

FRAUD AND CORRUPTION IN EUROPEAN STRUCTURAL AND INVESTMENT FUNDS

A SPOTLIGHT ON COMMON SCHEMES AND PREVENTIVE ACTIONS

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ABBREVIATIONS AND ACRONYMS

AA	Audit Authority
AFCOS	Anti-fraud co-ordination service
CA	Certifying Authority
CF	Cohesion Fund
EAFRD	European Agricultural Fund for Rural Development
EC	European Commission
EDES	Early Detection and Exclusion System
EMFF	European Maritime and Fisheries Fund
ERDF	European Regional Development Fund
ESF	European Social Fund
ESI FUNDS	European Structural and Investment Funds
EU	European Union
IB	Intermediate Body
M&E	Monitoring and evaluation
MA	Managing Authority
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
OP	Operational Programme
OTS	On-the-spot (checks)
SAI	Supreme Audit Institution

INTRODUCTION

The structural funds aim to enhance the quality of life of citizens in the European Union (EU) through a range of investments, including research and development, infrastructure, employment and training, agriculture, forestry and fisheries.

Despite the positive benefits that ESI Funds can yield, some countries face challenges with cases of both systemic and one-off fraud and corruption in the disbursement of funds. Alongside the tangible negative impacts that failing to address fraud and corruption risks produce, recent high-profile cases and reporting on these schemes have resulted in public protests and loss of public trust in some EU Member States.

Not only do fraud and corruption divert taxpayers' money away from investments that promote job creation and socio-economic development, they can also result in unfinished or poor quality works and services that pose a threat to citizens' well-being and safety. The European Commission (EC) does not have comprehensive information on detected fraud levels in ESI Funds, and it is difficult to measure the extent of undetected fraud to complement official statistics¹. Nonetheless, available figures signal a need to improve the management of integrity risks. Based on estimates from detected cases alone, over EUR 390 million every year are stolen from the structural funds². Moreover, the European Anti-Fraud Office (OLAF), which investigates matters relating to fraud,

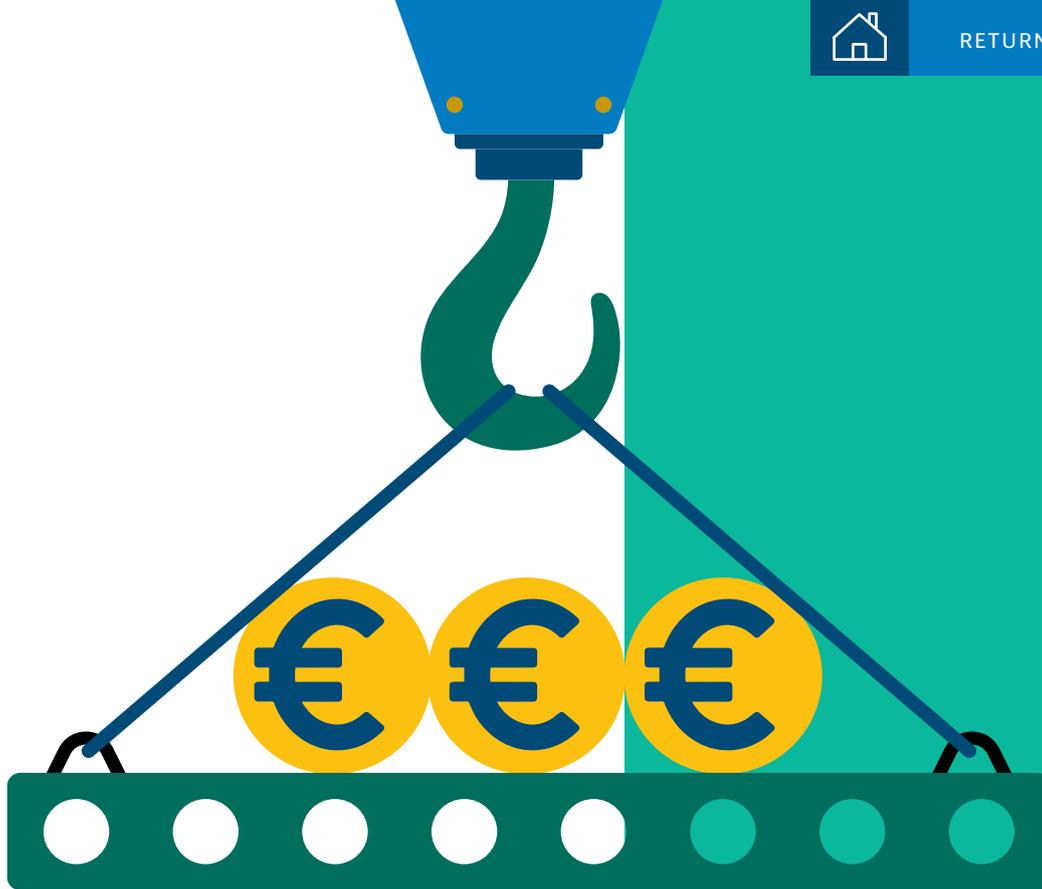
corruption and other offences affecting the EU's financial interests, concluded 197 investigations in 2017 and recommended the recovery of EUR 3 billion to the EU budget³. Year after year, the structural funds remain OLAF's primary focus for investigative activities.

This context suggests the need to enhance the knowledge and awareness of not only fraud schemes affecting ESI Funds, but also the preventive actions to avoid a 'pay and chase' model.

ABOUT THE GUIDE

This illustrated guide is a response to this need. In particular, the illustrated schemes focus on risks throughout the project cycle to demonstrate the complex nature of fraud and corruption schemes in ESI Funds. It highlights who the perpetrators typically are, and what tactics they employ to defraud the EU budget. Furthermore, the guide includes suggested actions to prevent and detect the risks exemplified in the schemes and outlined in each section.

This guide is not intended to present an exhaustive list of fraud and corruption



risks or schemes that occur in the context of EU-funded project implementation. It provides insights into the main challenges Member States are currently facing in this area, synthesising insights from different sources. Moreover, the guide complements the ongoing efforts and publications of the EC, some of which are referenced below. For the current programming period (2014-2020), with EUR 450 billion allocated to support Member States, the EC has placed a stronger emphasis on the need for Member States to implement anti-fraud measures, including fraud risk assessments, providing guidance and support in this process. This focus is set to continue into the next programming period, 2021-2027.

OVER EUR 390 MILLION

EVERY YEAR ARE MISAPPROPRIATED

The European Structural and Investment (ESI) Funds comprise

- the European Regional Development Fund (ERDF),
- Cohesion Fund (CF),
- European Agricultural Fund for Rural Development (EAFRD),
- European Social Fund (ESF), and;
- the European Maritime and Fisheries Fund (EMFF).

1 European Court of Auditors (2019), Special Report - Fighting fraud in EU spending: Action needed, https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf

2 Organized Crime and Corruption Reporting Project (2019), Report: Billions in EU Funds Lost to Fraud, <https://www.occrp.org/en/daily/9110-report-billions-in-eu-funds-lost-to-fraud>

3 OLAF (2018), 'The OLAF report 2017', https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2017_en.pdf

INSIGHTS FROM THE OECD CO-OPERATION WITH THE SLOVAK REPUBLIC

The OECD supported the Slovak Republic to devise a strategy with key actions and build capacity to manage fraud and corruption risks in ESI Funds. Over 12 months, the OECD undertook fact-finding missions to the Slovak Republic, surveyed Member States programme authorities in the EU, as well as interviewed experts and peers from Member States, OLAF, and other EC officials. From this work, the OECD identified areas where the Slovak Republic and other countries could improve risk management in ESI Funds, including:

1.

Strengthen the effectiveness, coherence and co-ordination of existing strategies for managing fraud and corruption risks and implementing risk-based control activities in EU-funded projects;

2.

Improve the effectiveness of methodologies and tools for identifying and assessing fraud and corruption risks in Operational Programmes (OP), including the use of data for analytics, leveraging risk assessments to inform decision making, and monitoring and evaluation (M&E) of fraud and corruption risk management; and

3.

Enhance activities and mechanisms that promote a government-wide culture of risk management related to ESI Funds, such as working groups, awareness-raising initiatives and technical trainings.

THIS GUIDE SUPPORTS IMPROVEMENT OF FRAUD AND CORRUPTION RISK MANAGEMENT IN ESI FUNDS ACROSS COUNTRIES.

In the Slovak Republic, a key area for improvement is strengthening fraud and corruption risk assessments and leveraging data-driven tools. Programme authorities do not accurately identify all relevant inherent risks during their risk assessments, and risk scoring exercises are not comprehensive enough. In addition, improved use of data analytics techniques and tools, such as ARACHNE, and making better use of national databases can strengthen authorities' fraud and corruption risk assessments. For example, conducting periodic statistical analysis of irregularities and fraud cases helps determine higher-risk areas. Furthermore, results of risk assessments can support decision-making processes, ensuring that resources are allocated to areas prone to fraud and corruption. The Slovak Republic and other Member States also need to improve co-ordination between authorities to build skills and expertise for fraud and corruption

risk management. A lack of expertise results in ad hoc risk management practices and hinders institutional knowledge of specific cases and schemes. Furthermore, limited Monitoring and Evaluation (M&E) of anti-fraud and risk management measures across programme authorities prevents these practices from having a long-term impact; a finding supported by the European Court of Auditors⁴. These challenges are not isolated; on the contrary, many Member States have encountered similar drawbacks when identifying fraud and corruption risks in structural funds.

This guide supports improvement of fraud and corruption risk management in ESI Funds across Member States. It can be used by Member States to inform training activities, strengthen fraud and corruption risk assessments, and embed fraud and corruption risk governance in ESI Funds management, among others.

⁴ European Court of Auditors (2019), Tackling fraud in EU cohesion spending: managing authorities need to strengthen detection, response and co-ordination, <http://publications.europa.eu/webpub/eca/special-reports/fraud-in-cohesion-6-2019/en/#chapter3>

OVERVIEW OF THE GUIDE

This guide is divided into three broad stages of the project cycle: (1) Application and project selection; (2) Implementation; (3) Project closure and evaluation.

Each section provides a brief description of what that stage of the project cycle entails, an overview of the fraud and corruption risks at that stage, and which preventive and detective actions can be taken. The final part of the guide includes illustrated schemes from different stages of the project cycle. These schemes are real-life cases from European Union (EU) Member States that have been anonymised due to their sensitive nature. The illustrated schemes include details about the specific fraud or corruption that occurred, the perpetrators of the scheme, and suggested actions to prevent and detect those fraud and corruption risks.

THE EUROPEAN STRUCTURAL AND INVESTMENT (ESI) FUNDS PROJECT CYCLE AND IDENTIFIED VULNERABILITIES

Member States' experience shows significant challenges in mitigating fraud and corruption risks primarily in the application, project selection and implementation stages. Perpetrators have found ways to adapt their schemes not only to the ESI Funds context, but to specific funds and Operational Programmes (OP). Some of the most common and striking risks are as follows:

- During the application and project selection stage, conflict of interest poses a significant risk. Here, collusion between public

officials, applicants and third parties can result in projects being unfairly awarded. Often these types of schemes have an impact throughout the project cycle, with perpetrators employing nefarious tactics in the later stages to conceal the original scheme;

- During implementation of projects, there are numerous cases of fraud and corruption schemes involving public procurement, such as cases involving manipulation of procurement procedures to win EU-funded contracts, as well as price-fixing schemes. At this stage, perpetrators may bribe public officials and manipulate or forge documentation in an attempt to cover up fraud or corruption;
- Although the project closure and evaluation stage of a project bears fewer fraud and corruption risks than the previous stages of the project cycle, the risk remains. Perpetrators may submit forged or falsified documentation to hide fraudulent or corrupt activity that took place earlier on in the project, ultimately allowing the scheme to go undetected. In some cases, perpetrators may bribe auditors or evaluators to ensure that their reports and findings conceal the original fraudulent scheme.

THE FOLLOWING ILLUSTRATION SHOWS A MORE DETAILED DEPICTION OF THE ESI FUNDS PROJECT CYCLE WITH COMMON FRAUD AND CORRUPTION RISKS AT THE DIFFERENT STAGES.



STAGE ONE**APPLICATION AND PROJECT SELECTION STAGE****WHAT DOES THIS STAGE OF THE PROJECT CYCLE LOOK LIKE?**

At the start of the project cycle, a Managing Authority (MA) puts out a call for proposals in line with the objectives of their Operational Programme (OP), which aligns with the thematic priorities of one of the five European Structural and Investment (ESI) Funds. These calls are essentially an open invitation for applicants to submit project proposals against a published specification. Ultimately, this process aims to bring a diverse range of ideas and suggestions for projects into consideration. Applicants need to ensure that their applications meet the call specification, as well as the requirements of the OP. Once the call for proposals is closed, an Evaluation Committee will review the submitted applications. If the proposal meets the requirements, applicants may be invited to submit a full application that details the outputs, costs and expected outcomes of the project. If the application meets the requirements and offers the best option for the needs of the OP, the MA issues a funding agreement which both parties sign. At this point, the applicant becomes the beneficiary, and the project activity can start.

WHAT ARE THE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

In this initial stage of the project cycle, potential fraud and corruption risks lie in both the application and project selection processes, and these risks are heightened due to the discretion of officials at this stage. Indeed, conflict of interest, exercise of undue influence and capture during the preliminary stages threaten to divert funds away from OPs. In an attempt to win projects and funds, an applicant may submit a false declaration to make sure their application is stronger. In reality, the applicant may not possess the expertise or have the capacity to properly carry out the project. When it comes to selecting projects, an applicant may try to influence members of the Evaluation Committee to ensure their project is selected. In some cases, applicants may even bribe officials. Alternatively, members of the Evaluation Committee may have a connection to, and in some cases collude with the applicant to help them win the project. They don't declare their conflict of interest, increasing their chances of influencing the award of the project to favour a particular applicant.

FRAUD AND CORRUPTION RISKS THAT ARE UNMITIGATED IN THE APPLICATION AND PROJECT SELECTION STAGE CAN OPEN THE DOOR FOR OTHER FRAUDULENT AND CORRUPT ACTIVITIES TO OCCUR

At the beginning of the project cycle, the European Commission (EC) emphasises the importance of setting the tone at the top in programme authorities to reflect a strong commitment to combating fraud and corruption. One way to convey this is through an explicit anti-fraud policy. The EC provides guidance to Member States on how to develop such policies, providing a template and guidance note⁵. However, Member States are drawing to the end of the current programming period (2014-2020) – in which anti-fraud measures have been a focus – and many programme authorities across Member States have yet to introduce an anti-fraud policy.

WHAT CAN BE DONE TO MITIGATE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

Fraud and corruption risks that are unmitigated in the application and project selection stage can open the door for other fraudulent and corrupt activities to occur throughout the project cycle. Preventive and detective actions will vary depending on the context of specific OPs and MAs; nevertheless, there are certain actions that can be taken to mitigate the fraud and

Developing explicit anti-fraud policies for programme authorities –

To strengthen fraud risk governance and promote a proactive risk culture from this initial stage, senior management in MAs can establish an anti-fraud policy tailored to the context of their OPs. These policies may vary, but should ultimately achieve the following:

- Articulate the MA's anti-fraud and anti-corruption objectives in the context of implementing OPs;
- Clearly define roles and responsibilities regarding fraud and corruption risk management;
- Detail the steps of fraud reporting and investigation procedures; and
- Outline how the fraud risk management framework will be monitored.

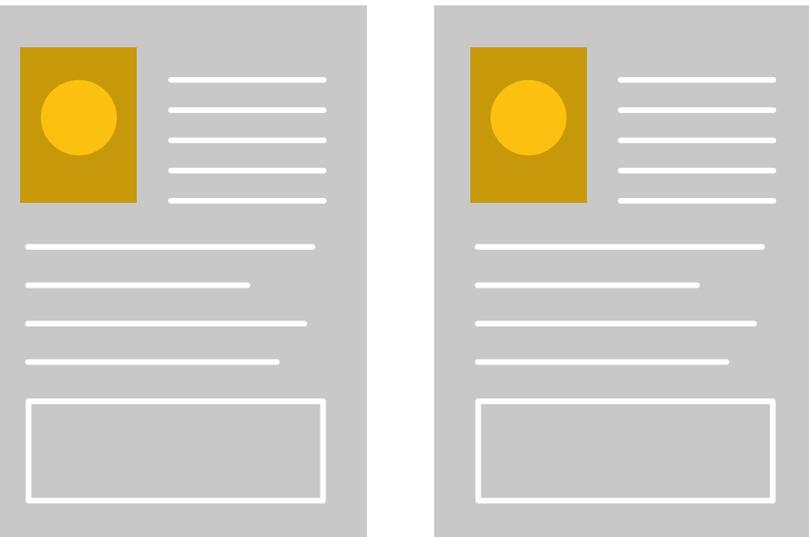
⁵ European Commission (2014), Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures, https://ec.europa.eu/regional_policy/en/information/publications/guidelines/2014/fraud-risk-assessment-and-effective-and-proportionate-anti-fraud-measures



corruption risks outlined above and in the illustrated schemes. Based on the OECD’s work with the Slovak Republic, EC materials, interviews with MAs and investigative bodies, and the OECD Integrity Framework for Public Investment⁶, these include:

- Ensuring an adequate degree of transparency around the selection process by publishing and recording all calls for applications;
- Ensuring conflict of interest provisions are in place and applied to Evaluation Committee members;
- Requiring staff and members of the Evaluation Committee to disclose their family members’ private interests where potential conflicts of interest may arise;
- Cross-checking information and making use of relevant data analytics techniques to make sure that submitted information is correct;
- Making sure that members of the Evaluation Committee sign a declaration to show their commitment to following relevant codes of conduct and integrity standards;

6 OECD (2016), *Integrity Framework for Public Investment*, OECD Public Governance Reviews, OECD Publishing, Paris. <https://www.oecd.org/gov/integrity-framework-for-public-investment-9789264251762-en.htm>



- Putting in place a mechanism within the internal audit function for a secondary review of individual decisions or a sample of decisions made by the Evaluation Committee; and
- Making sure that staff are aware of available channels to report suspected fraud, corruption or integrity breaches during the project selection process.

Ensuring that programme authorities have the skills and expertise to carry out fraud and corruption risk assessments

– To equip staff with the appropriate skills for identifying certain risks, Member States should make sure that programme authorities are provided with regular and targeted training on fraud and corruption risk management. This can include activities to improve the identification of red flags and high-risk areas and processes. Member States should ensure that training programmes have dedicated budgets and resources.

Developing a plan for use of data when undertaking fraud and corruption risk analysis

– Member States should consider relevant national databases and information that may be available to them that could inform the risk assessment process. To capture all relevant, inherent fraud and corruption risks from the beginning of the project cycle, Member States can mainstream the use of tools such as ARACHNE and data analytics techniques can be used.

STAGE TWO

IMPLEMENTATION STAGE

WHAT DOES THIS STAGE OF THE PROJECT CYCLE LOOK LIKE?

Once the funding agreement has been signed, the beneficiary can start undertaking project implementation activities in line with European Commission (EC) requirements, which are monitored by the Managing Authority (MA). This stage involves procurement processes undertaken either by the MA, which is known as direct procurement, or by the beneficiary. This is where a number of actors may be involved in the project, such as contractors, subcontractors, consultants and other third parties. Sometimes, MA's may delegate responsibility to an Intermediate Body (IB), which is typically another government entity, to implement a project and oversee certain processes.

During project implementation, the beneficiary is required to report to the MA and provide data for an electronic system that tracks the project's progress and ensures that activities are being carried out properly and in accordance with requirements. The MA is responsible for carrying out management verifications and On-The-Spot (OTS) checks that provide

further assurance against fraud and corruption. Other programme authorities such as the Certifying Authority (CA) are involved during this stage.

WHAT ARE THE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

The implementation stage of the project cycle brings with it numerous fraud and corruption risks due to the number of actors potentially involved in project implementation and the complexity of some of the processes at this stage. For projects with high investment value, such as large-scale infrastructure projects, this stage becomes even more vulnerable to fraud and corruption⁷. Furthermore, tenders put out either directly by the MA or beneficiary are common during the implementation stage, and procurement processes are notoriously prone to fraud and corruption. As shown in the illustrated schemes in the final part of the guide, there are a number of procurement-specific risks that occur at this stage. For example, members of an MA or beneficiary may tailor tender specifications or leak commercially sensitive tender information

⁷ G20 (2019), Compendium of good practices for promoting integrity and transparency in infrastructure development, https://g20.org/pdf/documents/en/annex_06.pdf

THE IMPLEMENTATION STAGE OF THE PROJECT CYCLE BRINGS WITH IT NUMEROUS FRAUD AND CORRUPTION RISKS DUE TO THE NUMBER OF ACTORS POTENTIALLY INVOLVED IN PROJECT IMPLEMENTATION AND THE COMPLEXITY OF SOME OF THE PROCESSES AT THIS STAGE.

to favour one particular company or individual. Companies or contractors may also take part in collusive bidding schemes to manipulate competitive procedures. Responses from an OECD survey that was distributed to programme authorities show that procurement-related fraud and corruption risks at the level of beneficiaries are sometimes overlooked in risk analysis activities. In addition, some MAs generally base the identification of fraud risks on their own experience, without any additional input from other knowledgeable actors⁸.

Outside of the procurement process, perpetrators employ other tactics to siphon off funds and defraud the EU budget. For example, a beneficiary may fabricate fictitious works, services or activities, or inflate labour costs. In attempt to cover up fraudulent or corrupt behaviour or to justify non-eligible expenditure, perpetrators may manipulate documents and submit fictitious invoices. In some cases, perpetrators may even attempt to bribe officials or staff within programme authorities to conceal the scheme.

WHAT CAN BE DONE TO MITIGATE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

Given the prevalence of fraud and corruption risks during the implementation stage of the project cycle, it is vital that effective controls are in place and that actions are taken to proactively detect such risks. As mentioned previously, the illustrated schemes provide greater insight into the specific actions (and who is responsible for them) during this stage. Certain actions and control activities that can help mitigate fraud and corruption risks include:

- Ensuring that a comprehensive audit trail is maintained to enhance On-the-Spot (OTS) checks and management verifications once the project is well under way, as well as during the project closure and evaluation stage;
- Providing standards of conduct for third parties such as contractors, subcontractors and experts, primarily by implementing a specific code of conduct that includes clear examples of activities that will compromise

⁸ European Court of Auditors (2019), Special Report - Fighting fraud in EU spending: Action needed, https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS_EN.pdf

Establishing co-ordination mechanisms for co-operative approaches to fraud and corruption risk management –

In the implementation stage, there are a number of actors whose knowledge and expertise can be leveraged to better identify fraud and corruption risks. Procurement authorities, for example, may hold a wealth of data and information on contractors or beneficiaries that can be used for risk analysis. The Anti-fraud co-ordination service (AFCOS) in each Member State can provide data on irregularities and fraud and corruption cases in ESI Funds.

Conducting periodic statistical analysis of irregularities, fraud cases and audit findings to help determine the higher-risk areas in different sectors and processes –

Given that this stage is prone to fraud and corruption risks, programme authorities can use data to detect critical gaps or problem areas. This analysis can better pinpoint the investment activities, fraud and corruption schemes, geographical locations and types of beneficiaries that pose higher risks.

integrity standards, as well as outlining applicable sanctions for integrity breaches;

-
- Ensuring all actors have similar access to tender information;
-
- Establishing a sound and comprehensive e-procurement system for the complete dissemination of public procurement information;
-
- Ensuring that tender designs are complete and accurate, and that a technical commission undertakes site surveys;
-
- Where possible, carrying out a parallel independent procurement evaluation to strengthen detection of collusion, bid-rigging and favouring a particular contractor;
-
- Requiring bidders to comply with certain standards to participate in the bidding process for projects considered at-risk to fraud or corruption, and those with high investment value;
-
- In the tendering phase of procurement processes, using a two-envelope approach whereby the envelope containing the price is only considered following a technical evaluation; and
-
- Ensuring that profit and labour costs are separated from the rates for materials and equipment.
-



STAGE THREE

PROJECT CLOSURE AND EVALUATION STAGE

WHAT DOES THIS STAGE OF THE PROJECT CYCLE LOOK LIKE?

When the activity is completed, the Managing Authority (MA) conducts checks that the activity has closed and all the records are accurate and in place. The Certifying Authority (CA) also plays a key role when certifying the accounts and expenditure throughout the project. As audits by the Member State’s Audit Authority (AA) or other national audit and control bodies can continue to take place for years following the completion of a project, it is vital that a sufficient audit trail has been maintained throughout the duration of the project.

WHAT ARE THE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

Although opportunities for fraud and corruption are fewer during the project closure and evaluation stage, this phase is still vulnerable. Perpetrators can attempt to cover up fraudulent or corrupt activity that took place earlier on during the project selection or implementation phases. One particular risk that is present at this stage, and indeed throughout the whole project

cycle, is conflict of interest. A potential conflict of interest may be identified when experts that participated in the project selection stage are also involved in its evaluation. Such individuals may then attempt to influence the outcome of the evaluation, particularly if they have colluded with a beneficiary or other party to carry out fraudulent activities during the project cycle. Alternatively, perpetrators may try and bribe auditors or evaluators to influence their findings. More commonly, beneficiaries or third parties may submit false or forged documentation to conceal corrupt or fraudulent practices that occurred previously.

ONE PARTICULAR RISK THAT IS PRESENT AT THIS STAGE, AND INDEED THROUGHOUT THE WHOLE PROJECT CYCLE, IS CONFLICT OF INTEREST

WHAT CAN BE DONE TO MITIGATE FRAUD AND CORRUPTION RISKS AT THIS STAGE?

Member States can take some preventive and detective actions to not only ensure that fraud and corruption risks do not materialise at this stage, but also to increase their chances of uncovering previously undetected fraudulent or corrupt activity throughout the project cycle. These include:

- Ensuring that auditors are subject to specific codes of conduct regarding beneficiaries, contractors and other third parties;
- Putting in place certain conflict of interest provisions for evaluators and experts, i.e. require such individuals to sign an absence of conflict of interest declaration;
- Cross-checking information across available databases to ensure that submitted information is accurate;
- Ensuring that Supreme Audit Institutions (SAI) have the authority and capacity to provide external oversight of the management of European Structural and Investment (ESI) Funds.

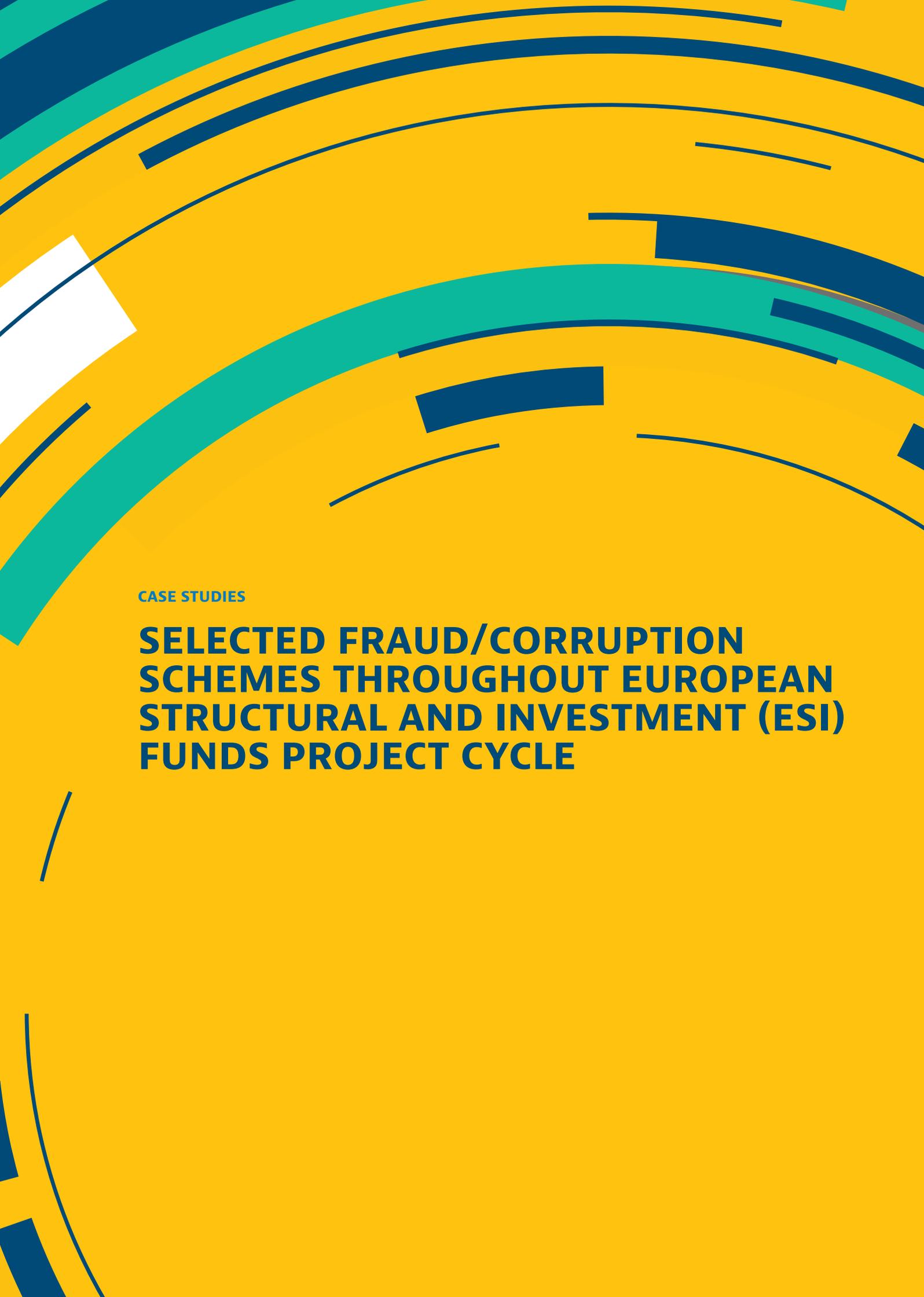
Designing tools and criteria to monitor and evaluate fraud and corruption risk management measures

– It is vital that programme authorities assess their fraud and corruption controls and risk management practices to detect deficiencies. Establishing measurement criteria based on European Commission (EC) guidance and international standards is the first step. Tools such as fraud risk management scorecards are an effective way to undertake monitoring and evaluation.

Providing practical guidance to raise awareness of fraud and corruption risks

– Given that fraud and corruption risks are less likely to occur at this stage, the actors involved (auditors, evaluators, staff within programme authorities) may be less aware of potential fraud and corruption schemes. Member States can provide practical guidance for such actors to ensure that they are aware of certain risks and can identify red flags, either in relation to other actors involved in a project implementation (i.e. MAs, beneficiaries) or within submitted documentation.





CASE STUDIES

**SELECTED FRAUD/CORRUPTION
SCHEMES THROUGHOUT EUROPEAN
STRUCTURAL AND INVESTMENT (ESI)
FUNDS PROJECT CYCLE**

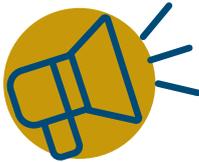
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EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF)

INFLUENCING PROJECT SELECTION AND MANIPULATING PROCUREMENT PROCEDURES IN A PUBLIC LIGHTING PROJECT

A beneficiary, contractor and public officials colluded to obtain contracts and set up a kickback scheme for road construction projects under the European Regional Development Fund (ERDF).

TACTICS



LEAKING BID INFORMATION



INFLUENCE PEDDLING



MANIPULATING DOCUMENTS

Three public officials within the Managing Authority and local council provided the contractor, a private company, with commercially sensitive tender information that was not otherwise publicly available. Under the same project, these public officials influenced the tendering process and ensured that certain individuals were appointed to the Evaluation Committee within the Certifying Authority. By leaking confidential information and modifying submitted project data, public officials obtained an unfair advantage for the contractor. The criminal group, consisting of public officials and business representatives, benefited from over EUR 2 million in kickbacks.

ACTIONS TAKEN

OLAF undertook two investigations and recommended that EUR 21 million be recovered. Judicial proceedings were initiated in the Member State in 2017.

(Source: The Greens European Free Alliance (2018), <https://www.greens-efa.eu/en/article/news/investigate-journalists-reveal-a-vast-corruption-scandal-in-bulgaria-involving-eu-funds/>)

PERPETRATORS**LOCAL COUNCIL**
(BENEFICIARY)**CONTRACTOR**
(THIRD PARTY)**PUBLIC OFFICIALS****PREVENTIVE AND DETECTIVE ACTIONS**

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Design clear guidelines for Managing Authorities on the award process in direct procurement processes.

Use clear guidelines, procedures, and criteria to evaluate applications.

Ensure rotation of evaluation committee members and confirm that members hold sufficient qualifications and technical expertise.

Establish a conflict of interest policy and register with annual declarations.

Check the final price of products/services against generally accepted prices for similar contracts.

Review evaluation reports for inconsistencies in scoring criteria and verify minutes of Evaluation Committee meetings.

Require members of Evaluation Committees to submit periodic asset declarations.

Review a sample of contracts prior to payment of any invoices for evidence of tendering by the beneficiary.

Include due diligence checks and conflict of interest declarations when selecting members of the Evaluation Committee.

Put in place a secondary mechanism (e.g. other than the procuring department) to review samples of winning bids for indications of prior knowledge of bid information, in line with the MA's requirements.

Guarantee a high level of transparency during the award of contracts, i.e. publication of all contract information not considered publicly or commercially sensitive, as required by the MA.

Compare project outputs against costs for any evidence of non-eligible expenditure or that works were not completed.

-  PROCUREMENT AUTHORITIES
-  MANAGING AUTHORITIES
-  CERTIFYING AUTHORITIES
-  BENEFICIARIES

EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT (EAFRD)

2 CORRUPT NETWORKS TAKING CONTROL OF ARABLE LAND TO RECEIVE EU FARMING SUBSIDIES

Small and medium-sized farmers have become victims of modern land grabbing whereby networks of politicians and firms illegally take control of arable land in order to receive EU funding.

TACTICS



LAND GRABBING



MANIPULATING DOCUMENTS



INTIMIDATION

An agricultural company started to cultivate land already owned by a farmer. When the farmer reported this to authorities, the company presented a falsified lease agreement and submitted falsified documents to the Paying Agency responsible for the allocation of EU grants to farmers. The farmer who rightfully owned the land was intimidated and physically aggressed when he confronted the company that illegally cultivated his land. Politicians facilitate such schemes in order to benefit from kickbacks and bribes from the agricultural companies.

ACTIONS TAKEN

As of 2019, OLAF and national authorities in the Member State are undertaking investigations into cases involving this scheme. This case and others similar to it have garnered media attention and sparked public outrage.

PERPETRATORS



AGRICULTURAL COMPANY (BENEFICIARY)



LOCAL POLITICIANS



PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Undertake an initial on-site visit to farms to verify alignment with the application made by the beneficiary.

Use clear guidelines, procedures, and criteria to evaluate applications.

Co-ordinate with police/judicial authorities to ensure a quick and appropriate reaction to the corruption risk. Administrative and penal actions may occur in parallel.

 PAYING AGENCIES/MANAGING AUTHORITIES

EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF)

BID-RIGGING TO FAVOUR ONE COMPANY IN THE AWARD OF EU-FUNDED CONTRACTS

In 17 cases, contracts were awarded to a specific company as a result of tailored tenders and falsified bids for public lighting contracts.

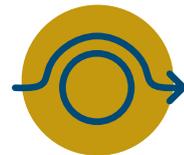
TACTICS



BID-RIGGING



MANIPULATING DOCUMENTS



AVOIDING GENUINE COMPETITION

The tenders, overseen by procurement consultants, contained specific wording that made the company the only suitable bidder. Before submitting its final application, the company modified the return rate calculation for the lighting units, which is the formula to determine the longevity of the product in relation to its price. The company claimed that the units would last for 100,000 hours, when in fact, they had a return rate of a maximum of 80,000 hours. The company's inflated claim allowed it to meet the return rate requirements specified in the tenders, while benefiting from the highest possible labour costs. The company then presented falsified independent bids of fictitious companies in attempt to make their own bid more favourable. Most of the falsified bids included cost estimates that were exactly five and seven percent more than the company's offer, giving the appearance that the latter's bid was the best value for money.

ACTIONS TAKEN

OLAF undertook a two-year investigation which was concluded in 2018, and recommended that the national authorities investigate the possible involvement of organised crime groups in this scheme. OLAF also recommended the recovery of EUR 38 million. The Member State is no longer seeking EU funding for projects carried out by this company.

PERPETRATORS

**PROCUREMENT CONSULTANTS
IN A LOCAL COUNCIL**
(MANAGING AUTHORITY)



PRIVATE COMPANY
(BENEFICIARY)

THE COMPANY CLAIMED
THAT THE UNITS WOULD
LAST FOR 100,000
HOURS, WHEN IN FACT,
THEY HAD A RETURN
RATE OF A MAXIMUM OF
80,000 HOURS.

PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Issue guidelines to Managing Authorities on drafting technical specifications.

Involve expert groups/individuals in the design of tender documents. Ensure that designs are complete and that a technical team undertakes site surveys.

Procurement officials sign a declaration of absence of conflict of interest.

Co-ordinate with other public sector procurers to improve understanding of the market and similar products to those being procured, including technical specifications and costs.

Review bid data to detect a high concentration of non-open or alternative contract procedures, or calls dominated by single or very few bidders.

Engage independent experts to verify that the claims made in the company's bid are accurate.

Examine a sample of awarded contracts to ensure that technical specifications are not too narrow in comparison to goods and services required.

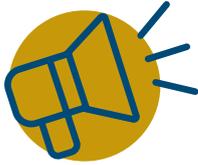
 PROCUREMENT AUTHORITIES

 MANAGING AUTHORITIES

4 A CARTEL'S PRICE-FIXING SCHEME TO WIN EU-FUNDED ROAD-BUILDING CONTRACTS

Construction companies that should have been competing to obtain contracts colluded to fix prices and ensure that each won a contract for building a Member State's motorways.

TACTICS



LEAKING BID INFORMATION



BRIBERY



COLLUSIVE BIDDING

The three consortia planned to divide up the contracts by agreeing that one consortium would make a substantially low bid, ensuring they won the contract, while the others would effectively rule themselves out by submitting higher bids. Executives passed on commercially sensitive tender information to competing firms, and one executive bribed an official from a state-run agency with luxury goods. In theory, the companies that deliberately lost the contract should have gone on to win others. However, this failed after some members of the consortia refused to take part in the scheme.

ACTIONS TAKEN

Prosecutors in the country charged executives from nine construction companies and the official from the state-run agency with illegal price-fixing.

PERPETRATORS



CONSTRUCTION COMPANIES
(BENEFICIARIES)



OFFICIAL
(THIRD PARTY)

PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Use a comprehensive e-procurement system for the complete dissemination of procurement information and to enhance detection of collusive patterns.

Introduce a pre-qualification requirement for bidders to comply with certain standards to participate in the bidding process.

Use a pre-qualification system with adequate technical, financial and qualitative criteria – this can include background checks on previous corruption/fraud offences.

Use award criteria not only relating to price, but also to quality.

Conduct risk assessments and use data analytics to detect collusive patterns by examining historical bid data.

Establish standards for risk analysis that limit room for public officials' discretion.

Use a two-envelope approach whereby the envelope containing the price is only considered following a technical evaluation.

Maintain high integrity standards and provide training for staff to ensure they are aware of relevant codes of conduct and ethics that guide their roles.

Carry out parallel independent procurement evaluations of the tender process carried out by MAs or beneficiaries.

 PROCUREMENT AUTHORITIES

 MANAGING AUTHORITIES

THE THREE CONSORTIA PLANNED TO DIVIDE UP THE CONTRACTS BY AGREEING THAT ONE CONSORTIUM WOULD MAKE A SUBSTANTIALLY LOW BID, ENSURING THEY WON THE CONTRACT, WHILE THE OTHERS WOULD EFFECTIVELY RULE THEMSELVES OUT BY SUBMITTING HIGHER BIDS.

5 A MAFIA-INFILTRATED, EU-FUNDED PROJECT INCLUDING GHOST ROAD WORKS AND AN UNFINISHED MOTORWAY

A beneficiary colluded with contractors and organised crime groups to divert huge sums away from a motorway construction project under the European Regional Development Fund (ERDF).

TACTICS



Large sections of the motorway were scheduled for repair throughout the project. The beneficiary pocketed funds and attempted to conceal it by mimicking repair works; they closed sections of the road without actually doing the repairs. In one case, cash was paid to a contractor who used a fictitious company name on the invoice. Organised crime groups are suspected to have colluded with the beneficiary and used bribes to siphon off funds, as well as influencing decisions made during the project's implementation, such as diverting road construction away from the property of a perpetrator.

ACTIONS TAKEN

Following two in-depth investigations, OLAF requested the recovery of EUR 381 million. Given that the project was closed and the funds had already been spent, the Member State had to repay this huge sum from its national budget. The road was of poor quality and remained unfinished for years. As of 2019, the motorway is finally nearing completion.

PERPETRATORS**BENEFICIARY****CONTRACTORS
(THIRD PARTY)****ORGANISED CRIME GROUPS
(THIRD PARTIES)****PREVENTIVE AND DETECTIVE ACTIONS**

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Render applications inadmissible where an applicant is a connected person to any public official who works at the Managing Authority or the Paying Agency and who has dealt with the application.

MAs require beneficiaries to sign a declaration of absence of conflict of interest regarding contractors.

Carry out background checks on all third parties hired by beneficiaries. This can include checking company names, locations and contact information.

If red flags are detected, cross check information with national databases and commercial registries as well as the Early Detection and Exclusion System (EDES) database.

Interview contractors and other employees during on-the-spot checks.

Undertake quality and quantity checks on information provided by beneficiaries. Check on-time delivery of products and services.

Carry out on-site visits to make sure that works are properly carried out and are in line with contract specifications.

Undertake a detailed secondary review of a sample of management verifications to ensure they've been performed in line with relevant guidelines and standards.

The payment process has several segregated stages of approval, where evidence for the validity of expenditure is required (e.g. independent audit opinions) before approval can be given.

-  MANAGING AUTHORITIES
-  BENEFICIARIES
-  CERTIFYING AUTHORITIES

6 A BENEFICIARY'S ATTEMPT TO GAIN MONEY THROUGH NON-ELIGIBLE EXPENDITURE ON AN EU-FUNDED INFRASTRUCTURE PROJECT

A beneficiary used his personal connections to claim more funds on a large-scale project with a long implementation period.

TACTICS



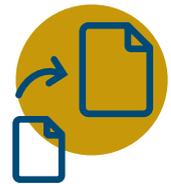
MANIPULATING DOCUMENTS



WITHHOLDING DOCUMENTS



INFLATING STAFF COSTS



MODIFYING CONTRACT DATA

During project implementation, the beneficiary failed to disclose a conflict of interest with a contractor and subsequently favoured the individual when procuring services. The beneficiary achieved this by designing a contract that was tailored to the company in question. As part of the scheme, the beneficiary also hired more consultants for the project than originally planned in the contract. Auditors later discovered this fact, and also found evidence of inflated costs. For instance, the value of a submitted invoice was significantly higher than the planned budget for several remaining years of the project.

ACTIONS TAKEN

OLAF launched an investigation of the project, which lasted five years. The project was also subject to a number of administrative and judicial investigations by the national authorities. As of June 2019, OLAF had yet to initiate a recovery procedure.

PERPETRATORS



BENEFICIARY

DURING PROJECT IMPLEMENTATION, THE BENEFICIARY FAILED TO DISCLOSE A CONFLICT OF INTEREST WITH A CONTRACTOR AND SUBSEQUENTLY FAVOURED THE INDIVIDUAL WHEN PROCURING SERVICES.

PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Provide guidance to Managing Authorities on how to properly oversee procurement processes undertaken by beneficiaries, including how to detect red flags for tailored contract specifications.

Undertake fraud risk analysis of major infrastructure projects. Carry out on-site visits and due diligence checks of beneficiaries, contractors and third parties for large-scale projects. Check information against the Early Detection and Exclusion System (EDES) database.

MAs require beneficiaries to sign a declaration of absence of conflict of interest.

Create a database including ID of beneficiaries and third parties, and input all relevant project data, e.g. number of hours worked, fees, etc.

Review evidence from beneficiaries to independently verify the apportionment of staff costs for project activities e.g. attendance registers, time recording systems, data from accounting ledgers.

MAs require beneficiaries to request prior authorisation for significant changes in personnel.

 PROCUREMENT AUTHORITIES:

 MANAGING AUTHORITIES:

 BENEFICIARIES:

EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT (EAFRD)

7 A COMPLEX WEB OF CONSULTANCY FIRMS MISAPPROPRIATING ESI FUNDS

A network of consultancy firms helped one Member State's largest construction firm to win bids in European Agricultural Fund for Rural Development (EAFRD) projects.

TACTICS



MANIPULATING DOCUMENTS



GETTING TRUSTED PERSONS ONTO EVALUATION COMMITTEES



BRIBERY

Once the firms won a bid, they siphoned off EU money by over-estimating expenditures, declaring fictitious deliveries, and creating fraudulent bills to make inflated claims for materials and labour. Bribes paid by the consultancy firms to officials under the guise of commission fees are suspected to have been transferred through offshore companies. The main supplier of the ESI-funded projects is a company owned by a foreign national - a strawman hiding the real beneficial owner of the company.

IN 2018, THE PUBLIC PROSECUTOR'S OFFICE IN THE MEMBER STATE FROZE EUR 14 MILLION OWNED BY COMPANIES.

ACTIONS TAKEN

In 2018, the public prosecutor's office in the Member State froze EUR 14 million owned by companies and traders related to the construction firm, and the government put a stop to ESI-funded projects implemented by the firm. As of 2019, OLAF is investigating.

PERPETRATORS**THE CONSTRUCTION FIRM**
(BENEFICIARY)**CONSULTANCY FIRMS**
(THIRD PARTIES)**PUBLIC OFFICIALS****PREVENTIVE AND DETECTIVE ACTIONS**

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Rotation of senior management in committees with some level of randomness in their selection.

Put in place strong controls on bidding procedures, e.g. enforcing submission deadlines, as required by the MA.

Review all contract awards with a secondary mechanism for indications such as winning bids being close to the next lowest bid or evidence of the winning bidder communicating privately with contracting personnel.

A conflict of interest policy and register are in place with annual declarations.

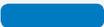
Regular fraud risk assessments and use of ARACHNE and other data mining tools to detect fraud and corruption risks.

Review the operation of controls for a sample of beneficiaries using a risk-based approach.

Review key third party personnel and compare to the original tenders. Request evidence confirming the suitability of significant substitutes.

Review final activity and financial reports to detect discrepancies. Look out for submission of copies when originals are required and indications of changes to documents.

Review evidence from beneficiaries to verify that costs were incurred within project deadlines and in line with contract specifications.

-  EVALUATION COMMITTEES
-  BENEFICIARIES
-  MANAGING AUTHORITIES

EUROPEAN SOCIAL FUND (ESF)

8 PARTNER BENEFICIARIES PROVIDING PHANTOM TRAINING ACTIVITIES FOR A PROJECT UNDER THE EUROPEAN SOCIAL FUND (ESF)

Two beneficiaries falsely claimed that they had carried out training activities and events in two Member States.

THE BENEFICIARY WAS SUPPOSED TO IMPLEMENT THE PROJECT TOGETHER WITH A PARTNER IN ANOTHER MEMBER STATE, BUT THE JOINT TRAINING ACTIVITIES NEVER TOOK PLACE.

TACTICS



MANIPULATING DOCUMENTS



FABRICATING FICTITIOUS PROJECT ACTIVITIES

As per the contract terms, the beneficiary was supposed to implement the project together with a partner in another Member State, but the joint training activities never took place. The final technical and financial reports submitted to the Managing Authority claimed that the training had indeed been held in both countries, but samples of documents including signatures and other materials proved that the information sent by the beneficiaries was forged.

ACTIONS TAKEN

The public prosecutor's office in the Member State where the original grant beneficiary was selected launched an investigation, requesting assistance from OLAF and co-operating with authorities in the other Member State.

PERPETRATORS



BENEFICIARY



BENEFICIARY



PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Put in place clear and comprehensive written procedures and checklists for management verifications during project implementation.

Verify evidence from beneficiaries for the completion of project activities. Look out for incomplete or vague information as well as discrepancies in supporting documentation.

Maintain an audit trail for independent audits and keep accounting records that provide detailed information on expenditure actually incurred in each co-financed operation by the beneficiary.

Keep records of the technical specifications and financial plans of operations, progress and monitoring reports, and reports on inspections of products and services.

Review final activity and financial reports received from beneficiaries for any discrepancies between planned and actual activities.

EUROPEAN MARITIME AND FISHERIES FUND (EMFF)

A BENEFICIARY'S SCHEME TO POCKET EU FUNDS AND PROVIDE KICKBACKS UNDER THE EUROPEAN MARITIME AND FISHERIES FUND (EMFF)

A company receiving funds for a project aimed at raising awareness of fisheries and aquaculture took advantage of weak control procedures to pocket EU money and set up a kickback scheme with contractors in the process.

TACTICS



MANIPULATING DOCUMENTS



SUBSTITUTING PRODUCTS



PROVIDING FAULTY PRODUCTS

In the initial stage, the Managing Authority carried out an award process that wasn't in line with relevant legal provisions. Following the award of the project, the beneficiary provided faulty deliverables and siphoned off money, which they covered up by submitting fictitious invoices. Project data also showed schedule and time-frame discrepancies. Inadequate control and public procurement procedures enabled the beneficiary to set up a kickback scheme with contractors for the project.

ACTIONS TAKEN

Following an OLAF investigation, judicial recommendations were made to the authorities in the Member State and the public prosecutor launched a criminal investigation. This led to the seizure of over EUR 2 million from the beneficiary, a private company.

PERPETRATORS



**THE COMPANY
(BENEFICIARY)**



**CONTRACTORS
(THIRD PARTIES)**

INADEQUATE CONTROL AND PUBLIC PROCUREMENT PROCEDURES ENABLED THE BENEFICIARY TO SET UP A KICKBACK SCHEME WITH CONTRACTORS FOR THE PROJECT.

PREVENTIVE AND DETECTIVE ACTIONS

PROJECT TIMELINE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Provide guidance to Managing Authorities on properly carrying out award processes and designing award criteria.

Carry out on-site visits throughout implementation of the project, checking that products are in line with specifications. MAs may consult independent technical experts in this process.

As a first-level check to detect fictitious invoicing, perform cross-checks of information across databases.

Undertake on-the-spot checks to verify that the details of the submitted bid documentation are properly reflected in the implementation of the project.

Review a sample of winning bids for indications of prior knowledge of bid information, etc.

Enforce submission deadlines for third parties during the procurement process.

-  PROCUREMENT AUTHORITIES:
-  MANAGING AUTHORITIES:
-  BENEFICIARIES:

www.oecd.org/gov/ethics/risk-management-integrity.htm