission has developed a new peer-to-peer exchange tool, the [TAIEX-REGIO PEER 2 PEER](#).

TAIEX-REGIO PEER 2 PEER – a scheme for exchanging experience among cohesion policy practitioners

It all started with a needs analysis. In the beginning of 2014, a survey and a series of in-depth interviews were carried out asking EU Member States about their capacity building needs related to the management of the European Structural and Cohesion Funds. The outcome of this demand analysis was unequivocal. Approximately half of the respondents confirmed the need for further capacity building and nearly all of the respondents (90%!) thought that a new EU-level instrument facilitating peer-to-peer exchanges would be a valuable complement to the existing capacity building measures (e.g. training and consultancy).

Furthermore, the study revealed that certain types of institutions – namely, regional or sectoral managing authorities as well as intermediate bodies – have a particular interest in exchanges of expertise as they have less access to professional networks as compared to audit authorities or coordinating bodies. Another interesting point which came up due to the analysis was that institutions in all Member States saw themselves as both potential beneficiaries and providers of expertise.

Taking into consideration the results of the demand analysis, the Directorate-General for Regional and Urban Policy launched in March 2015 a pilot scheme called 'TAIEX-REGIO PEER 2 PEER' that would facilitate exchanges among public sector officials managing the ERDF and the CF in the EU Member States. The scheme finances exchanges that are of a short-term nature, geared towards the transfer of hands-on expertise and

good practice on concrete issues. Exchange can take form of a study visit, expert assignment or a workshop. Effort was made to set up a scheme that offers rapid assistance and spares users the bureaucratic and logistic hassles. The peer-to-peer exchange instrument also has in-built arrangements for quality assurance and evaluation. It makes use of the infrastructure and build on the experience of TAIEX (Technical Assistance and Information Exchange) which is a well-established instrument. All Member States are eligible to apply. The request can come from any institution performing management and control functions in relation to the ERDF or CF.

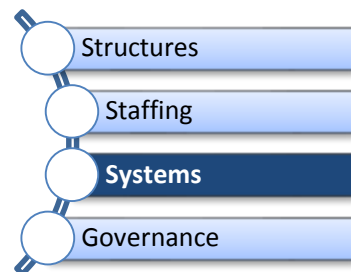
The results of the pilot phase of TAIEX-REGIO PEER 2 PEER were evaluated in June 2016 to determine the future of the instrument. The external evaluation, the direct feedback from about 100 implemented exchanges and discussions with Member States showed an overwhelming support for the continuation of the scheme, in the form as it was initially designed, with only a few technical improvements necessary at a more operational level. Against this background, it was decided to extend the implementation of TAIEX-REGIO PEER 2 PEER beyond the pilot phase. This scheme is currently foreseen to continue until the end of 2020.

For further information, please go to http://ec.europa.eu/regional_policy/en/policy/how/improving-investment/taix-regio-peer-2-peer or contact REGIO-PEER2PEER@ec.europa.eu

The Directorate-General for Regional and Urban Policy, in cooperation with other Commission services, developed a **strategic training programme** for the managing, certifying and audit authorities dealing with ERDF, ESF and CF, focusing on the key new elements in the EU cohesion policy legislative framework for 2014-2020. Four training modules were developed and organised in Brussels between 2014 and 2016: (1) programming and implementation, (2) financial management and control, (3) result-orientation, and (4) State aid in the management of ESIF.³⁷

8.3.3 Systems

As well as structures and staffing, public administrations must ensure that they have the systems, procedures and equipment to fulfil their ESIF management roles. They should make optimum use of eGovernment and social media to reduce the administrative burden on beneficiaries and to share data and improve transparency. Administrative performance in ESIF management, and hence the demands on Member State systems, can be grouped into five broad categories which correspond with phases of the programme cycle: programming (and programme adjustments); project preparation and selection; financial management and control; monitoring and reporting; evaluation³⁸.



³⁷ For more information and materials of these trainings, visit the webpage:

http://ec.europa.eu/regional_policy/en/information/legislation/guidance/training/

³⁸ J. Bachtler, C. Mendez, and H. Oraže (2013), *From Conditionality to Europeanization in Central and Eastern Europe: Administrative Performance and Capacity in Cohesion Policy*, European Planning Studies Special Issue: Spatial Planning in the Baltic States: Impacts of European Policies, Volume 22, Issue 4, 2014, pages 735-757.

Performance in 2007-2013: management systems

The adoption of modern management systems to provide incentives for good performance and to hold managers accountable for results is patchy. In some countries, systems to avoid conflicts of interest or prevent corrupt practices by public officials are weak. Computerised methods to improve efficiency and transparency in the use of EU funds are well developed in a number of countries, but almost non-existent in others. In general, financial monitoring and control systems function well, but those for monitoring outcomes and results work less well, though there are several examples of good practice which can be built on in the present programming period.

Systematic weaknesses in all aspects of public procurement are the single most common cause of the irregularities found during audit, resulting in suspension of payments and financial correction. Several Member States have demonstrated limited capacity to implement the Environmental Impact Assessment and Strategic Environmental Assessment Directives, as well as to apply State Aid rules correctly, with EU-12 countries usually requiring more support (which is also likely to be the case for Croatia in the new period). Frequent problems occur particularly in respect of railways, solid waste, wastewater, RTDI, ICT and financial instruments.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

Project preparation and selection is a key factor for the good performance during the programming period. MAs and their IBs must be able to attract and identify high quality project ideas in sufficient volumes to achieve the goals of disbursing ESIF monies and delivering results. With EUR billions in funding under their governance over the programme period, this is always a huge challenge for Member States' management. At the same time, there is no easy option of simply replacing existing domestic spending on existing priorities. Member States must demonstrate that ESIF are additional to planned levels of public or equivalent structural expenditure³⁹. In this light, ESIF projects can be said to fall into two main categories, based on practices identified by the Commission-financed Community of Practice on Results-Based Management (COP RBM)⁴⁰:

| Type | Role | Novel techniques to explore |
|------------------|---|--|
| Enhancers | ESI Funds enable Member States to extend existing activities beyond the constraints of available funding, and make incremental improvements. Hence, Member States can build on both established and new solutions, and do more of what works and seek to do it better . In this way, ESI Funds co-financing is an injection of extra capital, giving fresh impetus to good practice. | Output-based aid (OBA) ⁴¹ is a form of payment by results, which can also be used flexibly to co-finance upfront investment, depending on how results are defined (see following example). The technique requires that results / outcomes are measurable, achievement is proportional to the funding provided (value for money) and the model is appropriate to meeting the needs of the target group (so that providers are not using their discretion to simply 'cherry-pick' recipients to minimise cost). |

³⁹ See CPR Article 95 and Annex X regarding the principle of additionality and its application

⁴⁰ The Commission funded COP RBM for policy-makers and programme managers involved in the preparation, management, monitoring and evaluation of ESF programmes. A major output of the network is a source book on RBM to guide practitioners in developing their systems in this direction.

⁴¹ See also <http://www.gpoba.org/what-is-oba> for examples of OBA applied in a developing country context.

| | |
|---|--|
| <p>Innovators Being additional to national and local public expenditure (both public and private), ESIF offers the opportunity to be creative and test out new solutions to the challenges of sustainable economic and social cohesion, stimulating growth, jobs and inclusion, and improving public governance. In this way, ESIF co-financing is a form of risk capital, within the framework of sound financial and results-based management. Innovation can be applied at the level of individual public services or whole systems.</p> | <p>For individual public service innovation, Member States can search for solutions that involve providing new services and/or catering for newly conceptualised needs and contexts. One mechanism is to invite providers to develop solutions through public procurement of innovation. For ESF projects in the fields of employment, education, training, social inclusion and institutional capacity-building, the MA/IB could explore the techniques of human-centred design (HCD)⁴², which is a process that starts with the people for whom the intervention is designed and examines their needs, aspirations and behaviours, and then explores what is technically and organisationally feasible, and financially viable. Various approaches based on the “lean” philosophy described in theme 5 can be considered as variations of HCD.</p> |
| | <p>For system innovation, Member States can search for solutions which are not focused on one aspect of a problem, but instead look at all facets which combine to create certain results. This may involve innovation in discrete services, but it may also involve making better and more coordinated use of existing services and resources. Techniques such as outcome mapping⁴³ explores at a more strategic level how to achieve ‘changes in state’ (such as alleviating poverty, increasing start-ups in less prosperous regions, providing wastewater systems in remote communities) by acting on the behaviour of relevant stakeholders, including citizens, and the relationships between them. Within the more strategic platform of actors established by using outcome mapping, Human Centred Design approaches can be used to work on specific aspects.</p> |

Depending on which approach is most appropriate or favoured, Member States can experiment within the rules and employ new tools of project development and implementation, as the following example of applying output-based aid (OBA) in both theory and in practice (Czech Republic) illustrates.

However, it is of utmost importance to understand that project formulation, selection, management, monitoring and evaluation are radically different, depending on whether a programme seeks to enhance, to innovate in discrete services or to innovate systemically. This has consequences not only for the organisations that execute projects, but also within the programme management bodies, it is necessary to install different processes, organisation, culture, staff competences and systems. One cannot issue a call for systemic innovation in the same way that one calls for extra provision of existing services. One needs different skills and attitudes when supporting radical innovation, for example by involving NGOs and citizens in co-production, as compared to financing part of the regular services delivered by a public employment service. The COP RBM has described in detail in its [Sourcebook](#) the difference between the operating models for programme management

⁴² See <http://www.ideo.com/work/human-centered-design-toolkit/> For examples of HCD in the EU (United Kingdom), please see the Life Programme: <http://www.alifewewant.com/>

⁴³ See [COP RBM Sourcebook](#), pages 179-182, and <http://www.outcomemapping.ca/>

depending on whether a programme supports enhancing (enhancer role), discrete services innovation (innovator role) or systemic innovation (solutions management role).

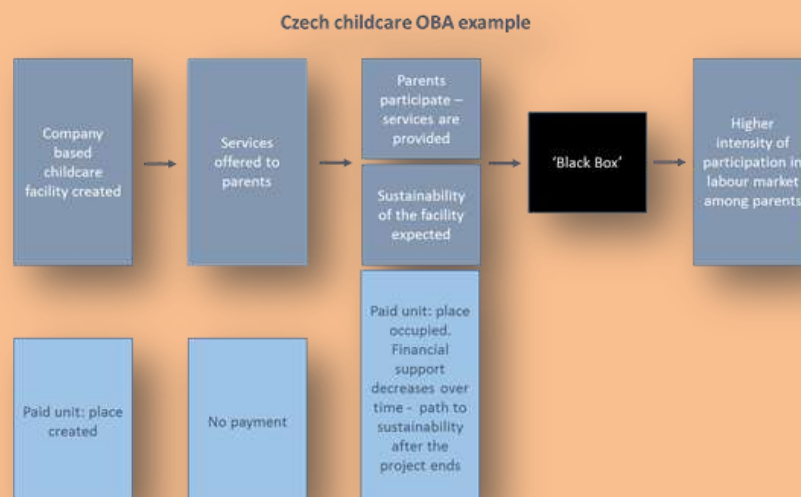
Using output-based aid in ESIF projects

Hypothetical problem: The employment rate in region X is well below 50%. The data shows that this is partly due to a large, inactive, working-age population. Research suggests that one major factor contributing to inactivity is the significant number of parent with young children who would like to return to the workforce but are held back by insufficient or inadequate childcare provision close to their homes or potential employers. Lack of capacity in public kindergartens have resulted in long waiting lists, and typically only children older than 4-5 years have been able to get a place. At the same time, private childcare services are available but not affordable, as the price per child per month was higher than 50% of the net median wage, meaning it was not very economically rational for parents of young children to work (the affordable price for most parents being at the level of 20% of net median wage).

Possible scenario: As demand outstrips supply, the regional MA (or IB, if project generation is a delegated task) could look to enhance local provision under their ESF operational programme by paying for additional places within existing facilities and/or encouraging local providers to establish extra facilities in new locations closer to residents' homes or their workplaces. They could consider the option of output-based aid (OBA), using ESIF to finance payment by result for each additional place which is taken up, and could also co-finance the upfront investment (e.g. creating new or larger facilities), if appropriate. The application of OBA would, of course, have to comply with EU, national and local legislation, including ESIF regulations, but also state aid rules, environmental laws, etc., and be subject to monitoring and its performance capable of being verified / audited, as normal.

Inspiring example: ESF support for employer-based childcare was implemented in the **Czech Republic** using the OBA approach, with an initial payment linked to input (for each place created within 4 months of the start of the scheme), after which only occupied places were subsidised: by 100% for the first 6 months of the facility's operation, by 75% for the next six months, and by 50% for the last six months (after which the facility is assumed to be financially viable by a combination of charging users, newly introduced tax deduction and employer support). Verification will focus on: quantity of attained units; compliance with the requirements for quality of the facility (e.g. the educational requirements for caregivers, eligibility of the target groups, etc.); and compliance with the rules for public procurement and the rules for state aid.

The figure shows that it is still unclear whether the provision of these services (if the OBA is a success) will actually lead to more participation in the labour market of the family of the children ('black box' in the figure). While evaluation will have to be done to research this further, the preliminary results indicate that one occupied place in the childcare creates 0.25 full-time equivalents (FTE) in higher intensity of parents' participation on the labour market.



Source: Based on COP RBM Sourcebook (op. cit.)

The ESIF regulations provide a permissive environment for creativity in generating innovative operations⁴⁴, within clear **parameters**. During OP implementation, all selected projects must fall within the scope of the ESI Fund concerned, and in particular, the priority and measure of the relevant programme, the financing plan, the time limit for execution, the minimum and/or maximum size of the project (if specified), and the eligibility criteria:

Parameters for eligible operations under ESIF

- ✚ **Time period:** there are limits on the period during which operations and expenditure can take place;
- ✚ **Scope of intervention:** there are restrictions on the types of activities that can be co-financed from the different ESI Funds;
- ✚ **Cost categories:** certain cost categories within eligible operations are excluded;
- ✚ **Geographical location of operations:** only certain areas are eligible for specific types of programmes or activities;
- ✚ **Durability of operations:** investments may have to be maintained for a minimum period after completion of the operation (does not apply to ESF);
- ✚ **Types of beneficiaries:** only certain enterprises, bodies or economic actors are eligible for support under given measures.

DG REGIO promotes good practices in regional development, and highlights **original and innovative projects** which could be attractive and inspiring to other regions, through the [RegioStars awards](#), which have been organised annually since 2008.

Project development and evaluation are self-evidently the most critical phases of ESIF implementation, as they determine the extent to which the Member State is able to make full use of EU and national co-financing, achieve the strategic goals elaborated in their programme documents, and create the desired long-term results. Selecting well-designed projects with well-prepared beneficiaries also helps to reduce irregularities during contract implementation.

The value of selecting good projects is clear in all ESI Funds and under all thematic objectives. It is hard to generalise about project preparation and selection across the broad spectrum of ESI policy, covering operations as diverse as multi-million EUR infrastructure projects, small grants to NGOs to deliver locally-based social services, university-enterprise R&D initiatives, the development of rural communities, functional analysis for administrative capacity-building, etc. But while the scope for imaginative solutions to the full breadth of policy challenges is limitless, the underlying process is common across all ESI Funds: it is the MA's responsibility to draw up and – after approval by the monitoring committee⁴⁵ - apply the appropriate **procedures for selecting operations**, in accordance with CPR Article 125. These selection procedures also provide the basis for guiding applicants, so that their proposed operations are well-crafted. MAs can assist beneficiaries through technical assistance (TA) under the relevant programme, if ESIF financing has been allocated for this purpose.

⁴⁴ According to CPR Article 2, 'operation' is defined as a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities; in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments.

⁴⁵ See CPR Article 110

The support can take the form of grants, prizes, repayable assistance and financial instruments, or a combination of these (Art. 66, CPR). Furthermore, the choice of **operation modalities** for converting ideas into operations under ESIF regulations⁴⁶ for 2014-2020 is finite, namely:

- ✚ Supporting individual projects selected through **calls for proposals** or grant schemes⁴⁷, managed by intermediate bodies. The projects can be on a time-limited or rolling basis, with project applications being assessed against selection criteria on a competitive basis;
- ✚ Committing additional expenditure to **existing or new public programmes** by national authorities (to enhance provision or to innovate);
- ✚ Financing large infrastructure investments through **major projects**, as approved by the Commission, following selection by national authorities;⁴⁸
- ✚ Financing **integrated territorial investments**, as approved by the Commission and implemented by designated IBs;⁴⁹
- ✚ Financing **joint action plans**, as approved by the Commission and implemented by approved beneficiaries;⁵⁰
- ✚ Financing **community-led local development strategies**, as selected by a committee established by the Member State or MA, and implemented by approved local action groups;⁵¹
- ✚ Contributing to **financial instruments** (repayable support for investment through loans, guarantees, equity and other risk-bearing instruments), including funds of funds;⁵² and
- ✚ Financing **salary costs** under TA programmes and priorities.⁵³

In particular, the 2014-2020 regulatory framework contains several modalities which enable MAs, IBs and beneficiaries to pursue **integrated approaches** to territorial cohesion.

⁴⁶ Operations must conform with both the CPR and the relevant Fund-specific rules. *Inter alia*, all operations that are co-financed with ESIF must be eligible, in terms of activity, location, timescale and other criteria, fall under a specific priority and measure, and be subject to the relevant expenditure ceilings in the programme's financing plan.

⁴⁷ See CPR Article 123 (7)

⁴⁸ See CPR Articles 100-103

⁴⁹ CPR, Article 36; ERDF Regulation, Article 7; ESF Regulation, Article 12

⁵⁰ CPR, Articles 105-109

⁵¹ CPR, Articles 32-35; ESF Regulation, Article 12; see also EAFDR Regulation, Articles 42-44 regarding LEADER; EMFF Regulation, Article 18

⁵² CPR, Articles 37-46 and Annex IV

⁵³ See CPR Articles 58-59

Integrated approaches to achieving ESI Funds programme objectives

Integrated territorial investment (ITI)

Actions may be carried out as an ITI where an urban development strategy or other territorial strategy, or a territorial pact under the ESF Regulation, requires an integrated approach involving investments from the ESF, ERDF or Cohesion Fund under more than one priority axis of one or more OPs. Actions carried out as an ITI may be complemented with financial support from the EAFRD or the EMFF. Whichever co-financing sources are used from one or more of the five ESI Funds to support the ITI, the relevant programmes shall describe the approach to the use of the ITI instrument (ERDF, ESF and Cohesion Fund) and the indicative financial allocation (all) in accordance with the Fund-specific rules. The Member State or MA may designate one or more IBs, including local authorities, regional development bodies or non-governmental organisations, to carry out the management and implementation of an ITI in accordance with the Fund-specific rules, and shall ensure that the programme monitoring system provides for the identification of operations and outputs of a priority contributing to an ITI.

Joint action plan (JAP)

A JAP is a project or group of projects to be carried out by a beneficiary, to contribute to the objectives of the OP, based on jointly agreed milestones, outputs and results. The Member State, MA or any designated public law body may submit a proposal to the Commission for approval of a JAP at the same time as, or subsequent to, the submission of the OPs concerned. A JAP should contain, *inter alia*:

- ✚ Analysis of the development needs and objectives justifying the JAP, taking account of the objectives of the OPs and, where applicable, the relevant country-specific recommendations;
- ✚ The framework describing the relationship between the JAP's objectives, milestones, and targets for outputs and results, and the projects or types of projects envisaged;
- ✚ Information on its geographic coverage, target groups, and expected implementation period;
- ✚ Implementing provisions, including the responsible beneficiary, with guarantees of its competence in the domain concerned, and its administrative and financial management capacity;
- ✚ Arrangements for steering, monitoring and evaluating the JAP;
- ✚ Its financial arrangements, including financing plan, the costs of achieving milestones, outputs & result targets, indicative schedule of payments to the beneficiary linked to these milestones & targets.

Provided that any observations have been adequately taken into account, the Commission shall adopt a decision, by means of an implementing act, approving the JAP. The Member State or MA shall set up a steering committee for the JAP, distinct from the monitoring committee of the relevant OPs. Requests for amendment of JAPs submitted by a Member State to the Commission shall be duly substantiated. Payments to the beneficiary of a joint action plan shall be treated as lump sums or standard scales of unit costs.

Community-led local development (CLLD)

CLLD is supported by the EAFRD, which shall be designated as LEADER local development, and may be supported by the ERDF, ESF or EMFF. It is a bottom-up approach which is:

- ✚ Focused on specific sub-regional areas (between 10,000 and 150,000 inhabitants);
- ✚ Led by local action groups composed of representatives of public and private local socio-economic interests;
- ✚ Carried out through integrated and multi-sectoral area-based local development strategies;
- ✚ Designed taking into consideration local needs and potential and shall include innovative features in the local context, networking and, where appropriate, cooperation.

A CLLD strategy must contain, *inter alia*, a hierarchy of objectives, a plan demonstrating how these objectives will be translated into actions, and measurable targets for outputs or results, expressed in quantitative or qualitative terms (see CPR Article 33 for further details). CLLD strategies are selected by a committee set up by the MA (or by authorities approved by the MA). The local action group is responsible for drawing up a non-

discriminatory and transparent selection procedure and objective criteria for selecting operations that avoids conflicts of interest, and preparing and publishing calls for proposals or an ongoing project submission procedure, including defining selection criteria.

As the integrated approaches suggest, each of the modalities has its own rationale and rules⁵⁴. Irrespective of the modality's *modus operandi*, MAs / IBs should normally satisfy themselves on the operation's suitability against the following **eight sets of selection criteria**, some of which may not be applicable to specific modalities. For public procurement, for example, the process for 'proposed operations' (tenders) is governed by national procurement law, in accordance with EU directives.

| Criteria | Key questions | Comment |
|-------------------------------------|---|---|
| 1. Correctness | <ul style="list-style-type: none"> ✚ Does the proposed operation satisfy all the requirements and conditions in the instructions to beneficiaries? ✚ Does it contain all necessary supporting documentation, accurately completed? | If the proposed operation (whether proposal, tender, major project, JAP, etc.) has missing or materially incorrect information, it should be rejected, or at least returned to the beneficiary for re-work and re-submission, if allowed. |
| 2. Eligibility | <ul style="list-style-type: none"> ✚ Does the proposed operation comply with all the mandatory criteria, regarding eligible location, activities and expenditure? ✚ Does the operation fall under state aid rules? | If the operation fails to fulfil any of the eligibility criteria, or may breach state aid rules, it should be rejected, or at least returned to the beneficiary to see if a workable operation can be salvaged, if the underlying concept is sound (in the case of a possible state aid, this may involve notification, for example). |
| 3. Relevance (strategic fit) | <ul style="list-style-type: none"> ✚ Is the proposed operation fully compatible with the programme's objectives at priority and measure levels? ✚ Does the operation contribute towards the promotion of gender equality, non-discrimination and sustainable development (or at least not breach these principles)? | Every operation must be attributable to a 'category of intervention' (according to the CPR) or measure. If the proposal is not able to contribute to the agreed objectives in the programme document and/or the principles of CPR articles 7 and 8, it is not suitable for funding. |
| 4. Quality | <ul style="list-style-type: none"> ✚ To what extent does the proposed operation expect to contribute to the objectives and results at measure level? Is there evidence that the operation will add more value than alternative operations? ✚ To what extent will the operation offer value for money, either by achieving the same results as an alternative operation but with fewer resources (funds, expertise, time etc.), or better results with the same resources? ✚ Is there evidence of ownership of the project, its proposed activities and expected results by the potential beneficiary and relevant stakeholders? ✚ Assuming the operation is completed and the objectives are attained, is there a realistic plan to ensure the benefits continue beyond the project's timespan? | These questions are designed to assess the operation's quality, with performance against alternative uses of finite ESI co-financing, by examining effectiveness, efficiency, impact and sustainability. The appraisal of quality relies on robust information from the beneficiary. This means the MA / IB must provide clear and comprehensive instructions. The MA/IB might also wish to provide follow-up guidance and support, without compromising the integrity of the appraisal process (equal and fair treatment for all prospective beneficiaries). Once again, for more innovative projects, concepts like objectives and results, added value, value for money should be conceptualised appropriately. Obviously, solutions that have not yet been developed cannot be compared to existing alternatives. Nor can results be clearly defined yet. These parameters are meant to be established throughout the innovative project. At the start, only clear learning objectives can be established. It should also be clear that equal and fair treatment does not imply that no contacts should |

⁵⁴ These rules are either explicit (specifically laid down for the modality in the CPR or specific Fund regulations, as indicated in the preceding footnotes), or implicit (based on the CPR's general rules for selecting and implementing operations, or other EU or national legislation, for example governing public procurement and state aid).

| Criteria | Key questions | Comment |
|------------------------|---|---|
| | | occur between applicants and programme managers. On the contrary, being able to see the team and discuss with them is crucial in determining whether to fund an innovative project or not. |
| 5. Completeness | <ul style="list-style-type: none"> ✚ Are there any elements which are either missing or conditional on external factors outside the control of the beneficiary, which would prevent the operation from delivering its desired results? | The mantra is that EU funds should not support 'half a bridge'. If the proposed operation is incomplete (e.g. a wastewater treatment plant not connected to sewage collection systems) or conditional (e.g. training activities that depend on constructing a training facility using other national or ESI funds), and the plan for complimentary elements is not convincing, then the proposal should be rejected or returned for resubmission. However, for innovative projects that have a developmental aspect - meaning that the whole idea is to find out exactly what is needed e.g. by rapid prototyping - completeness should be interpreted appropriately. It is sufficient to have the right highly motivated multi-disciplinary team in place and a plan where/how to start the search for better solutions. One should not ask what the solution will be before the project that intends to search for it has actually started. |
| 6. Capacity | <ul style="list-style-type: none"> ✚ Does the beneficiary have the technical, financial and operational capacity, and if relevant, the legal authority to implement the operation within the budget and time-limit for execution? | If the appraisal shows that the beneficiary lacks the resources or powers to implement the operation, then the operation should be rejected. |
| 7. Risk | <ul style="list-style-type: none"> ✚ Is the plan, budget and timetable for implementing the operation realistic, and will it fall within the required timescale to avoid de-commitment? ✚ Is there any evidence that the beneficiary has been involved in previous wrong-doing (corruption, fraud or other criminal acts)? ✚ What is the assessment of the probability the operation will attain the expected results? ✚ Is there a plan in place to reduce the likelihood of these risks occurring, and to mitigate their effects if they arise? | The risk factors and any mitigating actions should be taken into account, in one of two ways. If they are sufficiently serious (critical risk), such as evidence of wrong-doing, the operation or individual project should be rejected. If the risks are rated as moderate or high (on probability and effect), they may be used to qualify the interpretation of the operation's quality. Once again, for innovative projects, risk in terms of probability of results and realistic plans, budgets and timetables should be viewed differently. Innovation is meant to be risky. This is however why close follow-up of innovation projects is required and an appropriate funding pattern, where smaller amounts are committed in the earlier stages, to be increased as a project progresses and learns more about what may (not) work. This process is itself a risk mitigation mechanism. |
| 8. Financing | <ul style="list-style-type: none"> ✚ Is the necessary national contribution available (if applicable) to match the EU co-financing and meet 100% of costs? ✚ Is the operation 'additional' – meaning it would not have been financed otherwise? ✚ Is there any evidence of 'double-funding'? | In making the case for the operation, the beneficiary needs to identify their co-financing (if this is required) and provide guarantees that the operation is not already being financed by other national, ESI or IFI sources, or in the case of operations which are financed out of domestic public expenditure, this is over and above previously planned levels. |

The Managing Authority's **methodology** for project appraisal must be approved by the monitoring committee alongside the selection criteria. Typically, this will involve the MA / IB forming an

appraisal committee with appropriate expertise (which may involve in-house and/or external staff) and written procedures. The application of the criteria tends to fall into two groups:

- ✚ **Hurdles:** Criteria 1 and 2 require simple ‘yes/no’ decisions. If the operation gets over the ‘yes’ hurdle in each case, it can go forward to be assessed for its relevance, quality, etc. Depending on national policy, traditions and laws, and the specific circumstances around the criteria, the MA/IB may wish to refer rejected operations back to prospective beneficiaries and give them opportunities to correct or improve their proposals and to re-submit them in the current or subsequent rounds.
- ✚ **Thresholds:** Assuming operations are not pre-selected, such as public programmes or staff costs, criteria 3 onwards is typically applied using a scoring system. Every operation is awarded a score against each individual criterion in the methodology; the scores are added, sometimes with weights applied to individual criteria to give them extra significance; and the operations ranked in descending order. The top-rated projects are then selected first, going down the list until the total projected co-financing, based on summing the expected values of each operation, reaches the available budget threshold. The MA may also determine that the operation must pass a minimum quality threshold to be accepted for funding - either as an additional or alternative process to the scoring process - in which case it is possible that no operations are chosen. If the risks are found to be moderate, criteria 8 either could be built into the scoring system alongside quality criteria, or may be used as a qualifying factor to weight the total scores downwards.

The methodology for applying criteria can be organised in a **single process or over several rounds** to filter out ineligible or poor quality proposals to use limited ESI funding. For example, the MA / IB or its appraisal committee may perform administrative screening first against the hurdle criteria, followed by a scoring session later for the threshold criteria.

The **results-orientation** in the 2014-20 programme period affects project selection, as every priority is judged by the aggregate achievement of performance indicators, expressed as targets, across all co-financed operations. Potential beneficiaries need to express how they plan to contribute towards achievement of measure-level targets with their proposed operations. The European Policies Research Centre (EPRC) at the University of Strathclyde has conducted research on results-oriented approaches with [IQ-Net](#), a network of 15 programme authorities from 13 Member States, summarised below. (Other IQ-Net research reports are available [here](#)).

Results-oriented approaches to generating & selecting projects

Some Member State authorities have started providing guidance on results-orientation, specifically with a view to inform those involved in generating and appraising projects. There are examples of programme authorities who fundamentally reviewed the approach taken to developing projects. While results-orientation may be easier to achieve for some types of projects than for others, there is a widespread view that more strategic and integrated interventions will promote the focus on results. Models for project generation and selection vary in terms of their selectivity and degree of targeting, their timing - with more or less flexibility to adapt during the period - and the burden involved in preparing and managing them. Most leave it to applicants to justify the project’s contribution to programme objectives, but it is also possible to predetermine calls to look for specific solutions or pre-defined outputs. Across the board, appraisal and selection procedures are being

adapted to increase the focus on results and make them more selective. In addition, cost considerations receive greater attention to improve understanding of project deliverables.

Given the uncertainties surrounding the concept of results-orientation, it is very important to make sure that other bodies involved in programme delivery, as well as beneficiaries, are aware of what is required and are equipped for applying it in practice. The role of intermediate bodies and other responsible organisations is crucial, especially if they are in charge of identifying projects that contribute to integrated local/regional development strategies. To retain control at the level of the managing authority, some partners consider making funding conditional on anticipated or actual achievements.

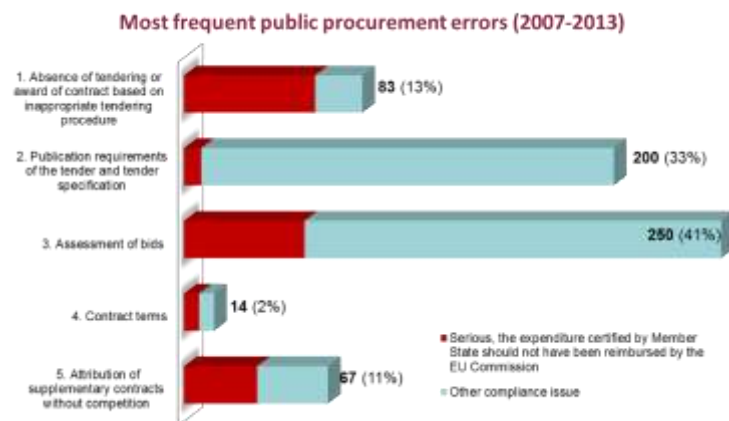
Beneficiaries see expectations increase in response to the results-orientation agenda with a greater focus on anticipated achievements from the application stage. Although in many cases requirements were already in place, these will be more strictly enforced in 2014-20. A number of programmes require applicants to define causal chains and applications will need to be more detailed. The overall burden on beneficiaries is expected to rise with higher demands linked to an increase in the number and complexity of indicators, which will be particularly challenging for new applicants. Pressure on applicants may increase, further linked to plans by some IQ-Net partners to make greater use of sanctions based on payment by results, or by withdrawing funds or deselecting operations if initial commitments are not met. There is general awareness of support needs among applicants, and different types of guidance are provided by IQ-Net partners to support them during project application.

Source: F. Gross and L. Polverari (2014), "[Project generation and selection in Cohesion policy in 2014-20: between results-orientation and micro-management](#)", IQ-Net Thematic Paper 34(2), European Policies Research Centre

Regarding the principle of sound financial management in the ESI regulations, every entity involved in managing EU funds is legally obliged to prevent **irregularities**⁵⁵ affecting the EU budget and to ensure that the budget is spent in conformity with ESI Funds and other relevant legislation. Depending on the seriousness of the error, evidence of systemic irregularities can lead to financial

corrections of up to 100% of the allocated EU co-financing, which can potentially create severe problems for domestic budgets that must make up the shortfall on incurred costs. More than half of the observed ERDF irregularities across the EU are related to public procurement (further broken down in the graph, according to data from the European Court of Auditors), the next most important sources being eligibility rules and State aid. The vast majority of these cases involve "irregularities of an administrative nature" that are normally detected in the course of management verifications.

For this reason, the Commission Services responsible for ESI Funds (namely, DG REGIO, DG EMPL, DG AGRI and DG MARE), along with DG GROW that has the lead competence in the context of the single



⁵⁵ Council Regulation (EC) No 2988/955 defines irregularity as: "any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure".

market, have formed a joint Working Group for **public procurement** with the EIB, and have agreed a Public Procurement Action Plan to improve policy effectiveness and reduce error rates. Under this framework, DG REGIO and DG GROW cooperate on country-specific Action Plans for Member States that are struggling most with implementing procurement rules. The Working Group has published a practical [guidance for public procurement practitioners](#) on how to avoid the most common errors and serious irregularities, by capturing lessons from audits performed over many years that examined how procurement rules have been applied in practice. The guidance is designed to assist procurement practitioners in public administrations at national, regional and local levels and different levels of local and national public administrations or utilities running public tenders involving EU funds. It highlights where mistakes commonly occur and what can be done to avoid them, particularly the critical role of pre-procurement planning. The guidance should also be of assistance to ESI Fund Managing Authorities with front line responsibility for verifying that public procurement rules are complied with in all EU co-financed projects. DG REGIO has also published a [study of administrative capacity, systems and practices for public procurement](#) across the EU involving ESI Funds, to ensure its compliance and quality, which includes specific recommendations to the European Commission and Member States.

The Commission Services responsible for ERDF/Cohesion Fund and competition policy (DG REGIO and DG COMP) have agreed on a Common Action Plan on strengthening the administrative capacity of the ESIF bodies in the field of **State aid**. The goal of this initiative is to take a preventive and proactive approach reducing potential irregularities and error rates linked to application of State aid rules during the 2014-2020 programming period. This is done through a set of various actions focusing on awareness raising, training relevant actors and building administrative capacity of bodies managing ESI Funds both at the national and local levels, to reduce the risk of irregularities. All activities will build on the existing network of national State aid specialists.

Many Member States **outsource tasks to consultants**, especially evaluations, but also studies, programme preparation, help with project development, project appraisal, information and communication, ICT development and maintenance etc. Consultants can make a valuable contribution to ESI Funds management and implementation, especially when they fulfil one or more of the following roles:

- ✚ **Capacity:** Consultants can be useful as ‘extra hands’ to cope with fluctuations in workload, especially when it would not be appropriate or feasible to increase in-house staffing in the short term, during peaks of activity.
- ✚ **Expertise:** There are some fields of knowledge which are specialised and where it is not viable to maintain a permanent in-house presence. By accessing external advice, the administration can also capture the consultant’s exposure to comparable situations elsewhere.
- ✚ **Objectivity:** In some areas, it is beneficial or essential to delegate the task to an outside body with an independent perspective that has not been directly involved in any of the administrative operations or decisions - the prime example being evaluations and audits.

However, there are many incidences where MAs, IBs and other bodies have become over-reliant on consultants, including outsourcing core competences. The danger is that the benefits of capacity-building, especially learning-by-doing, accrue only to the consultancy, and are not felt by the public administration itself. The risk is that the MA or other body begins to build an unhealthy relationship of dependence on external consultants, which becomes increasingly hard to break, as the in-house knowledge and skills are under-cooked. The following **practical tips** on how to get the most from working with consultants are offered in this context:

- ✚ Make sure the consultant has an **unambiguous specification** (terms of reference), so that there is no confusion about the expectations from both parties, including a clear division of responsibilities (for example, decide whether all communications by the consultant with other bodies, such as other ministries, beneficiaries or media, should be channelled through the client, or bilateral contacts are acceptable and the client only kept informed).
- ✚ At the same time, leave some **flexibility** in the terms of reference (ToR) and hence contract for the consultant to bring in their own know-how and experience, especially as not every eventuality can be foreseen and discretion will need to be exercised (don't over-specify every single activity and output over the life of the contract). Take advantage of the consultant's distance from the administration's day-to-day functions (objectivity) and their insights into practices from elsewhere.
- ✚ Don't see consultancy as a 'black box', operating independently from the client and delivering outputs on completion. Work closely with the consultant, so that the public administration is not only a passive recipient of the outputs, but also an **active participant** in the development process. Clearly, the level of engagement will depend on the nature of the assignment, but even research studies, evaluations and ICT development can involve an element of learning in parallel with the activity itself (which should be specified in the ToR and contract).
- ✚ Before going out to tender, make sure you are ready for the assignment. By necessity, the bidding process focuses on the applicant's suitability, but equally important is that the client has **ownership** (the administration is fully committed to the assignment's success) and the **resources to 'absorb'** the consultancy - both the inputs (time needed to meet and work with the consultant) and the outputs.
- ✚ Don't lose sight of the **buyer-supplier relationship**. The consultant has been hired by the administration to provide a service. While it is important for the consultant to advise as to what is possible, and the client should be reasonable and of course ethical in their expectations from the consultant (within the scope and resources of the assignment), the client is ultimately in charge and decides what they are buying. Administrations should resist being 'sold' something that they didn't want in the first place, for example standardised solutions that might have worked well elsewhere but are not suitable for the present circumstances. Ensure consultants customise their solutions to the current conditions.

As already noted ([theme 2](#) and [topic 8.2](#)), public procurement is also prone to **conflicts of interest, corruption and fraud**, as is project selection and contract management - both implementation and verification of the operations, and certification and payment. While just a fraction of irregularities is intentional and hence related to corruption or fraud (the fraud rate in cohesion policy is estimated at around 0.4% of yearly payments), this is partly because fraud requires a greater burden of proof than erroneous behaviour (fraud being effectively ‘irregularities with intent’⁵⁶). Even though the impact on the cohesion policy budget is relatively small, the reputational risk is far greater, and hence the Commission places a strong emphasis on MAs putting in place effective and proportionate anti-fraud measures, as the new framework makes clear⁵⁷. The AA must verify the MA’s compliance.

Training and guidance is being developed and provided by the Commission to Member States to strengthen their capacity to prevent fraud and corruption in the European Structural and Investment Funds. For example, a [Guidance Note on Fraud Risk Assessment and Effective & Proportionate Anti-Fraud Measures](#) has been developed.⁵⁸ The Guidance incorporates:

- ✚ A fraud risk self-assessment tool, together with detailed instructions, to assess the impact and likelihood of common fraud risks occurring;
- ✚ A list of recommended mitigating controls which could help further reduce any remaining risks, not yet effectively addressed by current controls;
- ✚ A voluntary template for an anti-fraud policy statement; and
- ✚ Guidance and checklists for the AA’s verification of the MA’s work in the context of the AA’s systems audits.

Following systemic risk assessment and mitigating controls, MAs should address specific situations which may arise at the level of implementation of operations by further developing specific fraud indicators (‘red flags’) and by ensuring effective cooperation and coordination between the MA, AA and investigative bodies.

Preventative measures cannot provide absolute protection against fraud and so the MA also needs analytical techniques to detect fraudulent behaviour in a timely manner, such as data mining that highlights anomalies. In this light, DG EMPL has commissioned the ARACHNE risk scoring tool, which is available to Member States to strengthen their efforts by identifying the riskiest projects, beneficiaries and contracts/contractors that are potentially vulnerable to errors and fraud, acting to both prevent and detect.

ARACHNE Risk scoring tool

Project ARACHNE aims at providing the Member State authorities involved in management of the Structural Funds with an operational tool to identify their most risky projects. The objectives are:

⁵⁶ The Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the protection of the European Communities' financial interests defines fraud, in respect of expenditure, as any intentional act or omission relating to: “the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of the European Communities; non-disclosure of information in violation of a specific obligation, with the same effect; the misapplication of such funds for purposes other than those for which they were originally granted.”

⁵⁷ CPR Regulation, Article 125 (4)(c)

⁵⁸ The guidance note and its annexes are available at: <https://ec.europa.eu/sfc/en/2014/anti-fraud>

- ✚ To support the management and control systems of the OPs, to lower the error rate and strengthen fraud prevention and detection; and
- ✚ To facilitate the continuous monitoring / overview of the internal and external data regarding projects, beneficiaries and contracts/contractors.

ARACHNE is based on a set of risk indicators and alerts, customised to the nature of OP expenditures, and using some key (internal) data of the projects, enriched with publicly available information (external data). In view of limited resources and multiplicity of operations, key actors and systems, ARACHNE promotes the use of a risk-based approach in the verifications of the projects with the focus on the most risky, complements the risk assessment with regard to fraud alerts and irregularities, identifies possible irregular circumstances continuously on the basis of predefined risk criteria, and builds an overall better defence against fraud and errors. ARACHNE employs seven risk categories:

| Risk category | Description |
|-----------------------------|---|
| Procurement | Risk indicators on the procurement process |
| Contract management | Assessment of contract management aspects of the project and comparison to the peer group |
| Eligibility | Verification of the eligibility period and existence of contractors and subcontractors |
| Performance | Assessment of the coherence of activity sector ratios with the benchmark values |
| Concentration | Cross-project and cross-OP checks |
| Other checks | Basic checks on logicity and reasonability of project data |
| Reputational & fraud alerts | <ul style="list-style-type: none"> ✚ Overall <u>financial</u> performance of beneficiaries, contractors / suppliers and sub-contractors, based on financial reporting data ✚ Existence of <u>relationships</u> between beneficiaries and contractors / suppliers or sub-contractors and their respective personnel ✚ Involvement in activities (such as bankruptcies) that could possibly result in <u>reputational</u> damages ✚ Identification of beneficiaries, contractors/suppliers, subcontractors or their respective personnel, blacklisted or appearing in any type of <u>sanction</u> list ✚ Any type of <u>changes</u> to the company structure |

Examples of risk indicators and alerts include:

- ✚ Procurement: lead time between publication of the tender notice and contract signature; number of disqualified tender offers / number of tender offers received
- ✚ Contract management: contract addenda cost (total) for the project / project cost; number of consortium partners
- ✚ Eligibility: project costs outside eligibility period - before start date / after end date
- ✚ Performance: number of people trained / number of people to be trained; project total cost / length in km per project (per type of road)
- ✚ Concentration: beneficiaries involved in multiple projects; project partners involved in multiple projects; consortium members linked to multiple projects; sub-contractors linked to multiple projects
- ✚ Other checks: EC assistance / total project cost; fixed assets / project cost

Examples of reputation and fraud alerts include:

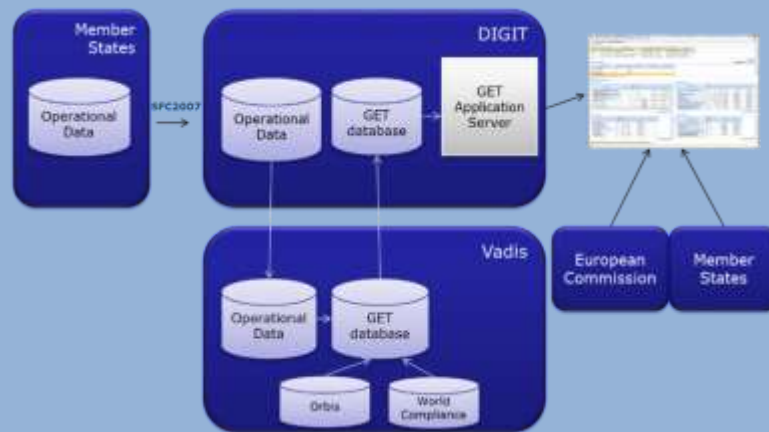
- ✚ Financial: high or deteriorating propensity to bankruptcy
- ✚ Relationship: links between beneficiaries/project partners and contractors/suppliers
- ✚ Reputation: involvement of directors / shareholders with bankruptcies; involvement of directors / shareholders from sensitive regions
- ✚ Sanction alerts: involvement of individuals included in PEP list; involvement of individuals / entities included in sanction lists
- ✚ Change alerts: high rotation of directors; activity changes

Internal data is uploaded from Member States and enriched with external data from Orbis and World Compliance, to calculate a risk score:

- ✚ Orbis holds information on approximately 100 million companies worldwide (financial data, addresses, people (directors, contacts, etc.), and key indicators, such as credibility and bankruptcy)

and a similar number of individuals (first name, last name, age, number of affinities, number of companies and role in company). The data is collected from publicly available information such as official annual reports or balance sheets submitted to regulatory bodies. The level of detail available in the database varies by country and company size.

- World Compliance collects, aggregates and centralises the following lists: ‘politically exposed persons’ (PEPs); sanctions (EU Terrorism List, ICE List, CBI List, etc.); enforcement (narcotic & human traffickers, money launderers, fraudsters and other criminals, etc.); and adverse media (company or person that have been linked to illicit activities by news sources). The data is received from regulatory and governmental authorities (except for the adverse media list). Information from World Compliance is only accessible through the Arachne alert details; in other words, it won’t be possible for a user to explicitly retrieve this information for a given company or person.



The output from ARACHNE is visualised in dashboards of high risk beneficiaries, projects, contractors and contracts, with drill-down functionalities, visualisation of links between entities/individuals, and scenario analysis. There are various options to export data, the ability to manage cases and to feedback information.

For further information: EC-ARACHNE-INFO@ec.europa.eu

Regarding training activities, a series of seminars were organised in Brussels and some 12 Member States, focusing on hands-on tools for dealing with the risks of fraud and corruption. These events were organised in close co-operation with Transparency International and local non-governmental organisations active in the field. During these seminars, a separate workshop was dedicated to promoting the role of civil society in monitoring the use of the Funds.⁵⁹

DG REGIO is also funding a [project](#) exploring the use of **integrity pacts** as civil society control mechanisms for safeguarding EU funds against fraud and corruption, and as a tool to increase transparency and accountability. An Integrity Pact (IP) is an agreement between a contracting authority and companies bidding for a public contract to abstain from corrupt practices. An external monitor – a civil society organisation - monitors that the entire process from tendering to implementation is transparent and credible. The IP instrument has been used across the world for several decades, but so far there has been little experience with it in the EU. Through this initiative which runs until 2019, DG REGIO will support the piloting of IPs for 17 projects co-financed by EU Structural and Cohesion Funds in 11 Member States. The project aims to explore and promote the

⁵⁹ Presentations from these seminars are available online at: http://ec.europa.eu/regional_policy/en/conferences/anticorruption/

use of IPs which will enhance trust in the contracting process, contribute to a good reputation of contracting authorities, bring cost savings and improve competition through better procurement.

Member States can also benefit from the [HERCULES III programme](#), managed by OLAF, which helps to fund technical assistance (including equipment), training (including, judicial, legal, and digital forensic training), and the exchange of best practice in preventing and combating corruption, fraud and any other illegal activities that affect the financial interests of the Union. Regarding ESI Funds' **financial management and control (FMC)**, the 2014-2020 regulations feature simplified procedures to reduce the burden on beneficiaries and speed up reimbursement, including single reimbursement rate for all participants to a research project and a flat rate for indirect costs, and a shorter deadline for payments to beneficiaries (90 days). Member States can also take advantage of provisions that have been preserved from the previous regulations, such as the freedom to make advance payments to beneficiaries.

FMC dovetails with **programme and project monitoring**. To improve the efficiency and quality of information transfer, the ESI Fund regulations introduced the electronic exchange of data between beneficiaries and MAs. Since 2016 all Member States are expected to enable beneficiaries to submit data only once and keep all documents in electronic form (e-Cohesion). Some Member States were already well ahead in this field, as illustrated by the online 'Clearing House' portal operated by the United Kingdom's Welsh European Funding Office (WEFO), which was a RegioStars Winner in 2008 and 2009, and follows the 'once only' principle outlined in [topic 5.4](#).

Inspiring example: The WEFO 'Clearing House' (United Kingdom)

The 'Clearing House' concept was developed by the Welsh European Funding Office (WEFO) as an IT system for managing ESI Fund interventions and particularly the exchange of data. It allows for storage and sharing of data, so that beneficiaries are asked to provide information only once, with the evident reduction of administrative burdens on them. The concept was recommended by the High-Level Group of Independent Stakeholders (see [topic 1.2.2](#)) for reducing administrative burdens in Cohesion Policy.

WEFO manages four EU programmes with over €300 million in EU grants each year. There are no other government authorities involved in the management and distribution of Structural Funds in Wales. Wales does not have any intermediate bodies, WEFO is both the managing authority and the certifying authority with internal safeguards to ensure separation of functions.

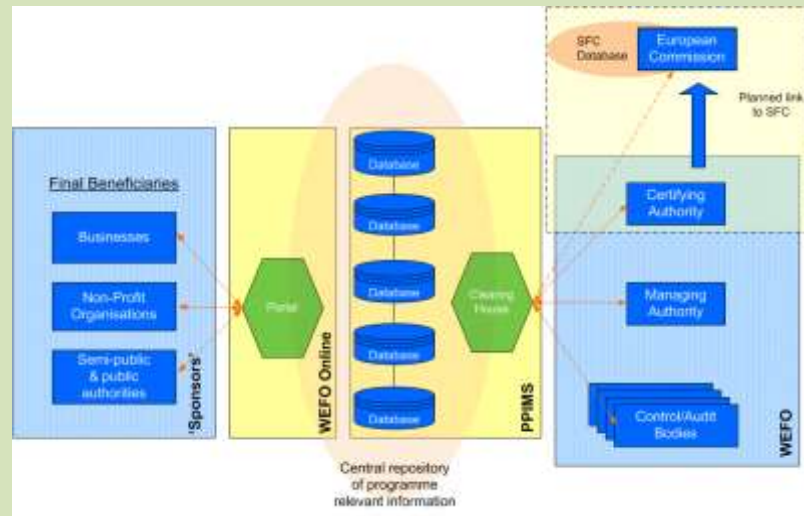
In 2005, the Welsh Assembly Government recognised that there was a need to improve WEFO's administration and IT. Accordingly, a new business process has been implemented that offers a modern and interactive website to engage both staff and beneficiaries. For the beneficiaries, this implementation resulted in more transparency and faster pay-out. From a business perspective, WEFO wanted to attain greater effectiveness and efficiency, and improve the applicants' and beneficiaries' experience. The chosen solution contained three elements:

- ✚ The Programme and Project Information Management System (PPIMS) - an EC-compliant, browser-based application, supported by web-based technology and new business functions;
- ✚ A government gateway (WEFO Online) - a secure registration and authentication process providing a fully interactive beneficiary website;
- ✚ The implementation of a distributed solution to enable electronic capture and indexing of documents

This means that there is a real-time, online and paperless trail throughout the entire process which is client-

driven and interactive, using relational databases. The PPIMS system entails all the features that are recommended in the Administrative Burden Reduction study on the 'Clearing House' concept.

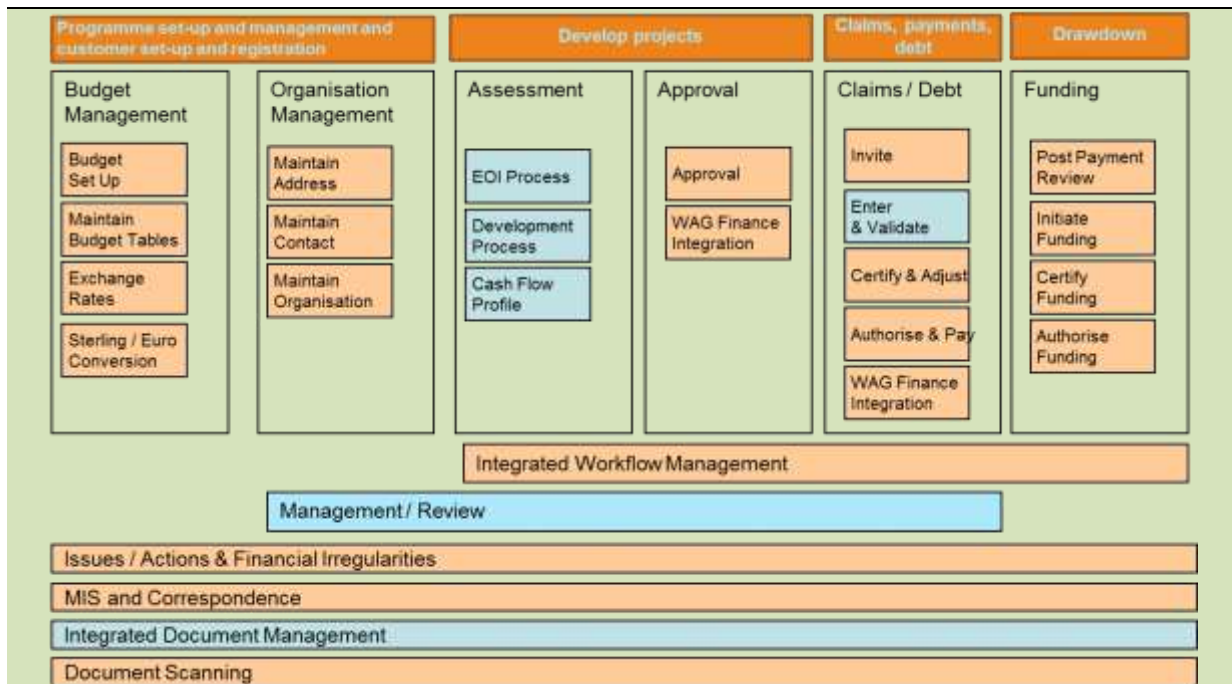
The system is accessible via internet and no extra software, aside from standard Microsoft Office tools and knowledge, is necessary to utilise the system. Once the user has accessed the system via a secure user-name, he or she can view the status of the project, complete interactive and/or prefilled forms, and submit or retrieve documents from WEFO. The beneficiaries are enabled to provide all data requested for compliance. This data is stored in a database system which all authorities and bodies



can consult. Clear guidelines are available on the information requested and the level of detail that is needed. On the WEFO portal, a list of invoices is asked from the sponsor and if the sponsor wants, he can upload a scanned version of the original invoices and proof of payment thereby allowing continued monitoring of the expenses by WEFO. There is a link provided within the system to the WEFO website, to address FAQs, online training and to access user guides.

Previously, all applications and claims were submitted on paper; now, electronic submission is mandatory. Prior to the current PPIMS system, WEFO had an internal IT system which recorded the details from the paper applications received. The system allowed staff to select from the scoring criteria and track the progress through until approval, finally generating an offer of grant letter. Following approval, the system would generate claim forms 'pre-populated' with financial and beneficiary information including information on expenditure to date. These applications were sent via the postal system and tracked until their return. On receipt, the updated information was entered onto the system and an automatic calculation was performed. If a payment was deemed appropriate, the system would generate a payment letter and interface the payment details to the Welsh Assembly finance system for payment. The system was also supported by a comprehensive set of Management Information (MI) reports.

PPIMS is an integrated end-to-end system, as the following diagram illustrates.



For beneficiaries, this results in easier access and greater cost efficiency, as the administrative burden is reduced, claims are handled faster, leading to quicker payments, and there is a vast reduction in time spent on the application and follow-up. As the beneficiaries can check the progress of their application in real time, transparency is improved. By reducing errors and the ability to set a preferred language (English or Welsh), the clients' satisfaction is increased. Beneficiary benefits include:

- + System available 22 hours per day (closed between 12am and 2am for backup);
- + Input information once – use many times;
- + Saving time due to a defined point of contact, improved information and better communications, including access to clear guidance and expert assistance to guide them through the process;
- + System checks reduce keying errors;
- + Far less re-work by beneficiaries (automatic validation) – in 2000-2006, approximately 30% of manual claims needed an element of re-work, this has been virtually eliminated;
- + Reduced costs in printing, physical storage and postage >5%;
- + Time and staff savings on routine repetitive work (i.e. preparing claims and submitting reports), reduces duplication and calls for extra information from the MA and AA estimated to save >10%;
- + Real time information on status of the beneficiaries' project and records;
- + Quicker turn-around of claims (96% within 15 days; KPI = 21 days 100% achieved);
- + Greater certainty aids beneficiary cash flows – they know exactly what they will receive via a claim and that they will be paid;
- + Improved access to reports and information on the progress of the programmes.

The introduction of Clearing House has shifted the focus onto beneficiaries' preparing detailed business plans and cost benefit analyses, including detailed estimates of cash flows and delivery of outputs. This means more effort at the appraisal stage has delivered more robust projects, and the beneficiaries projects are being better managed – problems spotted early and resolved saving them increased audit burden and financial penalties.

Management information was key to the design of the PPIMS system; Business Objects is used as the reporting tool to create a suite of reports. Drawdown information required for the Commission's SFC2007 is provided via reports and an electronic interface to the EC is being considered. The system also extracts information for reporting irregularities directly to OLAF's Irregularity Management System (IMS). Management Information collected from PPIMS is analysed, and sometimes put into statistical format to present information to stakeholders.

For the MA, CA and AA, Clearing House has resulted in better programme management. Improved MI had led to far better forecasting, automated reports, the ability to report data in new ways (geo-tagging/regional specific), improved compliance, reduced use of offline spreadsheets which improves the quality of data, better audit trails, and the ability to share information regarding projects. It has also lowered the administrative burden and cost on the authorities themselves. WEFO has reduced its payments team from 40 to 16 staff. The EC drawdown process is now more automated. It has reduced the number of legacy IT software systems and the hardware they operated on, and refocused staff from processing data to the scrutiny and review of projects.

Clearing House has also produced spin-off benefits for other parts of the public administration. While agriculture and rural development is managed separately, the IT system for parts of the agriculture programmes (payments to farmers) shares some of the infrastructure. Elements of PPIMS are re-used in other parts of the Welsh Assembly government. The service that provides secure system to system messaging (the Corporate Connector) was originally developed as part of the Structural Funds solution, but has now been made available as a service that can be used across the whole of the Welsh Government. The claims, document management, scanning and contact information was re-used in the development of the Child Trust Fund, a Welsh Government initiative to improve the prospects for children by providing a direct payment into the bank account of the parents.

Source: [High Level Group of Independent Stakeholders on Administrative Burdens \(HLGAB\)](#)

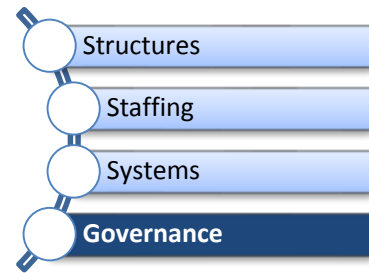
While ESIF regulations set out the specific requirements for Structural Funds and Cohesion Fund (including the role of the performance framework, monitoring committees, managing authorities, annual implementation reports and other elements), these arrangements should fall within the national system for monitoring and evaluating public policy performance, including governance (see [topic 1.3.1](#)), as an integral element. Like purely domestic programmes, the monitoring of ESIF can draw upon innovative techniques, such as Italy's OpenCoesione platform, which serves to increase participation and accountability, and engaging citizens in assessing performance through the 'monithon' (see [topic 2.3.1](#))

Evaluations can be instigated at every stage in a policy's life (see [topic 1.3.1](#)), and are mandatory for ESIF programmes.

| Type | Brief description |
|----------------|---|
| Ex-ante | These evaluations are performed during the preparation of the policy or programmes, and aim to improve their quality, by independently appraising the analysis (problems and potential for development), the goals to be achieved, the expected outcomes, the coherence and internal consistency of the proposed strategy, lessons from experience, and the suitability of the planned implementation, monitoring, evaluation and management of resources. <i>Ex-ante</i> evaluation is an interactive and iterative process, whereby recommendations regarding content are made by the external experts, and considered in re-designed policies and programmes, which are then subject to re-evaluation. |
| Interim | These evaluations are undertaken during the implementation of the programme, usually at the mid-point or other milestone stage, and can be linked to a decision on releasing or reducing funds. Interim evaluation addresses whether the programme: has achieved its objectives by the dates set out in the work plan; and is on track to achieve its objectives by the end of the programme, and is usually termed a 'formative' evaluation. |
| Ex-post | These evaluations are scheduled to take place after the completion of the policy or programme with the aim of extracting learning points, and hence is sometimes referred to as a 'summative' evaluation. If the intervention was a pilot or prototype, the <i>ex post</i> evaluation can help to decide whether to 'mainstream' it, by rolling it out on a larger scale. |

8.3.4 Governance

Like any other area of public administration, ESI Funds management should be subject to good governance, with managers held to account for programme performance: meeting programme objectives and achieving expected results; maximising synergies between national, ESI and other EU funds; working in partnership and engaging with civil society and other stakeholders; ensuring transparency and high ethical standards; preventing corruption, and avoiding undue political influence over staff appointments and project selection. Above all, Member States need to ensure coordination at the national and regional level to ensure consistency between funds and across programmes, in pursuit of Europe 2020 goals and European Semester country-specific recommendations, as well as to avoid both overlaps and gaps in expenditure. This is especially pertinent in view of the overall increase in the number of regional programmes in 2014-2020.



Financial support under ESI Funds can take the form of grants, prizes, repayable assistance and financial instruments. The choice of support depends on goals, rules and circumstances. To **maximise the leverage** from ESI Funds, Member States should seek out complementarities with other EU funds which share a common purpose. In doing so, Member States can refer to [guidance for policy-makers and implementing bodies](#) that the Commission has published in 2014 on synergies with Horizon 2020 and other research, innovation and competitiveness-related EU programmes, as well as a [checklist for accessing EU funds](#).

In some Member States, ESI funds management has evolved into a **parallel system**, often due to its origins in pre-accession funding (PHARE, ISPA, SAPARD, CARDS and/or IPA). These countries face the risk of inefficiencies (duplication of activities, loss of scale economies), but also that good practices in either national or ESI funds management are isolated from each other.

However, there is also scope for **transfer of good practices** between national spending and ESI Funds management systems - in both directions. The history of introducing EU funds management into new Member States has shown that, in some fields, national systems benefit from adjustments necessary to comply with EU regulations, such as introducing multi-annual budgetary planning and management (which may also be cross-sectorial and inter-institutional), internal audit, and specific controls against irregularities and fraud in financial management. For Member States, however, there is scope to take advantage of national innovations, such as eGovernment and the 'once-only' principle (see [theme 5](#) on service delivery and digitalisation, and especially [topic 5.4](#) on eGovernment).

The Commission plays a **facilitating role** for knowledge development and dissemination, as a conduit for sharing good practice, by modelling funds management (competency and organisation mapping) to help Member States drive up performance, and will launch an informal Exchange Platform for MAs and IBs, in coordination with other platforms, such as INTERACT and JASPERS.

8.4 Conclusions, key messages and inspiration for future action

Public administrations are custodians of public funds: the taxes, tariffs, fees, charges, duties and debt finance they are entrusted to manage on the citizens' behalf. Public expenditure, whether in-house on salaries, or outsourced for services, supplies and works, constitutes almost half the European economy and a key public policy instrument (see [theme 1](#)). This brings the importance of good governance and especially the **principles** of legality, integrity and value for money into sharp focus. Citizens can also be brought directly into the picture through participatory budgeting, so they feel the ownership, as well as the benefit, of spending decisions.

Public finance management is a **balancing act**. On the one hand, there is a tendency towards caution, to ensure the rules are followed and the right judgments are made. Checks are important for combatting corruption, including supervision, 'four eyes' before signing off decisions, and the intervention of internal audit, to ensure that risks are mitigated before they materialise. On the other, excessive and badly-administered controls can complicate budget execution, and delay the disbursement of funds with knock-on effects on beneficiaries. This can be especially devastating for SMEs, if it results in late payment (see [topic 6.2](#)). Managers should weigh up the pros and cons of interventions and aim to ensure appropriate controls without prolonging the process. IT can play a particularly valuable part in information systems, to track performance, spot the bottlenecks and speed up the process. It can also deliver the data that enables scrutiny, through transparency.

Efforts to promote ethical behaviour and remove the opportunity for corruption should focus on **procurement** using both national funds and ESIF, given the scale of spending and the frequency in which studies find irregularities in public purchasing, including bribery of officials by domestic firms in other countries (see also [theme 2](#)). Simplifying administration and moving towards full e-Procurement will help remove some discretion over decisions and the scope for misusing funds.

Clearly, procurement can be a source of public funds diversion, but also a potential force for better **societal outcomes**, including sustainable and socially-responsible development. Innovation is a key driver of national productivity, and hence any activity by administrations to stimulate creativity through purchasing power can have a multiplier effect on growth and jobs. Public authorities should explore the potential from PCP, PPI and innovation partnerships under the 2014 procurement directives. Member States face a timetable over the period to October 2018 to transpose in full and implement the various elements of the new directives, and make best use of the benefits therein.

ESIF may seem to be a special case, as they have their own regulations to govern their administration, but their management should be fully integrated into national systems. Above all, the ESIF principle of additionality demands that Structural and Cohesion Funds are not simply substitute for domestic spending, but add value instead. This objective can only be achieved if national and ESIF programmes are viewed as complementary, and the authorities see their ESI measures as offering the opportunity for enhancement or innovation. The fundamental goal of ESIF funds management – spend strategically – applies equally well to implementing the much larger budgets of central, regional and local governments, as the very specific context of TO11 (see '[some considerations on managing thematic objective 11](#)').

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