



Management Verifications in Structural Funds 2014-2020 Public Procurement

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Contents of Presentation

- Overview of Management Verifications
- New guidance from Commission
- Public procurement - principles, and practice of MVs
- Guideline on Financial Corrections
- Workshop

Overview of Management Verifications (1)

- Around for several programme periods of funding in one guise for another (“00-06- Article 4s”, 07-13 “Article 13s)
- Forms key cornerstone of control architecture
- Increasingly important and formalized
- Failure to adequately perform can lead to financial corrections / interruptions

Overview of Management Verifications (2)

Managing Authority Responsibility for Management Verifications

MA has overall responsibility for efficiency and correctness of management & implementation:

The MA can entrust / delegate task to another body - but not responsibility

MA must obtain assurance that checks have taken place, including:

- ✓ Review of all Management Verification reports by IBs,
- ✓ Perform quality reviews of MV's carried out by IB's,
- ✓ Review of all Audit Authority reports which incorporate a review of Management Verification checks

Overview of Management Verifications (3)

European Commission specific goal is to validate the effective functioning of management verifications

Under MA/IB Key Requirement No 4 – Adequate Management Verifications are viewed by EC as the priority control.

Poor quality MV's are main cause of warning letters, Interruption, Pre-suspension, Suspension of payment deadlines

De-centralised MV systems have more chance of being assessed as being Category 3 (interruption)

Overview of Management Verifications

Regulation 1303/2013

Article 125.5

Administrative verifications in respect of each application for reimbursement by beneficiaries

On-the-spot verifications of operations

Frequency and coverage of on-the-spot verifications proportionate to public support and to risk identified

Ensure adequate separation of functions when the managing authority is also a beneficiary

New Guidance - Commission

- Working group DG REGIO, EMPL and MARE

Objective

- Update the Guidance document (COCOF 08/20/04) on management verifications
- Reflect the changes introduced by Regulation 1303/2013
- Reflect the experience gained during recent audits
- ECA 2011 and 2012 annual reports

New Guidance - Background

DG Employ - Thematic audit on Management Verifications

Findings :

Inadequate structure of MA and/or IB

Insufficiently trained staff

Absence of supervision of IB tasks

Verifications carried out after certification

Insufficient attention to Public Procurement!

New Guidance - Recommendations

- Implement simplified cost options to reduce verification burden
- Approve what you can manage – perform resource needs analysis
- Create dedicated verification teams and build competence, including **public procurement**
- Control on-the-spot, not only at desk level
- Supervise Intermediary Bodies carefully

New Guidance - Main Updates (1)

Responsibilities and definitions (section 3.2)

Updated list of the managing authority responsibilities

Updated definition of a beneficiary

Need of effective and proportional anti-fraud measure

Methodology, timing and scope (sections 3.5 - 3.6)

Procedures carried out before the expenditure is certified

Should be sufficient to guarantee that the expenditure is legal and regular

Minimum requirement: administrative verifications are finalised before expenditure is certified to the Commission

New Guidance - Main Updates (2)

Intensity (section 3.7) – administrative verifications

- All expenditure items included in an application for reimbursement should be checked based on sufficient supporting documents
- If not possible, verification of sample of expenditure items based on sufficient supporting documents

Requirements for sampling:

- Methodology is established ex ante by the MA
- Each item has possibility to be selected
- Risk based selection is complemented by a random sample

New Guidance - Main Updates (3)

Intensity (section 3.7) – administrative verifications

Treatment of material errors (> 2% of the application reimbursement value):

Extend the testing to see whether the errors have a common feature (e.g. type of transaction, location) ...

THEN

Extend the verifications to 100% of the application for reimbursement

OR

Project the sample error to the unchecked population.

New Guidance - Main Updates (4)

- **Intensity (section 3.7) – on the spot verifications**

Their intensity, frequency and coverage is dependent upon:

- the complexity of an operation
- the amount of public support to an operation
- the level of risk identified by management verifications and audits of the AA for the MCS system as a whole
- the extent of detailed checks during the administrative verifications

New Guidance - Specific Areas

Section 4:

Public procurement

Environment

State Aid

Financial instruments

Revenue generating operations

Durability of operations

Equality and non-discrimination

ETC goal

Simplified costs options (new)

Performance indicators (new)

New Guidance - Public Procurement (1)

Public procurement (section 4.1)

Objective

ensure that Union and national law is complied with,

principles of equal treatment, competition, transparency and non-discrimination have been respected during all stages of the procurement process.

Scope of checks?

Planning (design & accuracy of costing, appropriate procurement method)

Tendering (quality of tender documents, selection and award criteria, advertising, tender evaluation reports)

Contract implementation (supplementary works, amendments to the contract).

New Guidance - Public Procurement (2)

Recurring Procurement audit findings by Commission:

Additional works – award in absence of unforeseen circumstances

Unlawful selection and/or award criteria

Artificial splitting of projects

Restrictive time limits for tendering

Non-compliance with advertising requirements

Tender clarification – weaknesses

Audit trail

Direct Award

Unjustified use of negotiated or accelerated procedure

Respect of delivery deadline

Works started prior to completion of tender procedure

Public Procurement – Principles (1)

Principles

- Equal Treatment
- Non-discrimination
- Transparency
- Proportionality
- Mutual Recognition

Public Procurement – Practice of MVs

Documenting Management Verifications

Reports should include the following;

- ✓The work performed
- ✓Date of verification
- ✓Results of verification (including level / frequency of errors)
- ✓Full description of errors and irregularities
- ✓Any corrective measures taken

* **Note:** Any irregularities detected and corrected by MA or CA before declared to the Commission do not have to be reported to the Commission

Public Procurement – Practice of MVs

Documenting Management Verifications - Checklists

- Commission recommend checklist to be used
- Sufficiently detailed (not just one tick covering eligibility)
- Use photos for publicity
- Name / position of person completing the check recorded
- Date of check recorded

Public Procurement – Practice of MVs (1)

Management Verifications – critical public procurement documents to check

- Evidence of a competitive process / advertisement
- Contract notice (OJEU)
- Copies of Tender Brief/Specification
- Records of quotations/tenders received,
- Evidence of tender opening
- Evidence of scoring against set criteria (MEAT)
- Tender Evaluation Report
- Letters to successful and unsuccessful tenderers
- The existence of formal contract documents.
- Contract Award Notice (OJEU)

Public Procurement – Practice of MVs (2)

Management Verifications – management of contract issues

- Did the successful tenderer deliver, at the tendered cost, exactly what was in original specification?
- Normally straightforward to establish compliance
- Sometimes problems with establishing compliance with very specific T&Cs

Public Procurement – Practice of MVs (3)

Management Verifications – overspends

- Overspend on contracts can give rise to financial corrections
- Essential question is “what would have happened if all tenderers knew then what we know now”?
- Corrections can arise if you cap claimed expenditure as it is a breach of principle
- Make sure the distinction between “Additional works” and “Additional costs” is clearly understood – minor variations are NOT additional works

Management Verifications – problems

Common problems on MVs

- Specific operations not identified in On the Spot reports
- Insufficient information checked as part of administrative verification
- Transaction listings / Contracts Listing not provided with claims
- Insufficient documentation of work carried out
- No risk-based methodology for selection of projects for on-the-spot
- Sampling methodology not being reviewed annually
- Delegated bodies have poor knowledge of national and EU public procurement directives / guidelines.

Management Verifications – general tips

- Guidance prepared centrally on MVs to ensure consistency of approach.
- Technical Guidance on Management Verifications should be prepared by MA and issued to all IBs (updated annually)
- Guidance by Managing Authorities to Beneficiaries
- MA/IB should provide beneficiaries with training & procedures manuals
- Ensure they know which costs are eligible and which records to keep
- This helps to reduce errors found during verifications

Management Verifications – Outsourcing tips

- General principle – to be carried out under responsibility of MA, by body directly responsible for measure
- If high volume / technical complexity outsourcing may be necessary
- Clear terms of reference (e.g Administrative Agreements)
- Must be ex-ante (before submission to next level)
- Assess quality of work (assign staff to this function)

Management Verifications – beneficiary tips

- Remember, “fail to prepare, prepare to fail”
- Audit trail is critical
- Try to establish sample and parameters of testing
- Identify key documents required
- Adequate resources
- Have answers ready

Financial Corrections (1)

C(2013)9527 – Guideline for determining public procurement financial corrections

- Issued to give guidance and consistency
- Replaced COCOF 07/0037/03
- Purpose of financial corrections is to restore a situation where 100% of the expenditure declared for co-financing is in line with applicable national and EU rules and regulations
- The value of a financial correction should be based on the individual file and be equal to expenditure wrongly charged
- If specifically quantified correction not possible - flat rate corrections (next slide)
- The flat rates are determined in accordance with seriousness of individual breach

Financial Corrections (2)

C(2013)9527 – Guideline for determining public procurement financial corrections

- 25 different examples of the most common mistakes are provided
- No differentiation between under and above the threshold violations – “principle” based guidance (unlike previous guidance)
- Will form basis of the workshop

Public Procurement Workshop

You are performing a Management Verification and identify the problems outlined in the 10 examples. What financial corrections, if any, do you propose to impose, and why (based upon the guidance)?

What you need:

- C(2013)9527– Guide on Public Procurement Corrections (Annex 2)
- Case Study Exercise – Examples 1 – 10 (see following slides)
- **PLEASE NOTE THAT ALL THE EXAMPLES ARE HYPOTHETICAL AND HAVE NO CONNECTION TO REAL OPERATIONS.**

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Example 1

A contract for the construction of a new Tourist Information Centre (public works), valued at €5,750,000 was awarded directly by Dublin City Council to a building contractor who had won an architectural prize for a previous Council contract.

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Example 2

A services contract tendered by the Irish Department of Energy for installation of broadband cables across Ireland was not advertised on the OJEU. It was advertised on the National Public Procurement Website in Ireland and in the national print media in Ireland and the UK. The contract was awarded for €500,000.

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Example 3

A public works contract administered by Stuttgart City Council for the construction of large cantilever bridge across the River Rhine was advertised on the OJEU and in the national media. The Contract Notice and the advertisements set out the award criteria to be used in the selection process.

During evaluation of the tenders, 2 additional award criteria were used. The contract was eventually awarded for €10,000,000

Public Procurement Example 4

The Flanders Regional Authority commissioned a local boat building firm to supply 2 replacement tourist boats used for canal tours for the City of Bruges. The contract was awarded directly for an amount of €120,000 (supplies contract).

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Example 5

A Contract Notice was created on the OJEU seeking tenders in an open competition for the provision of research supplies to a Spanish University. The contract was awarded for an amount of €300,000 to the Hispanic Research Company. In the period between the issue of the contract notice and the award of the tender, evidence was discovered of ongoing discussions between the Chancellor of the University and a Director of the Hispanic Research Company to whom the University had awarded previous contracts.

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Example 6

The award criteria for a services contract advertised by the Rotterdam Port Company had 5 contract criteria (Experience of Team, Quality of Service, Compliance with Tender Specification, Technical Merit, Pricing). The criteria advertised had not been weighted nor were they listed order of importance. Eight offers were received and the contract was awarded to the highest offer who bid €145,000

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Example 7

A Swedish Agency, providing pre-school childcare facilities, following an open tendering procedure, awarded a contract for the construction of a new kindergarten building for a value of €750,000 on a fixed price contract. During construction, the School Principal asked the contractor to add on a children's playground and an additional classroom. These had not been included in the original tender specification. This supplementary contract increased the final account by €80,000.

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Example 8

The Austrian Department of Energy issued a contract notice for the construction of a 100 wind farms across a mountain range in the Alps. One of the contract award criteria specifically requested that the wind-farms must be constructed in full compliance with Austria's strict engineering code, including membership of the Austrian Institute of Engineers. Tenders received from 3 different Member States were disqualified for failing to meet this criterion. The contract was awarded to a company from Vienna for a value of €8,000,000.

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Example 9

The Portuguese Department of Transport awarded a contract to build a new motorway from the Airport in Faro to the A2 Algarve motorway. The contract was awarded for €80,000,000 in full compliance with the EU Procurement Directives; however the Department failed to complete a Contract Award Notice to the OJEU.

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Example 10

Following an advertisement on the OJEU for consultancy Services, and, in full compliance with the EU Directives during tender procedures, the Scottish Tourist Board awarded a contract to a firm of consultants to carry out a 2 year research study on developing the potential for increased tourism in the Highlands and Islands. The fixed price contract was awarded for €250,000.

By the time the report was completed, the final account had increased to €350,000. The increase in costs of €100,000 was not considered to be caused by reasons of extreme urgency brought about by unforeseen circumstances.



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Thank You QUESTIONS?

