

Guidance Document¹ on Procurement Procedures for Voluntary and Non-Governmental Organisations² implementing European Union Funded Projects

1. Scope

This guidance³ outlines the procurement procedures to be followed by Voluntary Organisations (VOs) and Non-Governmental Organisations (NGOs) acting as Beneficiaries of European Union (EU) Funded Projects when procuring works, services, or supplies. It supports Beneficiaries implementing operations under the [Common Provisions Regulation \(EU\) 2021/1060](#), the [CAP Strategic Plan Regulations \(EU\) 2021/2115](#) and [2021/2116](#), and the [Regulation on the implementation of the European Economic Area \(EEA\) Financial Mechanisms 2021-2028](#) and the [Norwegian Financial Mechanisms 2021-2028](#), including their delegated and implementing acts.

Although VOs and NGOs may not be directly bound by the [Public Procurement Regulations](#) (S.L. 601.03) or [EU Public Procurement Directive](#), they must comply with the principles of procurement (see section 2.1) and Article 61 of the [EU Financial Regulation](#). These ensure transparent, fair, and efficient use of public funds and enables Managing Authorities to verify that expenditure claimed is legitimate and eligible.

This guidance applies to operations funded through:

- European Regional Development Fund (ERDF) – including the Territorial Cooperation Programmes
- Cohesion Fund (CF)
- Just Transition Fund (JTF)
- European Social Fund Plus (ESF+)
- European Maritime, Fisheries, and Aquaculture Fund (EMFAF)
- Asylum, Migration, and Integration Fund (AMIF)
- European Agricultural Fund for Rural Development (EAFRD)
- EEA and Norwegian Financial Mechanisms

DISCLAIMER: Applicable national and EU legislation, as well as guidelines issued by the relevant Managing Authorities, take precedence over this document. Beneficiaries are responsible for consulting the most recent versions and ensuring compliance

¹ This Guidance Document is repealing FCU circular 01/2019, MA Circular 06/2020, Circular 001/2023 and Circular 003/2026.

² Including Church Institutions and Social Partners.

³ For further information on the implementation of an EU Funded Project including but not limited to Compliance with Horizontal Principles, as well as with actions to combat Fraud, Corruption, Conflict of Interest and Double Funding, readers of this document should refer to the Manual of Procedures for the Implementation of Operations 2021-2027 and respective Circulars as published on <https://fondi.eu>.

2. Public Procurement

EU legislation sets the basic standards for procuring supplies, services, or works using public funds. These standards are reflected in national law through the Public Procurement Regulations.

2.1. Guiding Principles

VOs and NGOs must follow the principles of the Public Procurement Regulations to ensure fair competition and protect the integrity of the procurement process. The main principles are:

- **Non-discrimination**
 - All Economic Operators must be treated without discrimination, regardless of age, gender, nationality, origin of goods, past experience or any other irrelevant factor.
 - Offers may only be disqualified if the bidder is legally excluded from public procurement (e.g., due to exclusion, blacklisting or international sanctions).
- **Equal Treatment (Fairness)**
 - All offers submitted within the publication period must be evaluated strictly against the published criteria.
 - The evaluation must be objective, ensure a level playing field for all bidders, and be fully documented.
- **Transparency**
 - Decisions must be clearly justified and recorded, based on requirements set in the procurement documents.
 - Processes must be open and understandable to bidders, auditors, and the public. This ensures fairness, accountability, and minimises the risk of corruption. It also includes the need for advertising requirements with publication of the Procurement Document.
- **Mutual Recognition of Deliverables and/or Qualifications**
 - Products and services that conform to specifications should be treated as valid, as long as they are fit for the intended purpose.
 - Selection, technical specifications and award criteria must acknowledge and accept equivalent products, certifications, and qualifications from other countries, provided they meet the required minimum standards as published in the procurement document.
- **Proportionality**
 - Requirements must be relevant and appropriate to the contract's value, complexity, and objectives. Overly restrictive requirements are not acceptable, and the adoption of minimum requirements is recommended.

- Any selection criteria such as (i) the suitability to pursue the professional activity, (ii) economic and financial standing, and (iii) technical and professional ability must be proportionate to the specific needs of the contract.

- **Good Governance & Sound Financial Management**

- Procurement must be cost effective, timely, and conducted fairly.
- Measures must be in place to prevent fraud, mismanagement, and conflicts of interest.

As recipients of grants from various channels and project holders, the Beneficiaries are expected to **uphold the above-mentioned principles** and hence the need to **have strong internal controls**. Furthermore, Voluntary Organisations are reminded to adhere to the code of [Good Governance, Practice and Ethics for Administrators of VOs](#). The code aims to establish standards, principles and rules regarding good governance and good practice which administrators of VOs should follow when performing their work and providing their services.

These procurement principles are thoroughly examined during management verifications and audits, and non-compliance may lead to financial correction. Such corrections, where applicable, are applied in line with **Annex 1 to this Guidance “Guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with procurement principles”**.

2.2. The Procurement Procedure

Competitive tendering helps VOs and NGOs obtain works, supplies and services from compliant Economic Operators at prices that reflect true market conditions. Bidders submit offers based on the specifications set by the Beneficiary. An offer is a written proposal to deliver works, supplies, or services at an agreed price.

2.2.1. Type of Procurement Procedures

The following procurement thresholds are to be applied by VOs and NGOs when undertaking procurement for EU funded projects:

- **Request for Quotations (RfQ)**, where the estimated value does not exceed €5,000 (excl. VAT).
- **Call for Quotations (CfQ)**, where the estimated value exceeds €5,000 but does not exceed €10,000 (excl. VAT).
- **Call for Tenders (CfT)**, where the estimated value exceeds €10,000 (excl. VAT).

2.2.2. Design and Drafting the Procurement Document

To assist VOs and NGOs, the Department of Contracts has developed specific procurement document templates⁴ which are available to Beneficiaries on MCIS portal⁵ or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

Before starting a procurement procedure, procurement drafters must disclose any Conflict of Interest (COI) and submit their CV to the Head of Beneficiary. The **Procurement Drafters Declaration Form (Annex 2)**, required for procedures above €10,000 excluding VAT, must be signed by the Procurement Drafter and **countersigned by the VO/NGO Head of Organisation or delegate**, who provides final approval to ensure proper oversight.

It is essential that bidders are independent from anyone involved in the project's preparation, implementation, tender drafting, or evaluation. The Beneficiary is responsible for carrying out the necessary checks at opening of offers and before contract signature to ensure that no actual or perceived conflict of interest exists (see Section 2.3 for further detail on the checks to be carried out on conflicts of interest).

The Beneficiary should carry out thorough market research before drafting procurement documents. Market research helps:

- define clear specifications
- understand market capacity and prices
- determine the appropriate procurement procedure

Following market research, market analysis is crucially important, enabling the Beneficiary to identify:

- estimated procurement value
- procurement procedure to be used
- award criteria
- execution period/duration of contract

Beneficiaries – What to take note of when drafting procurement documents?

- ✓ Begin with clear instructions to tenderers, including purpose and objective of the procurement.
- ✓ Define selection criteria proportionate to the contract's value and complexity, to evaluate whether an Economic Operator is suitable, capable and reliable.

⁴ The templates and documents currently include the General Rules Governing Tenders for NGOs, the Tender Document, Contract Form, Specimen Tender Guarantee, Specimen Performance Guarantee, Specimen Pre-financing Guarantee, Specimen Retention Guarantee and UBO Declaration Form.

⁵ The Management and Control Information System (MCIS) is the portal used by Beneficiaries implementing operations under ERDF, CF, JTF, ESF+, EMFAF, AMIF, and EEA and Norwegian Financial Mechanisms.

- ✓ Set award criteria focusing on the Economic Operators' offer:
 - Technical compliance: offers must meet the specifications included in the procurement document.
 - Financial compliance: typically, the winning offer is the lowest priced offer that is both administratively and technically compliant.
- ✓ Ensure that procurement documents leave minimal room for interpretation, with clear, detailed, and objective technical specifications, covering measurable elements such as quantity; dimensions; and performance or functional requirements.
- ✓ Specifications must be objective and measurable.
 - Avoid vague or subjective wording (e.g., "*maybe*", "*preferably*", "*approximately*").
 - Specify ranges, minimum requirements, and allow equivalent products/services.
- ✓ Procurement documents must align with the approved project application and Grant Agreement:
 - Beneficiaries should set a payment schedule in line with the implementation schedule of the Grant Agreement and include it in the Special Conditions of the procurement document.
 - Items not included in the approved project application and Grant Agreement should either be excluded from the tender/lot containing eligible items or clearly identified with separate costs. Ideally, such ineligible items should be placed in a distinct lot within the same tender or listed as a separate Bill of Quantity item.
- ✓ It is essential to include safeguards such as contract guarantees in the procurement document (see Section 2.4.1), where applicable.
- ✓ A clear submission deadline must be included (see Section 2.2.3), specifying:
 - the exact date and time by which offers must be received
 - method of submission (either through email or for call for tenders through tender box)
- ✓ For call for tenders, the **Ultimate Beneficial Owner (UBO) Declaration Form**⁶ must be included in the procurement documents and submitted by the winning bidder prior to contract signature for COI and UBO checks (see Section 2.3).
- ✓ For call for tenders, the Beneficiary should publish the **General Rules Governing Tenders for NGOs**⁷, prepared by the Department of Contracts, with the procurement documents.
- ✓ Beneficiary should seek to consolidate the number of procurement procedures, to avoid splitting of procurement procedures and reduce administrative burden.

⁶ Form available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

⁷ General Rules available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

2.2.3. Publication of the Procurement Procedure on the Open Market

VOs and NGOs should know that each type of procurement has a *minimum time limit* (deadline) for bidders to submit their offers. These deadlines are shown in the table below.

Estimated Procurement Value (excl. VAT)	Minimum Publication Period	RfQ	CfQ	CfT
Below €10,000	12 calendar days ⁸	✓	✓	
€10,000 – €139,999 ⁹	21 calendar days			✓
Equal to or above €140,000	30 calendar days			✓

Table 1 - Minimum Time Limit for submission of offers

Furthermore, adequate publicity of the procurement procedure, referred to as market engagement approaches, is to be carried out as outlined in the table below:

	Request sent to Economic Operators via email and at least three (3) offers received	Publication on VO/NGO Social Media Profile and/or Website	Publication on <u>Local Newspaper</u> and VO/NGO Social Media Profile and/or Website
RfQ	✓		
CfQ		✓	
CfT			✓

Table 2 – VOs and NGOs market engagement approaches when issuing a procurement procedure

For tenders that exceed the EU thresholds¹⁰ it is recommended that VOs and NGOs publish these opportunities in the EU Journal¹¹ or through other platforms that ensure broad and accessible public dissemination even across borders. Additionally, to support wider market engagement, access to procurement documents and the submission of offers must be completely free of charge.

VOs and NGOs must also comply with the [Guidelines on the Communication and Visibility Requirements for Projects co-financed through European Union Funds](#) and the [Communication and Design Manual 2021-2028 for projects funded under the EEA and Norway Grants](#). Mandatory publicity

⁸ As good practice, Request for Quotations and Call for Quotations should have a minimum publication period of 12 calendar days.

⁹ At the time of publication of this Guidance, above threshold procurement refers to procedures which equal or exceed an estimated value of €140,000 excl. VAT, while below threshold procedures refer to those which are less than €140,000 excl. VAT. As financial thresholds are revised every two years, Beneficiaries should refer to the latest version of this Guidance, any updates issued by the Managing Authorities, or seek advice from the relevant Managing Authority.

¹⁰ At time of publication of this Guidance, the value of the thresholds, excl. VAT is €5,404,000 for works contracts, and €140,000 for both supply and service contracts.

¹¹ For the avoidance of doubt, the obligation to publish a contract notice in the Official Journal of the European Union applies exclusively to Contracting Authorities, as defined in the Public Procurement Regulations. Consequently, the non-publication of such Notice by VOs and NGOs does not give rise to a financial correction.

requirements can be found at <https://fondi.eu/visual-identity-guidelines-2021-2027/> or by contacting the ICT, Digitalisation and Communications Unit within the Strategy and Implementation Division on fondi.eu@gov.mt. Compliance ensures Economic Operators are aware that the contract is funded through EU and national resources.

The Beneficiary should also note that clarifications may be requested by Economic Operators during the publication period. These clarifications requests and responses are bound by a specified date and time. All clarifications received must be documented and shared with all prospective bidders to ensure the principle of equal treatment is maintained.

Furthermore, during the publication stage the Beneficiary should note that prospective bidders may also submit an appeal, as specified in section 2.2.7.1 of this Guidance Document.

2.2.4. Receipt and Opening of Offers

A secure procurement process is underpinned by strict procedures governing the receipt and opening of offers. Offers may be submitted either electronically (by email) or through physical submission via a sealed tender box. It is noted that, for call for tenders, submission through a sealed tender box applies.

Sealed tender boxes must be locked, tamper-evident and accessible only to authorised persons. Additional safeguards, such as controlled key access, secure rooms, or CCTV, are recommended to further ensure the integrity and confidentiality of the process.

Where offers are submitted by email, Beneficiaries must ensure that equivalent standards of security and transparency are applied. All electronic offers must be received through, ideally an official organisational generic email account, with access restricted exclusively to authorised persons. Electronic submissions must be retained in their original format, and the complete email trail must be stored in an accessible central repository.

All offers and related documents must remain accessible even after the project closure, in accordance with the applicable retention period and guidance set out in the [Manual of Procedures for Implementation of Operations](#)¹².

As a best practice, VOs and NGOs should acknowledge receipt of each offer and maintain a complete and accurate register of all offers received, ensuring that late offers are rejected. For electronic offers, the date and time of receipt should be recorded.

Offers should be opened immediately after the submission deadline, on the same day. The procurement responsible person receiving the offers through email may also conduct the opening session. The procurement officer receiving electronic offers may conduct the opening session, provided they are not involved in the Evaluation Committee and ensure that no information is disclosed that could compromise fairness. Physical offers, submitted through a sealed tender box, should be opened publicly at the same date and time specified in the procurement document.

¹² This Manual is not applicable to Territorial Cooperation Programmes

A summary of the offers received should be prepared containing:

- the procurement title and reference code
- the date and time limit for receipt of offers
- a register of the received offers
- details of late submissions
- the total number of offers received
- details of the designated procurement person opening the offers, including their signature and the date and time of the opening of offers.

For call for tenders, the summary of the offers received is to be published on the VO/NGO Notice Board, Social Media Profile and/or Website.

2.2.5. Evaluation of Submitted Offers

The Beneficiary must appoint suitable individual(s) to sit on the Evaluation Committee, which must always consist of an odd number of members. The appointed Evaluation Committee members must submit their CV to the Head of Beneficiary for record-keeping and verification. The Beneficiary should note that personal data is used only for conflict-of-interest checks and retained as required by EU and national audit rules.

The Evaluation Committee composition¹³ depends on the procedure type:

- **Request for Quotations**

No Evaluation Committee is required. The Head of Beneficiary may appoint in writing one evaluator to assess all offers based on the published criteria.

- **Call for Quotations**

A minimum of three Evaluation Committee members is required (a chairperson and two evaluators, all with voting rights). The Head of Beneficiary may self-nominate; all other members must be approved in writing by the Head of Beneficiary.

- **Call for Tenders**

A minimum of five Evaluation Committee members is required: one Chairperson (no voting rights), one Secretary (no voting rights), and at least three evaluators with voting rights (always an odd number). The Head of Beneficiary may self-nominate; all other members must be approved in writing by the Head of Beneficiary.

¹³ Where the subject matter under evaluation falls outside the expertise of the appointed Evaluation Committee, the VO/NGO may engage a competent Consultant or Technical Advisor. Such Consultant/Technical Advisor should be nominated and approved together with the Evaluation Committee. Their role is strictly advisory and limited to assisting the Committee; decision-making authority remains solely with the Evaluation Committee, which is free to accept or disregard the advice provided. The Evaluation Committee retains full responsibility for all actions and recommendations throughout the evaluation process. Where appropriate, the Committee may include technical experts with relevant expertise, even if they are not members of the VO or NGO.

All evaluation board members, and any appointed consultants or technical experts must sign a Declaration of Impartiality and Confidentiality (Annex 3) after the opening of offers and before evaluation begins. This confirms that they have no personal or professional connection with any bidder and that they understand and will follow all relevant rules. Their CVs must be submitted to the Head of Beneficiary for record-keeping and verification,

The Evaluation Committee must evaluate all offers and strictly follow the published selection and award criteria in line with the principles of equal treatment, non-discrimination, and transparency. No new or alternative criteria may be introduced. Failure to apply the published criteria correctly may result in financial corrections or other measures by the Managing Authorities or auditing bodies.

The Evaluation Committee may request clarifications or rectifications from tenderers in accordance with the **General Rules Governing Tenders for NGOs**¹⁴ prepared by the Department of Contracts and the published procurement document. When doing so, the Committee must allow sufficient time for responses and clearly indicate the deadline, ensuring equal treatment for all bidders. Further guidance on this process is provided in the General Rules Governing Tenders for NGOs, which can also be applied to both Requests for Quotations and Calls for Quotations.

The Evaluation Committee must prepare an Evaluation Report¹⁵ outlining its recommendation based on the criteria set out in the published procurement documents¹⁶. Any clarifications/rectifications sought from bidders and replies received during the evaluation process are to be annexed to the Report. The Report must be factual, well-reasoned, evidence-based, properly filed, signed and dated by all evaluators, before being submitted to the Head of Beneficiary for approval¹⁷. To support Beneficiaries, an **Evaluation Report Template** has been created and is provided as **Annex 4**.

VOs and NGOs, as Beneficiaries, are encouraged to have appointed evaluators follow the spirit of the latest **Standard Operating Procedures (SOP) for TECs**¹⁸ issued by the Department of Contracts, as these provide a comprehensive guide to the evaluation process.

2.2.6. Notification of Award

VOs and NGOs must notify the successful bidder in writing that their offer has been recommended for award, subject to the right of appeal to the Public Contracts Review Board (PCRB)¹⁹ (see also section 2.2.7).

¹⁴ Template available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

¹⁵ In the eventuality that no offers are received for any type of procurement procedure, no evaluation is required; thus, no Evaluation Report shall be drawn up.

¹⁶ In cases where the procurement is classified as a Request for Quotation or a Call for Quotation, it is acceptable to submit a justification (example email addressed to Head of Beneficiary) or a simplified evaluation in place of a full Evaluation Report for the recommended offer.

¹⁷ In case the Head of Beneficiary was actively involved in the procurement procedure's evaluation, the requested approval is not required.

¹⁸ Template available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

¹⁹ The Appeals process is only applicable for procurement procedure with an estimated value of more than €5,000 excl. VAT.

For transparency's sake and also for good governance, unsuccessful bidders must also be informed in writing that their offers were not recommended. Each notification should clearly outline:

- the award criteria used
- the name of the recommended tenderer
- the price offered by the recommended tenderer
- the reasons for non-selection and cancellation in line with the **General Rules Governing Tenders for NGOs**²⁰
- information on the applicable deposit to lodge an appeal (for procedures with an estimated value above €5,000 excl. VAT)
- deadline for submitting an appeal with the PCR²¹ (for procedures with an estimated value above €5,000 excl. VAT)

The recommendations of the VOs and NGOs shall also be published on the VO/NGO Notice Board, Social Media Profile and/or Website.

2.2.7. Appeals

Bidders are to be given the opportunity to file a notice of objection with the PCR²¹ for all procurement procedures with an estimated value above €5,000 excluding VAT.

2.2.7.1. Remedies before Closing Date²²

Any interested party may contest a procurement procedure before the submission deadline of offers. Objections must be filed with the PCR²¹ within the first two-thirds of the publication period.

2.2.7.2. Remedies following Publication of Results²³

Appeals may be submitted after results are published for procedures with an estimated value at €5,000 excl. VAT or more. Appeals are open to bidders who have suffered or may suffer harm due to an alleged breach or decision taken during the procurement process. Grounds for objection may include, but are not limited to:

- the proposed award of a contract
- the rejection of an offer

²⁰ Reasons may include failure to meet administrative and/or technical requirements, or, in Price Award Criteria cases, where the offer met all requirements, a statement indicating that the offer was not the cheapest technically compliant. The Beneficiary is to also take note of the reasons for cancellation stated in clause 18 of the General Rules Governing Tenders for NGOs.

²¹ Details illustrating appeals submissions to the PCR²¹ are available on the following link <https://pcrb.gov.mt/new-objections/>

²² Beneficiaries are advised to refer to PPRs - S.L. 601.03 – Articles 262 to 269 as they regulate the remedies before the closing date of a call for competition.

²³ Beneficiaries are advised to refer to PPRs - S.L. 601.03 – Articles 270 to 276 as they regulate the appeals from decisions taken after the closing date for the submissions of an offer.

- the cancellation of the procurement procedure after evaluation

Appeals must be submitted in writing to the PCRB and should clearly outline the grounds for the complaint. The objection should be filed within 10 calendar days from the date on which the Beneficiary issues official notifications in writing to all Economic Operators who submitted an offer.

To be considered valid, any objection submitted to the PCRB should be accompanied by a deposit equal to 0.5% of the estimated contract value (or of the relevant lot, if applicable). This deposit should be no less than €400 and shall not exceed €50,000. The deposit may be refunded depending on the outcome of the PCRB's decision.

Prior to proceeding with the Award/Cancellation of a Procurement Call, after the lapse of the 10 calendar days, the Beneficiary should email the PCRB Secretary at info.pcrb@gov.mt to confirm whether an appeal has been lodged and retain the response on file for audit purposes.

If an appeal is submitted, the award process is automatically suspended until the PCRB issues its decision.

Any party dissatisfied with the decision of the PCRB may appeal to the Court of Appeal²⁴ under Article 41(1) of the Code of Organisation and Civil Procedure. This must be filed within 20 calendar days from publication of the PCRB decision. The Court should deliver a ruling within four months, during which the procurement remains suspended.

²⁴ Beneficiaries are advised to refer to PPRs - S.L. 601.03 – Articles 284 to 290 as they regulate the Court of Appeal.

2.2.8. Direct Award

If a procurement procedure fails to attract suitable offers, the Beneficiary may resort to a direct award, provided the original conditions remain unchanged, all initial bidders are invited to participate, and a justified written request is approved by the Head of Beneficiary.

Furthermore, Direct Awards for estimated values below €10,000 (excl. VAT) may be accepted taking into consideration the amount involved, the urgency attached to the procurement or restrictions of choice and availability. Written justification and approval from the Head of Beneficiary is required.

Direct Awards for estimated values above €10,000 (excl. VAT) may also be accepted in exceptional circumstances, subject to the same approvals. Exceptional circumstances include:

- No tenders or suitable applications received under an open procedure, as explained above in the first paragraph of section 2.2.8.
- Services can only be provided by a specific operator for technical, artistic, or exclusive rights reasons.
- Extreme urgency due to unforeseeable events, where standard time limits cannot be met (not caused by the Beneficiary).
- Additional supplies, services, or works become necessary due to unforeseen circumstances, provided they are awarded to the current contractor.

The Beneficiary is advised to seek guidance from the relevant Managing Authority prior to proceeding with a direct award. The Beneficiary should also note that unjustified direct awards result in a 100% financial correction of the procurement procedure, in accordance with Annex 1 to this Guidance “Guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with procurement principles”.

2.3. Conflict of Interest checks

Following the appeals period and before signing the contract, **the Beneficiary must verify that no familial, personal, or professional relationships exist between the evaluation committee, procurement drafter, immediate project team, and the recommended bidder.** All checks, CVs and signed declarations must be retained to ensure a complete audit trail.

In cases where a possible COI arises, the Beneficiary must document the situation and assess whether the declared or noted COI can be accepted. If the COI is accepted by the Beneficiary, the Beneficiary must outline the mitigation measures to be applied. **If the COI is not acceptable, the Beneficiary must refrain from appointing the relevant officers as procurement drafters or evaluators, or if noted afterwards with proceeding with the contract signature.**

The Beneficiary should also refer to Annex II of [Circular OPS/OPM EES/1/2025 – Conflict of Interest and Action against Fraud and Corruption](#) or to the most recent Circular in force, which includes a checklist to assist in determining whether a Conflict of Interest exists. These checks, which are

mandatory for all procurement procedures with an estimated value exceeding €10,000 excluding VAT, are carried out in three consecutive steps, as outlined below:

- **Step 1 – Opening of offers**

Verification of Declarations of Conflict of Interest and CVs at the opening stage. Checks are conducted on the Project Team, Evaluation Committee members (including any Consultants and/or Technical Advisors), and Procurement Drafters, in relation to all bidders submitting an offer under the respective Call for Tenders.

- **Step 2 – Prior to contract signature (recommended offer)**

Verification of CVs against the recommended bidder and its Ultimate Beneficiary Owner. Checks are carried out on the Project Team, Evaluation Committee (including any Consultants and/or Technical Advisors), and Procurement Drafters, in relation to the winning bidder and its Ultimate Beneficial Owner(s).

- **Step 3 – Detailed risk-based checks**

A detailed assessment, in line with the prescribed risk criteria, is carried out on the winning bidder and its Ultimate Beneficial Owner(s) prior to the signing of the contract.

The Beneficiary should also note that a perceived or actual conflict of interest results in a 100% financial correction of the procurement procedure, in accordance with Annex 1 to this Guidance “Guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with procurement principles”.

2.4. Contract Management

A contract must be signed between the Beneficiary and the Awardee, in one’s capacity as the Contractor, and it must clearly state the name of the selected Economic Operator/Contractor, using the same name as submitted in the offer.

The Contract, which is the legally binding agreement may take different forms depending on the procurement procedure. For lower-value procurements, such as a Request for Quotations or Call for Quotations, the agreement may take the form of a commitment, for example through email or purchase order. For Call for Tenders, a formal **contract**²⁵ is required and should include:

- the Contract Agreement
- the Special Conditions pertinent to the contract
- the applicable General Conditions²⁶
- the procurement procedure’s specifications and conditions, including any clarifications issued during the procurement process

²⁵ Template available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

²⁶ At time of publication of this Guidance, the latest General Conditions provided by the Department of Contracts are version 4.8.

- the contractor’s technical and financial proposals (or Bills of Quantities, where relevant) including any clarifications/rectifications made during the evaluation process
- any corrigenda and/or addenda

The Contract must clearly state that it is co-financed in line with the [Guidelines on the Communication and Visibility Requirements for Projects co-financed through European Union Funds](#) and the [Communication and Design Manual 2021-2028 for projects funded under the EEA and Norway Grants](#) and the mandatory publicity requirements available at <https://fondi.eu/visual-identity-guidelines-2021-2027/>.

To conclude, a Contract becomes legally binding once both parties sign it. Beneficiaries must note that **any item not approved in the Project Grant Agreement or its addenda, but nevertheless included in the contract, shall be considered ineligible for reimbursement.**

2.4.1. Contract Guarantees

Contract guarantees which include the Performance Guarantee, the Pre-financing Guarantee and the Retention Guarantee play a vital role in strengthening trust, accountability, and financial assurance within contractual arrangements. They help mitigate risk and support the successful execution of projects. These Guarantees should follow the format provided by the Department of Contracts²⁷.

2.4.1.1. Performance Guarantee

A Performance Guarantee is a financial security provided by the contractor to protect the Beneficiary and EU funds in case the contractor fails to perform the contract, including obligations related to the execution period. If the contractor defaults or underperforms, the Beneficiary may claim the guarantee to offset resulting losses.

Performance Guarantee requirements are as follows:

<i>Performance Guarantee Requirements</i>	<i>Contract Value is less than €10,000 (excl. VAT)</i>	<i>Contract Value is €10,000 up to €500,000 (excl. VAT)</i>	<i>Contract Value is more than €500,000 (excl. VAT)</i>
<i>Not Applicable</i>	✓		
<i>Set at 4% of the actual Contract Value (excl. VAT)</i>		✓	
<i>Set at 10% of the actual Contract Value (excl. VAT)</i>			✓

Table 3 – Applicability of Performance Guarantee for EU Funded Procurement

²⁷ Specimen available to Beneficiaries on MCIS portal or directly from the Paying Agency responsible officers for EAFRD or the Funds and Programmes Division (FPD) responsible officers for Territorial Cooperation Programmes.

Generally, the Performance Guarantee must remain valid until the Beneficiary issues the Provisional Acceptance Certificate, after which a formal release letter should be issued. If the guarantee is due to expire before this stage, the contractor must extend its validity. Under no circumstances should the Performance Guarantee be allowed to lapse, as this would put EU funds at risk.

2.4.1.2. Pre-Financing Guarantee

A 'Pre-financing' is a short-term advance payment to the contractor to enable him to finance the initial purchases or investment connected with the execution of a contract. Such advance payment is backed up by a pre-financing bank guarantee, for the same amount, from the contractor.

VOs and NGOs are recommended to include pre-financing provisions in the Special Conditions when the estimated value exceeds €100,000 (excl. VAT). The applicability of the guarantee is shown in the table below.

<i>Pre-financing Guarantee Requirements</i>	<i>A Contract valued less than €100,000 (excl. VAT)</i>	<i>Works Contract valued more than €100,000 (excl. VAT)</i>	<i>Services or Supplies Contract valued at more than €100,000 (excl. VAT)</i>
<i>Not Applicable</i>	✓		
<i>Set as a minimum between 20% - 30% of the Contract Value (excl. VAT)</i>		✓	
<i>Set as a minimum between 40% - 60% of the Contract Value (excl. VAT)</i>			✓

Table 4 – Applicability of Pre-Financing for EU Funded Procurement

The Beneficiary may pay the pre-financing payment **only after** receiving the guarantee, which must remain valid until it is fully amortised.

If the pre-financing has not been fully amortised before the guarantee expires, the contractor must extend the guarantee. Under no circumstances may a guarantee be allowed to lapse, as this would expose EU funds to financial risk.

Amortisation occurs when the contractor successfully completes and certifies a milestone or delivers works, supplies, or services equivalent to the pre-financed amount, as outlined in the contract. Once amortisation is complete, the Beneficiary must issue a formal release letter.

To conclude, it is pertinent to note that pre-financing should not be provided on components which are of a recurrent nature such as maintenance.

2.4.1.3. Retention Guarantee

Retention monies are amounts withheld from interim payments during the Defects Liability or Maintenance Period, while a retention guarantee is a financial guarantee provided to secure the release of those retained funds. Retention guarantees apply only to Works Contracts.

Once the Provisional Acceptance Certificate is issued and the performance guarantee is released, the contractor enters the Defects Liability Period. At this stage, the contractor needs to provide a retention guarantee to allow the release of retention monies.

The requirement for a Retention Guarantee must be clearly stated in the Special Conditions of the procurement document. The Special Conditions should specify:

- the percentage to be withheld from each interim payment (up to a recommended maximum of 5%)
- the purpose of the retention (to secure performance during the post-contract period)
- the conditions and timing for releasing the retained amount (typically with final payment request)

The retention guarantee must remain valid until the Final Acceptance Certificate is issued. Once this certificate is issued, the Beneficiary must issue a formal release letter. The table below provides an example of this process.

Example of a Contract amounting €75,000 (excl. VAT)	5% Retention Monies withheld from every Interim Payment (€1,250 excl. VAT each)	Retention Guarantee equal to the total retained amount (€3,750 excl. VAT)
Interim Payment #1 (€25,000 excl. VAT)	✓	
Interim Payment #2 (€25,000 excl. VAT)	✓	
Interim Payment #3 (€25,000 excl. VAT)	✓	
Final Payment (€3,750 excl. VAT)		✓

Table 5 – Retention Guarantee Example for a €75,000 Contract (excl. VAT)

2.4.2. Invoice Submission and Payment Process

Beneficiaries must outline the payment schedule in the Special Conditions of the procurement document. Only works, supplies, or services explicitly approved in the Grant Agreement or its addenda are eligible for reimbursement, even if included in the signed contract.

The Beneficiary must also ensure that all deliverables match the specifications in the procurement document and the winning offer. Any contractual requirements, including proof of delivery of goods or services, need to be requested and retained. Any deviation from the approved offer may lead to financial

corrections and loss of EU (and other funds) co-financing, in line with [Commission Decision C\(2019\) 3452 laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement](#).

For CPR Funds²⁸, the Beneficiary shall instruct the Contractor to submit a duly completed Financial Identification Form for registration in the Management and Control Information System (MCIS). Payments to the Contractors are made via a bank transfer through the EU Payments Unit within the Strategy and Implementation Division. The Beneficiary is required to transfer its co-financing share, together with any non-eligible costs, to the EU Payments Unit in accordance with [MEFL/EF Circular No 3/2023](#). The Beneficiary should also refer to [Circular No. OPS/MFI/4/2026](#) for detailed guidance on the payment process.

For AGRI Funds²⁹, Beneficiaries typically pay invoices upfront and subsequently submit a reimbursement claim to the Paying Agency. Further details are available at: <https://arpa.gov.mt/en/guidance-documents/>.

2.4.3. Penalties

The Beneficiary is responsible for monitoring the contractor's adherence with all contractual obligations. This oversight lies with the Beneficiary and must be carried out proactively throughout implementation.

If non-compliance is identified, the Beneficiary should immediately inform the contractor in writing, outlining the issue and requesting corrective action. If the contractor does not respond or resolve the matter, the Beneficiary may seek guidance from the Department of Contracts.

If the contractor continues to breach the contract, the Beneficiary may apply contractual penalties in line with the General and Special Conditions of the Contract. Once penalties are calculated, they must be deducted from the relevant payment, and the contractor must be formally notified. The Beneficiary must also inform all relevant stakeholders and immediately notify the Managing Authority/Paying Agency³⁰, as delayed reporting may jeopardise project funding and lead to financial consequences.

The Beneficiaries should also consider the VAT implications³¹ when penalties are applied, as illustrated in the example below.

The Contractor completes works, supplies, or services valued at €100 excluding VAT. At a VAT rate of 18%, the applicable VAT amounts to €18 (€100 × 18%).

According to the contract's special conditions, the Beneficiary imposes a €10 penalty on the contractor. As a result, the contractor receives €90 (€100 minus the €10 penalty) for full completion of the contracted works, supplies, or services.

²⁸ ERDF (excluding Territorial Cooperation programmes), CF, JTF, ESF+, EMFAF, AMIF

²⁹ EAFRD

³⁰ In the case of CAP SP VOs and NGOs

³¹ The VO or NGO is responsible for consulting the relevant national authorities on issues related to the operation they are implementing; this includes consulting the Malta Tax and Customs Administration i.e. the competent authority on Value Added Tax matters.

*It is important to note that any deduction made by the Beneficiary, such as a penalty, is a commercial adjustment and does not affect the VAT treatment of the underlying transaction. Therefore, this adjustment **does not** alter the VAT base.*

In this case, the Beneficiary should process a payment of €90 excluding VAT, plus €18 VAT (calculated on the full €100 value), resulting in a payment to the Contractor amounting to €108.

In this example, the Beneficiary should issue a payment of €90 excl. VAT and €18 VAT (18% * €100) for a total of €108.

2.4.4. Modifications

Modifications (or variations) are formal changes to the terms of a signed agreement. These may arise due to unforeseen circumstances, evolving technical requirements, or administrative needs during implementation, and can affect deliverables, timelines, contract value, or reporting requirements.

To ensure transparency, equal treatment, and compliance with national and EU procurement principles, any contract modification shall:

- be justified by unforeseen circumstances, i.e. circumstances that a Beneficiary could not have reasonably anticipated
- not alter the overall nature of the contract
- not result in a price increase exceeding 50% of the original contract value
- be duly justified, documented, and formalised through an addendum signed by both parties.

Annex 1 to this Guidance entitled “Guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with procurement principles” provides direction on the treatment of substantial modifications. It clarifies that where a modification is deemed substantial, a financial correction shall apply.

2.4.4.1. Non-Financial Modifications

A non-financial modification is a formal change to a contract that does not affect its monetary value. These adjustments must be justified, documented, and approved by the Head of Beneficiary to ensure compliance with procurement principles while maintaining the original scope and competitive balance. Examples include:

- *Extension of the Execution Period:* Revising timelines due to unforeseen and justified delays agreed by both parties.
- *Change in Project Personnel or Key Experts:* Replacing or reassigning individuals identified as key staff in the agreement, subject to justification and approval.
- *Correction of Clerical or Administrative Errors:* Rectifying typographical or formatting mistakes that do not change scope, cost, or competition.

- *Change in the Location of Service Delivery:* Relocating activities or services to a different site due to logistical or contextual factors, provided outcomes and contract amount remain unaffected.

2.4.4.2. Financial Modifications

Financial modifications involve changes to the Contract's monetary value. These may arise from increases in quantities of existing items or the addition of new items. These adjustments must be justified, documented, and approved by the Head of Beneficiary, and remain aligned with the original contract scope.

There are two types of financial modifications:

- *Repetition of works, supplies or services:* **Increasing the quantities of items** already included in the Bill of Quantities, without altering the original scope.
- *Additional works, supplies or services:* Introducing **new items** or tasks not included in the original contract. These require separate justification and approval from both the Head of Beneficiary and the Managing Authority.

2.4.4.3. Notification and Reporting Requirements

The Managing Authorities shall only assess requests for financial modification relating to additional works, supplies or services. These requests must be supported by comprehensive documentation. Therefore, in such instances, the Beneficiary must immediately inform the Managing Authority and submit:

- a clear justification for the modification
- a breakdown of additional costs³²
- input and recommendations from the technical supervisor (where applicable)
- an explanation of the unforeseen circumstances that led to the change and whether it could have been anticipated
- evidence that the cumulative value of modifications remains within the limits committed to in the contract and does not impact the project's viability.

VOs and NGOs are advised to use the table below when preparing the justification letter to be submitted to the Managing Authority.

³² Only the added costs related to repetition and/or addition of works/supplies/services are considered in any variation calculation. Any cost reductions from non-executed original items are not to be deducted in the variation calculation.

Modifications Checklist	
Question	VO/NGO to state:
	(i) Indicate Yes or No (ii) Insert a reference (e.g. page and paragraph number from VO/NGO Request for Variations Letter) which addresses Checklist Question.
Have additional works, services or supplies become necessary due to unforeseeable circumstances which a diligent VO/NGO could not foresee?	<i>Example:</i> Yes – (See Page 2, Paragraph 3)
Are the additional works, services or supplies, although separable from the original contract, strictly necessary for its completion?	
Is the justification of the unforeseeable circumstances adequately documented and sufficiently substantiated?	
Did the unforeseeable circumstance arise as a result of an omission or negligence on the part of the Beneficiary?	
Does the aggregate value of the financial modification being assessed, including any previously approved modification requests, exceed the percentage limit stipulated in the contract ³³ , without accounting for any contract omissions (i.e. savings)?	

3. Preventing Fraud, Corruption and Conflict of Interest

To prevent and detect fraud in public procurement, Beneficiaries must proactively manage fraud risks in accordance with the [Anti-Fraud Strategy](#), Chapter 4 of the [Manual of the Procedures for the Implementation of Operations](#)³⁴ and Circular [OPS/OPM-EES/1/2025 – Conflict of Interest and Action against Fraud and Corruption](#) or the most recent Circular in force.³⁵

In addition to these requirements, VOs and NGOs are required to implement practical safeguards, establish internal procedures, and ensure effective separation of duties throughout the project lifecycle. For example, such measures include the application of secure procurement processes with strict bid-opening procedures, as outlined in Section 2.2.4.

Beyond procedural controls, Beneficiaries must actively enforce COI policies by obtaining signed declarations from all persons involved in procurement activities and where applicable, maintaining up

³³ The Beneficiary is to note that the Special Conditions template requests

³⁴ This Manual is not applicable to Territorial Cooperation Programmes

³⁵ Whilst the preparation of the Fraud Risk Assessment is recommended, VOs and NGOs are not required to carry out such as an assessment. Notwithstanding this, VOs and NGOs remain obliged to perform the necessary checks relating to Conflicts of Interest and Ultimate Beneficial Ownership.

to date registers of declared conflicts of interest. The procurement drafters, project team and evaluation committee members must disclose any personal or financial links to bidders.

Beneficiaries should also conduct appropriate due diligence on persons involved in procurement activities in relation to bidders. The necessary COI checks must be carried out in line with Section 2.3.

Together, these measures contribute to a robust control framework that safeguards EU funded projects against fraud, corruption, and conflicts of interest, and ensures transparent, ethical, and compliant procurement throughout the entire project lifecycle.

4. Issues Identified during Management Verifications and Audit Reviews

Outlined below are a non-exhaustive list of issues identified during verifications carried out by the Managing Authority/Paying Agency³⁶ and during audits. VOs and NGOs are advised to take appropriate mitigating measures to avoid these situations.

- *Brand discrimination:* The evaluation must be based solely on the published award criteria, irrespective of brand names.
- *Prejudice:* All offers must be assessed strictly against the requirements set out in the procurement documents and not compared against other submitted offers.
- *Assumptions:* Where information in an offer is unclear, evaluators must not assume that a tenderer will comply with or deliver all procurement requirements and contractual obligations. A request for clarification would be necessary.
- *Procrastination:* The evaluation process requires timely commitment. Evaluations should be completed without undue delay, while ensuring that the offer validity period is respected.
- *Trying to be practical in tight situations:* Offers that fail to comply with mandatory requirements (e.g. a 5-minute late submission) must be rejected, even where non-compliance appears minor. Requirements set out in the tender documents must be applied strictly.
- *Changes to award criteria:* Evaluators must ensure that the selection and award criteria applied during evaluation are exactly those published in the procurement document.
- *Undisclosed or perceived Conflict of Interest:* Declarations of absence of Conflict of Interest and CVs must be obtained, and the necessary checks carried out at the appropriate stages, to mitigate the risk of financial corrections or loss of funds.
- *Vague or circumstantial justifications:* Inadequate, unclear, or weak substantiated argumentation may be subject to scrutiny by the Managing Authority/Paying Agency, Audit Authority/Certification Body, National Audit Office, European Commission auditors, and the European Court of Auditors.

³⁶ In the case of CAP SP VOs and NGOs.

- *Incomplete contract implementation documentation:* Deficiencies have been identified in contract implementation documentation, including gaps in insurance coverage, guarantees, and the non-submission of documents such as provisional acceptance certificates.
- *Modifications during contract implementation:* Authorised changes to the contract implementation must be approved, properly documented and recorded in an addendum to the contract.

5. Concluding Remarks

This Guidance Document provides VOs and NGOs acting as Beneficiaries of EU funded projects with an overview of the essential procurement principles and procedures they are expected to follow. From the preparation and publication of the procurement documents to the receipt, evaluation, and award of offers, the guidance outlines the steps required to ensure transparent, fair, and compliant procurement processes. It also covers key contractual aspects, including the use of guarantees, penalties, contract modifications, and safeguards to prevent conflicts of interest, fraud, and corruption.

For a broader understanding of the regulatory framework governing EU funded operations, Beneficiaries are encouraged to consult the [Manual of Procedures for the Implementation of Operations](#)³⁷. This manual provides detailed guidance on areas such as roles and responsibilities, horizontal principles, environmental and planning requirements, fraud and corruption prevention, financial management, certification of expenditure, monitoring and evaluation, audit and control, irregularity reporting, information and publicity obligations, delegation of authority, document retention, and data protection.

By consistently applying the procedures and principles outlined in this Guidance Document, the Manual of Procedures for the Implementation of Operations and the Circulars issued by the Managing Authorities, VOs and NGOs will help ensure that EU funded projects are implemented efficiently, transparently, and in full compliance with national and EU requirements.

³⁷ This Manual is not applicable to Territorial Cooperation Programmes