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SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

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Introduction

In this brief we are going to look into how can public authorities integrate social considerations into public tenders.

Background

Public procurement can be used to achieve goals other than purely economic ones. Such goals are often referred to as “social linkages”. A preference for social considerations has been gaining ground against the dominant best value for money (BVM) paradigm over the past few decades. In the past, public procurement policies followed the principle of non-discrimination and free competition beyond national boundaries. Today considerations other than (purely economic) BVM have become relevant in public procurement policy and practice. Set-asides can be seen as social procurement linkages through the promotion of both supplier diversity and employment. The latter means that social use of public procurement can positively impact employment by providing opportunities to workers who are generally excluded from the labour market, while the former means that chances are given to less-competitive bidders.¹

The EU context

A substantial part of public investment in our economy is spent through public procurement: €2 trillion yearly representing 14% of EU GDP. Ensuring that this taxpayer money is spent efficiently and effectively is of common European interest.² Public authorities can use this lever in a more strategic manner, to obtain better value for each euro of public money spent and to contribute to a more innovative, sustainable, inclusive and competitive economy. The recently reformed EU public procurement rules were adopted with the intent of achieving a flexible legal framework, giving contracting authorities the opportunity to choose the right type of procedure, requirements and criteria allowing them to make purchases to satisfy their needs, while at the same time guaranteeing transparency and equal treatment.

Challenges

According to the EU sources:³

- ▶ **55% of procurement procedures still use the lowest price as the only award criterion.** Most economically advantageous tenders (MEAT), which may include social, environmental, innovative, accessibility or other qualitative criteria, are still underused.

1. https://www.researchgate.net/publication/320970294_Socially_Responsible_Public_Procurement_and_Set-Asides_A_Comparative_Analysis_of_the_US_Canada_and_the_EU

2. https://ec.europa.eu/growth/content/increasing-impact-public-investment-through-efficient-and-professional-procurement-0_en

3. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2017%3A572%3AFIN>



- ▶ **Still only 5 % of public contracts published are awarded after negotiation, without a call for tender being published.**
- ▶ **Between 2006 and 2016, the number of tenders with only one bid has grown from 17 to 30 %.**
- ▶ SMEs win only 45 % of the value of public contracts above EU thresholds - below their weight in the economy.
- ▶ Digital transformation of public procurement is slow.
- ▶ In a 2016, only four Member States rely on digital technologies for all major steps of the procurement process.
- ▶ Contracting authorities are rarely buying together, as only 11 % of procedures are carried out by cooperative procurement.

Suggested approaches

In order to overcome the identified challenges, the European Commission is taking several measures and suggests the following approaches:

- ▶ **The guidance on the use of innovative, green and social criteria** is currently under preparation. It will help EU countries make the most out of procurement. Buyers will benefit

from exchange of good practices, including in strategic sectors, such as healthcare, IT or construction.

- ▶ **The ex-ante evaluation assessment tool** is also in its preparatory phase. It will help public authorities get off to the right start. The Commission will help clarify if projects comply with EU procurement rules and provide assistance on specific procedures, selection and award criteria. ⁴
- ▶ **Applying EU rules on transparency, equal treatment and non-discrimination** can make public procurement more efficient. This can make it more interesting for companies, particularly SMEs, leading to higher competition and better outcomes.
- ▶ **Promoting joint cross-border public procurement and providing training on SME friendly policies** will help buyers to work together, learn from each other and ensure better value for money for EU citizens.
- ▶ **Enhanced transparency, digitalised processes and strategic procurement** will provide SMEs with more business opportunities. Improving access to non-EU markets through trade agreements opens new opportunities for all EU businesses. ⁵

⁴https://ec.europa.eu/growth/content/public-consultation-setting-voluntary-ex-ante-assessment-mechanism-large-infrastructure-0_en

⁵<https://ec.europa.eu/docsroom/documents/25615/attachments/1/translations/en/renditions/native>

THE TAKEAWAY:

Strategic public procurement should play a bigger role for central and local governments to respond to societal, environmental and economic objectives. Mainstreaming innovative, green, and social criteria, a more extensive use of pre-market consultation or qualitative assessments (MEAT) as well as procurement of innovative solutions at the pre-commercial stage requires not only a highly competent pool of public procurers but above all policy vision and political ownership. Some Member States made MEAT, including green criteria mandatory for their procurement processes. Others could consider setting voluntary targets to monitor the uptake. In any event, to achieve optimum outcomes in public procurement, strategic criteria need to be applied systematically. This can be enabled by extensive practical support, such as dissemination of standards, methodologies for benchmarks, regular updates of labels²⁵ and evaluation criteria and availability of a library of good practice. (Source: Making Public Procurement work in and for Europe.)

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