



Panel 3

The European Court of Auditors' procurement audit methodology

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The opinions expressed in this presentation are the views of the author and do not necessarily reflect the position of the European Court of Auditors.





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3. Individual aspects of procurement audit:
Relevance - Challenges - Reservations (errors).



1. Procurement audit in the context of the Statement of Assurance (DAS) - Legal basis



1.1 Legal basis

The Treaty on the Functioning of the European Union lays down the fundamental principles on how the EU operates:

- Free movement of goods (Article 28);
- Freedom of establishment (Article 49);
- Freedom to provide services (Article 56);
- Non-discrimination and equal treatment, transparency, proportionality and mutual recognition (Article 18 and 53);
- Fair competition.



1.2 Legal basis

Secondary EU law:

- Directive 2004/17/EC (water, energy and transport and postal services);
- Directive 2004/18/EC (works, supply and service contracts) - Enactment in national law.



1.3 Legal basis

European Commission Communication and Guidelines

- Commission Interpretive Communication No 2006/C 179/02 on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives;
- Guidelines for determining financial corrections to be made to expenditure co-financed by the Structural Funds or the Cohesion Fund for non-compliance with the rules on public procurement (COCOF 07/0037/03-EN).

National procurement law for contracts below the thresholds.



2. Procurement audit in the context of the Statement of Assurance – Procedure



2.1 Procedure

- Examination of the operation of the **supervisory and control systems** which the European institutions and Member States apply to the collection and disbursement of EU funds.

- **Substantive checks** on revenue and expenditure transactions down to the level of the final beneficiary:
 - in accordance with the Court's assurance model (95% confidence level, high inherent risk and control risk, sample size of at least 150 to 180 transactions);
 - applied sampling methods – Monetary Unit Sampling.



2.2 Procedure

- The objective is to obtain **reasonable assurance** that the underlying transactions are free from errors in terms of legality and regularity.
- The result is a specific evaluation for each audited policy area in order to underpin the **Court's opinion** on the budget as a whole.

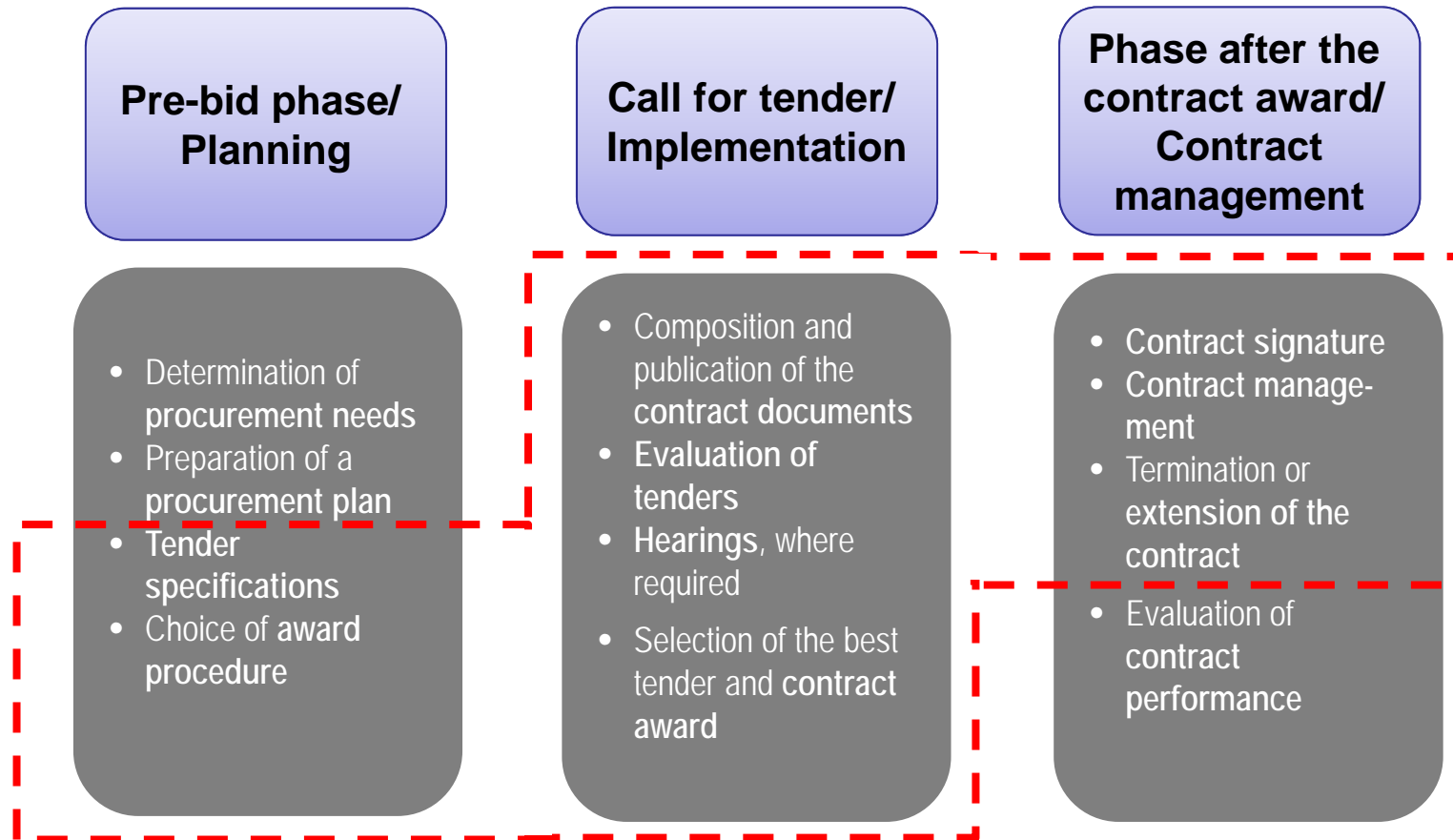


2.3 Procedure

- Standardised procedure applied to each DAS audit.
- Audit scope:
 - Selection of award procedure;
 - Publication of the notice and deadlines;
 - Quality of the contract documents and transparency of the procedure;
 - Selection and award criteria;
 - Opening and evaluation of bids (selection committee composition);
 - Contract award, challenges, review;
 - Contract performance (surety, payments) and modifications.



2.4 Procedure



Source: Data from the OECD (2008) and the Contact Committee of the SAIs of the EU (2010).

2.5 Procedure

Financial audits and compliance audits in the procurement field.

Performance audit:
Economy, cost-effectiveness and efficiency of procurement.



- ✓ The various procurement phases are tightly interwoven.
- ✓ Procurement audits require a combination of economic, legal and technical expertise.



3. Individual aspects of procurement audit: Relevance - Challenges - Reservations (errors)



3.1 Relevance

Procurement compliance audits are relevant with regard to:

- The implementation of the principles underlying the functioning of the EU (transparency, non-discrimination, free movement of goods);
- The integration of the internal market (focus on trade inside the EU);
- The consistent application of EU laws (above the thresholds);
- Raising awareness of the correct application of procurement law.



3.2 Challenges

Challenges facing procurement compliance audits:

- The determination of procurement needs (e.g. supervisory duties performed internally by the contracting authority versus outsourced supervisory duties);
- The quality and suitability of preparations for the tender and impact on the implementation of the tendering procedure and contract performance;
- The quality of contract documents and impact on contract performance.



3.3 Challenges

Challenges facing procurement compliance audits (continued):

- National procurement law (below the thresholds), which can impact on the observations and the audit opinion:
 - Selection of the award procedure;
 - Composition and impartiality of the selection committee;
 - Modifications.



3.4 Reservations (errors)

1. Infringements of **procurement rules** ...
 - in EU Directives;
 - in national/regional procurement law.
2. Not specifically for the **Structural Funds** or the **Cohesion Fund**, but an **internal market issue**.
3. Not indicative of **fraud**, but ...
 - ... a risk of non-optimal **use of public funds**.
4. An indication of the need to improve management and control systems.



Thank you for your attention.