

# INTERREG V-A “GREECE - CYPRUS 2014-2020”

## TRANSNATIONAL PROGRAMME BALKAN - MEDITERRANEAN 2014-2020

### MANAGEMENT AND CONTROL SYSTEMS

*Limassol 27-28/09/2018*

# CONFLICT OF INTERESTS - IRREGULARITIES

## Irregularity

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. *(Article 1 of Regulation No 2988/95).*

## CONFLICT OF INTERESTS - IRREGULARITIES

What happens when the FL Controller comes across irregular expenditure during verification of expenditure?

## CONFLICT OF INTERESTS - IRREGULARITIES

*Financial actors and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Union.*

*A conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient.*

## CONFLICT OF INTERESTS - IRREGULARITIES

The FL Controller examines the type of irregularity -  
applies financial correction whenever applicable,  
which may differ from the financial corrections  
applied by the Audit Control Unit,  
according to the EC Guidelines

Commission Decision C(2013)9527/19.12.2013

# CONFLICT OF INTERESTS - IRREGULARITIES

## Examples of Irregularities

- The contract notice was not published in accordance with the relevant rules (25%).
- A works project or proposed purchase of a certain quantity of supplies and/or services is subdivided resulting in its coming outside the scope of the Directives, i.e., preventing its publication in OJEU (Official Journal of the European Union) for the whole set of works (100%)

# CONFLICT OF INTERESTS - IRREGULARITIES

## Examples of Irregularities

- The time limits for receipt of tenders (or receipt of requests to participate) were lower than the time limits in the Directives (5-10%),
- Neither the contract notice nor the tender specifications describe in sufficient detail the award criteria as well as their weighting (25%),
- Cases in which operators have been deterred from bidding because of unlawful selection and/or award criteria (5-25%),

# CONFLICT OF INTERESTS - IRREGULARITIES

## Examples of Irregularities

- Capacity levels of ability for a specific contract are not related and proportionate to the subject matter of the contract, thus not ensuring equal access for tenderers of public procurement (5%-25%),
- Setting technical standards that are too specific (25%),
- The selection criteria were modified during the selection phase resulting in rejection of tenderers that should have been otherwise accepted (25%),



# CONFLICT OF INTERESTS - IRREGULARITIES

## Examples of Irregularities

- Tenders appear to be abnormally low in relation to the goods, works or services but the contracting authority, before rejecting those tenders, does not request in writing details of the constituent elements of the tender (25%),
- When a conflict of interest has been established by a competent judicial or administrative body (100%).

# CONFLICT OF INTERESTS - IRREGULARITIES

## Identifying conflict of interests

(EC Antifraud Office – Unit D.2 Fraud prevention)

A “conflict of interest” involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.

# CONFLICT OF INTERESTS - IRREGULARITIES

## Identifying conflict of interests

Managing authorities should require contracting authorities to put in place a procedure for **declarations of absence of conflict of interests**, as part of their public procurement procedures.

# CONFLICT OF INTERESTS - IRREGULARITIES

## Identifying conflict of interests

In general responsible for filing and signing the declaration is any person involved in one or other stages of public procurement procedures (preparation, elaboration, evaluation, implementation or closure) should sign a declaration and give it to the person in charge of the procurement procedure.

# CONFLICT OF INTERESTS - IRREGULARITIES

## Identifying conflict of interests

The obligation should apply at least to the following people:

- the head of the contracting authority and anyone to whom he/she delegates his/her duties,
- members of the management board,
- staff contributing to preparing/drafting the tender documents, members of the evaluation committee

# CONFLICT OF INTERESTS - IRREGULARITIES

## Identifying conflict of interests

### Examples

- The spouse of a contracting authority's desk officer in charge of monitoring a tendering procedure works for one of the bidders.
- A person owns shares in a company which takes part in a tendering procedure in which this person is appointed as a member of the evaluation committee.
- Financial or in kind bribery, either directly or indirectly.

# CONFLICT OF INTERESTS - IRREGULARITIES

## Detecting forged documents

### (EC Antifraud Office – Unit D.2 Fraud prevention)

Some risky sectors are the following:

#### A. Delivery of goods

- a. Non-delivery of goods or delivery of only a part of goods,
- b. Supply of second hand goods instead of new ones.

#### B. Construction

- a. Non performance of the work or completion of only part of the work,
- b. Performance of works that do not correspond to the technical specification but still invoiced.

#### C. Training, conferences or seminars

- a. Overcharging of costs,
- b. False attendance list to cover ineligibility of an event.

# CONFLICT OF INTERESTS - IRREGULARITIES

## Detecting forged documents

(EC Antifraud Office – Unit D.2 Fraud prevention)

The Managing Authorities may request access to databases or information from an institution holding independent and separate relevant information cross-checking all the relevant to the action documentation provided.





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