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SEGRETARJAT PARLAMENTARI GHALL-
PRESIDENZA UE 2017 U GHALL-FONDI
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OFFICE OF THE DEPUTY
PRIME MINISTER
MINISTRY FOR EUROPEAN AFFAIRS

PARLIAMENTARY SECRETARIAT FOR THE EU
PRESIDENCY 2017 AND EU FUNDS

Id-Divizjoni ghall-Fondi u Programmi

Funds and Programmes Division

To: All entities participating in Territorial Cooperation Programmes
and the ENPI CBC Med Programme

From: The Territorial Cooperation Unit within the Funds and Programmes Division

Date: 28 January 2015

As the entity responsible for Malta's participation in European Territorial Cooperation Programmes and also as the entity coordinating Malta's involvement in the European Neighbourhood and Partnership Instrument by means of the ENPI CBC Med Programme, the Funds and Programmes Division [FPD] would like to bring to your attention some observations which have been identified during audits held under the above-mentioned Programmes.

Procurement Procedures

During such checks, it has transpired that several clauses listed in the respective tenders or RFQs have not been abided by during evaluation. In some cases, it was evident that some of these clauses were not relevant for certain calls and that therefore such clauses should have been deleted prior to the publication of the document. In this regard, project partners are requested to ensure that tender documents or RfQs are examined in detail prior to issue so as to avoid any inconsistencies during publication and evaluation stage, as well as guarantee that all the stipulated terms and conditions as per the respective calls are adhered to.

In addition to the above, it was noted that in some cases, the Evaluation Report did not include the Administrative and Technical Compliance Grids. Similarly, the technical details as to why a particular bidder was rejected were also missing. In order to avoid such incomplete scenarios, all project partners are being asked to ensure that the evaluation reports reflect all the criteria listed in the respective tender dossier or RfQs. It is important that such criteria are checked thoroughly by the respective Evaluation Committee. This Committee should be formally appointed: details of the members as well as evidence with regard to their appointment / approval and impartiality should be retained in file. Furthermore, all calls should include a closing date for the submissions of bids and consequently late submissions should not be considered for evaluation purposes.

Furthermore, should any clarification meetings in connection with the procurement be held, the outcome should be duly documented. In this regard, it is being recommended that minutes are drawn up, which should contain the following: the date and time of such meeting, the location of the meeting, any potential bidders who may have attended, any issues which were discussed, any clarifications made, or should the latter not be the case, a declaration that no issues or clarifications were made during such meeting. It is also obligatory to publish the minutes and make sure that all the potential bidders in attendance during the clarification meetings are duly informed.

Once the supplier is selected, should advance payments apply, safeguards should be taken primarily by means of a pre-financing guarantee from the contractors to cover the full amount of the advance payment. On the other hand, whenever a performance guarantee is required, this should always be furnished on time; should this clause be overlooked, an irregularity would have been incurred, possibly resulting in a recovery of funds. With reference to the rest of the payments, attention should be given to the chronological order of the invoices, cheques or bank transfers and receipts; sound accounting principles stipulate that the date on the receipts ought to follow the dates on invoices and cheques / bank transfers respectively.

All contracts, as well as any addenda to such contracts, should always be dated and signed by both parties to the contract. It is to be ascertained that the terms and conditions stipulated in this contract comply with the Call for Tender/RfQ in order to avoid inconsistency between what was initially stipulated and actual practice.

Staff Issues

With regard to the recruitment of staff, one should ensure that the selection process is as transparent as possible and that any relevant documentation is retained for audit purposes. No additional selection criteria should be included following the publication of the calls. Moreover, it should be ensured that the Selection Board confirms its impartiality by signing a non-conflict of interest declaration. Such declarations, together with any other relevant documentation, such as scoring sheets, the selection report (endorsed by the Selection board and not by the Chairperson only), copies of the official letter sent to the selected candidate as well as any rejection letters, should be filed appropriately.

With regards to staff costs, the timesheets, which should be duly signed and dated by both the employer and the employee, should not include dates falling outside the eligibility period and / or the timeframe of the claim. Furthermore, any contracts of employment should specify the nature of employment i.e. whether the employment is being offered on a part-time, full-time or a definite / indefinite contract basis, whilst the terms of employment should reflect the obligations of the Industrial & Employment Relations Act.

Finally, it should be ensured that the national insurance contributions are being paid as per statutory obligations and any other entitlements like vacation & sick leave, bonuses and income

supplements are given on a pro-rata basis. One can refer to the Department of Industrial & Employment Relations for further guidance.

Financial Regulations

Before concluding, may I remind you that the *National Eligibility Rules for Territorial Cooperation Programmes* stipulates that ‘*all Partners, including non-public entities, should follow the principles of transparency, equal treatment and non-discrimination whenever a good / service is procured*’ and that ‘*public entities should adhere to the procurement regulations issued by the Department of Contracts by means of Legal Notice 296/2010*’. Furthermore, Local Councils should note and take into consideration the following extract from the Local Councils Act, stipulating that ‘*with respect to projects co-financed by the European Union, the tendering procedures shall be in accordance with the rules of the European Union and shall be regulated by the Department of Contracts.*’

As for the publication of tenders or any quotations, Local Councils should refer to Article 40, which states that ‘*where a Council offers for tender or for quotations any works, goods or services related to its functions or the transfer of any land it shall give notice of its intention by publishing a notice in the Gazette. In addition to this requirement a Council may also give notice of its intention by publishing a notice in the Gazette and in one daily newspaper.*’ Local councils should also ensure that adequate publicity as required by this Article is carried out.

General principles

With specific reference to double financing, all partners should keep in mind that any activity which is already / shall be supported by another national or EU subsidy cannot be considered eligible for reimbursement purposes as it would result in double-financing. To this end, the preventive measures mentioned in the *National Eligibility Rules for Territorial Cooperation Programmes* should be adhered to. Furthermore, such measures, as well as any additional actions taken in this regard, should be clearly outlined in the documentation presented with the respective claims for reimbursement.

Whilst thanking you for your cooperation, I remain at your disposal for any clarifications with regard to the above or for any assistance required during project implementation.



F/ Carmen Dalli
Director, Programmes and Projects