

I. Effective monitoring mechanisms of the public procurement market

Directorate-General for Regional and Urban Policy

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs



Ex-ante conditionalities 2014-2020

The existence of arrangements for the effective application of Union public procurement law in the field of the ESI Funds.

- Arrangements for the effective application of Union public procurement rules through appropriate mechanisms;
- Arrangements which ensure transparent contract award procedures;
- Arrangements for training and dissemination of information for staff involved in the implementation of the ESI funds;
- Arrangements to ensure administrative capacity for implementation and application of Union public procurement rules.

HEC intended to be focussed on specific issues identified in 2014-2020, bring added value to the Directives while staying in line with its requirements.

HEC on Public Procurement for 2021-2027

Monitoring mechanisms are in place that cover all public contracts and their procurement under the Funds in line with EU procurement legislation. This requirement includes:

1. Arrangements to ensure compilation of effective and reliable data on public procurement procedures above the EU thresholds in accordance with reporting obligations under Articles 83 and 84 of Directive 2014/24/EU and Articles 99 and 100 of Directive 2014/25/EU.

HEC on Public Procurement for 2021-2027

2. Arrangements to ensure the data cover at least the following elements:

a) Quality and intensity of competition: names of winning bidders, number of initial bidders and contractual value;

b) Information on final price after completion and on participation of SMEs as direct bidders, where national systems provide such information.

3. Arrangements to ensure monitoring and analysis of the data by the competent national authorities in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.

HEC on Public Procurement for 2021-2027

- 4. Arrangements to make the results of the analysis available to the public in accordance with Article 83(3) of Directive 2014/24/EU and Article 99 (3) of Directive 2014/25/EU.*
- 5. Arrangements to ensure that all information pointing to suspected bid-rigging situations is communicated to the competent national bodies in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.*

Tools and capacity to verify

- MS already have the obligation to establish a monitoring system, stemming from the Directives, Article 83
- The enabling conditions go into more technical detail, especially in terms of demonstrating:
 - legislative framework covering these issues,
 - institutional setup – who is in charge, are the roles and duties clear,
 - adequate human resources – is there dedicated staff, can they collect and analyse,
 - adequate, functional IT platforms – does it work from a technical perspective, is access ensured,
 - effectiveness of the monitoring process and communication of its results – published, made known to the relevant authorities.

Examples of existing communication with EC

Article 83(3) reporting

One round of reporting was already done, with mixed results due to lack of data

The new round is under consultation with DG GROW and more data is expected

Adequate reporting under this exercise can be referred to when proving fulfilment of enabling conditions

Workshops on e-procurement

Many consultations with MS were already undertaken, with good results

Most MS have good results in e-procurement and even additional IT tools in public procurement (for instance contract registers)

Good results of this exercise can also be used to prove for enabling conditions