

Public procurement - determine financial corrections rates – with answers

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Nicosia, Cyprus

Case studies

Your task:

You performed audits on several projects and in some of them you identified problems related to public procurement outlined in the table below. Now it is time for the follow up of the audits.

Your organisation is entitled to use **Guidelines for determining financial corrections for non-compliance with the applicable rules on public procurement** to determine financial correction to be applied.

What financial corrections (if any), do you propose to apply, and why?

Mark your observations and comments, decide on the % of the correction (if necessary) to be applied.

Case 1

Description
The contracting authority (local government) awarded in 2016 a contract for the building of 5 kms of a road. The value of the contract was EUR 1,200,000 Due to the fact that there were some problems with the building permit the works started at the end of 2017. However, in 2017 there were some major increases in the prices of building materials and workforce therefore the annex to the contract was signed and finally the EUR 1,900,000 was paid to the tenderer at the beginning of 2018.
<p><i>Comments, % of correction (if any)</i></p> <p><i>Correction amount (in EUR)</i></p> <p>25% of the initial contract – 300 000</p> <p>100% of the increase – 700 000</p> <p>1 000 000 in total</p> <p>23, last point.</p>

Case 2

Description
The contracting authority awarded in 2018 the contract for the preparation of the electronic system. The value of the contract was 2,500,000 EUR. Having checked the procurement documents, you see that 4 tenders were submitted of the following value: 3,200,000 EUR; 2,400,000 EUR and 200,000 EUR and the most economically advantageous tender was selected (MEAT). The two first offers were rejected on the basis of the selection criteria, but the last offer was considered as abnormally low and rejected directly without applying the selection criteria. You can also see in the files that there is a complaint submitted by the 3rd tenderer claiming that at the moment he was new on the market, received some governmental subsidy for creating workplaces (compatible State aid) and wanted to

get new clients, therefore he offered such a low price, including very low margin. In the files you did not find any document issued by the Contracting Authority asking for the reasons for such a low amount claimed.
<i>Comments, % of correction (if any)</i>
20.

Case 3

Description
The contracting authority awarded a contract for services related to the conservation and restoration of paintings. The value of services was estimated at a modest EUR 60,000. Among other conditions, the contracting authority required that economic operators interested in providing those services had to have an annual turnover of at least EUR 10 Million. There were two tenders submitted, they were accepted and fulfilled the criteria. Both tenders were submitted by large companies which are active in the reconstruction sector and have specific departments which deal with restoration of paintings.
<i>Comments, % of correction (if any)</i>
10.

Case 4

Description
The contracting authority launched a public call for competition. Four economic operators submitted their tenders. Contracting authority cancelled public procurement procedure because it realized that it didn't publish call for competition in official website. Contracting authority decided to do so in order to avoid possible ineligible costs that could have followed if contract would have been concluded. In the documents there is also a post-investigation report from AFCOS that the case was an established fraud because there was a collusion between the contracting authority and one of the economic operators.
<i>Comments, % of correction (if any)</i>
Fraud, 100%

Case 5

Description
The contracting authority awarded in 2017 the contract for providing legal services. The representative of the contracting authority during the audit provides you with the tender documents, but there is only the winning offer, the two others are missing. There is only the final report from the evaluation committee. The representative claims that during the renovation of the office last year the folder with the documentation must have been lost.
<i>Comments, % of correction (if any)</i>
16, 25%

Case 6

Description
Contracting authority launched a public call for competition on renovation of a railway station. Four offers were submitted and the most economically advantageous tender (MEAT) was selected. All the necessary documentation is there. However, when checking the documentation, you find out that the director of the company which submitted the winning offer has the same surname as the legal representative of the contracting authority (member of the selection committee who signed the evaluation report). After your investigation you find out that both are a married couple, but there is no information about it in the tender documents.
<i>Comments, % of correction (if any)</i>
21, 100%

Case 7

Description
The contracting authority launched a call for competition in an open procedure and according to the directive the minimum time limit for the receipt of tenders should be 35 days. However, as the financial means had to be spent until end of December and there were Christmas holidays just before the contracting authority had to shorten this time in order not to lose the allocated resources. The tenders were granted 20 days to submit the offers. Four offers were received and the evaluation board chose the MEAT just before Christmas and the contracting authority managed to spend all the allocated funds.
<i>Comments, % of correction (if any)</i>
4, 15 days is the reduction 43%, so 30%-50% limit, the adequate correction is 10%