



## I Financial Issues

# Public Tendering

### Background

During the implementation of a project, virtually all project partnerships buy products and services when e.g. hiring consultants, renting conference facilities, setting up websites, using external auditors etc. as part of the day-to-day project life. Also, it is quite common for infrastructure projects to subcontract construction work to a contractor.

Whenever purchases are made, contracts are awarded and external suppliers are involved in a project, the public tendering rules must be observed, including EC Public Procurement laws and relevant national regulation.

### Guidance

Be aware that the fundamental principles in public tendering (e.g. non-discrimination, transparency) **also** apply for purchases and subcontracted activities **below the threshold values**. Basically, the only difference in the requirements for public contracts below and above the threshold are the formal set of procedures you need to go through.

The basis for the public tendering rules are the **Directives** (see below) but it is important to bear in mind that the rules may vary significantly between the countries.

The Lead Beneficiary is responsible for compliance with the public tendering procedures for the **entire partnership**. It is, therefore, strongly advisable to address this issue in the partnership agreement, cf. Fact Sheet No. 5 on the Lead Beneficiary principle and strongly advisable that you consult with the designated controller.

Central to ensuring adherence to the public tender rules is the **documentation**. Public tendering documents constitute part of the audit trail and have to be included in the audit, cf. Fact Sheet No. 12 on First Level Control. It is, therefore, essential that all documents are kept on the accounting file until the end of 2023 (c.f. (EC) 1083/2006, Art. 90).

Projects which cannot document compliance with public tendering procedures risk losing the ERDF grant.

## References

- Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts
- Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and the Council on public procurement (Text with EEA relevance)
- Directive 2005/75/EC of the European Parliament and of the Council of 16 November 2005 correcting Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts
- Appendix 11 to the Manual for 1<sup>st</sup> level control, which provides and overview of the relevant national rules and guidance