






## Annex 8c) Fact Sheet on public procurement

The information provided here gives some practical advice on recurring issues in the financial management of projects. It does not of course substitute the INTERREG IVC Programme Manual or any EC or national regulation or the advice of the first level controller.

### What the manual says:

“Projects have to comply with public procurement requirements. Projects which cannot provide documentary proof of compliance with European, national and their own internal public procurement rules risk losing ERDF funding.”

**INTERREG IVC Programme Manual, Section 2.4.2.4 External Expertise and services**

Common errors:	The right way:
Some partners award contracts or purchase goods <b>without competition, because they think it's not necessary below European thresholds.</b>	 <b>Even below European thresholds, European public procurement principles</b> (transparency, equal treatment and non-discrimination), <b>national and internal rules</b> still need to be applied. It is thus usually still necessary to go for a tender. The formality and publicity may vary depending on the value of the contract.
Some organisations believe that they do not have to comply with public procurement rules because they are not public authorities.	 ERDF is public money, so public procurement rules apply to to all INTERREG IVC projects and their project partners. <b>Not only public authorities but also “bodies governed by public law” have to comply with European public procurement rules.</b> In fact, the definition of “bodies governed by public law” comes from a European directive on public procurement!
The internal public procurement rules applicable in the partners' organisations are not properly documented.	 Below EU and national thresholds, <b>specific public procurement rules set and applied internally by the organisation must be documented and available for first level control and audits.</b>
A public procurement procedure is followed but is not documented.	 <b>Keep a record of every step of the public procurement procedure</b> (publicity, correspondence with candidates, offers, award of contract...) so that the relevant documentation is available for first level control and audit purposes.
Some project activities are delegated by a partner to another organisation who they are used to working with, but this without following any public procurement procedure.	 <b>Any delegation of project activities to another organisation has to be done in line with public procurement rules.</b> See also points 1, 3 and 4.  Remember that sub-partners are not allowed under INTERREG IVC. Therefore costs of organisations not listed in the application form are not eligible (unless they have been contracted as service providers in line with public procurement rules).  Note that costs have to be paid on the basis of a contract and invoices and have to be reported under the budget line “external expertise”.

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Some organisations award a contract to a company without following any public procurement procedure on the basis that it is the only company able to perform the contract (according to the contracting partner ...).



Only where the contract can **OBJECTIVELY** be awarded to a particular company (for technical or artistic reasons or for reasons connected with the protection of exclusive rights - **which is very rare!**), can there be an exception to public procurement rules. In such cases, ❶ the facts demonstrating that there is objectively only one company able to perform the contract, ❷ the rules applicable, and ❸ the procedure followed have to be clearly documented. See also point 4 and European, national and internal public procurement rules.

**Useful references:**

- Section 2.4.2.4 of the INTERREG IVC Programme Manual
- [Annex 6](#) of the Programme Manual, INTERREG IVC control report, Checklist question n° 16 (Compliance with Community rules)
- EU website on Public Procurement:  
[http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm).

**Commission guidance:** Commission interpretative communication on the Community law applicable to contract awards not fully subject to the provisions of the Public Procurement Directives (24/07/2006) ([http://ec.europa.eu/internal\\_market/publicprocurement/key-docs\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/key-docs_en.htm)).

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