

EU public procurement policy: responding to new challenges



EU procurement legislation has helped to embed a culture of professional and value-driven procurement across Europe. It has brought transparency to markets for public contracts. Over 150,000 contracts were advertised EU-wide in 2009, for an amount equal to 3.11% of EU GDP. It has fostered more competition for government contracts: on average, five bidders competed for every publicly tendered contract. Contracting authorities believe that this has delivered average savings of 5-8% on expected costs. The wider public recognise the importance of effective procurement disciplines in combating corruption and favouritism.¹

Why EU public procurement matters

In the years to come, the disciplines imposed by EU public procurement policy will be increasingly relevant:

- As a result of the financial crisis, EU Member States are faced with yawning fiscal deficits (which will average 7.5% of GDP in 2010) and a mountain of public debt (amounting to 80% of GDP). Efforts to consolidate public finances will become the order of the day. In this context, public authorities will be expected to do more with less. Efficient procurement processes can contribute to this goal.
- National and regional authorities are reorganising their procurement systems in ways that increase the relevance of EU procurement rules. There is increased centralisation of procurement in the hands of specialised purchasing agencies. Contracting authorities are starting to make use of electronic procurement platforms for some purchases. These trends help to make public procurement more transparent and contestable. Rules designed to deliver effective access to these markets will therefore become even more powerful.

New demands and expectations

However, EU procurement policy is also faced with new demands and expectations resulting from the changing policy and market environment. A number of these issues are currently being discussed in the context of a European Parliament 'own initiative report', notably:

- The need to cater for new methods of financing or delivering public infrastructures and services. In the past 15 years, over 200bn€ of investment was financed through public-private partnerships. Cooperation between local authorities is also becoming more commonplace. There is a need to clarify the extent to, and ways in which EU procurement disciplines can usefully apply to these forms of delivering public services and infrastructure.
- Pressure, particularly from local and regional administrations, to facilitate contracting authorities in procurement transactions by providing more flexibility in procedures, speeding up contract award, and reducing the risk of legal

challenges afterwards. In 2004, the menu of procedures available to authorities was expanded. In the context of the crisis, the Commission has endorsed greater recourse to accelerated procurement procedures to accelerate public spending. In responding to concerns about administrative complexity and cost, care must be taken, however, to preserve the benefits of a transparent and contestable procurement. (We must not throw the baby out with the bath-water).

- Growing interest in using public procurement expenditure to pursue other policy objectives – notably to promote the take-up of environmentally friendly solutions and to provide market outlets for innovative technologies. Such policies can be implemented in a way that is compatible with sound and objective procurement. The key is to frame desired procurement outcomes in clear and objective specifications which do not implicitly favour particular suppliers. Too much scope for subjective appreciation or arbitrary decisions could weaken sound procurement disciplines and complicate the task of contracting authorities.
- The new challenges posed by the transition to electronic procurement: the technology to support e-procurement is now in place. National and regional e-procurement platforms are developing and thereby delivering tangible benefits to contracting authorities and suppliers. At European level, the challenge is two-fold: first, to ensure that the legal and policy environment keeps pace with this change; secondly, to avoid the emergence of a new generation of barriers to cross-border procurement which have their origin in different e-procurement models, information technology systems and applications.

The Commission's response

The Commission is exploring ways in which EU procurement policy can respond to these challenges. In the short-term, it is preparing initiatives in the area of concessions and is looking closely at the issue of the application of procurement legislation to cases where local or other purchasing bodies cooperate in procurement.

In response to demands from the European Parliament, the Commission will come forward with comprehensive guidance to

¹ Eurobarometer survey (2009).

help Member States and authorities to use procurement policies to support other societal objectives, such as green procurement and fostering innovation.

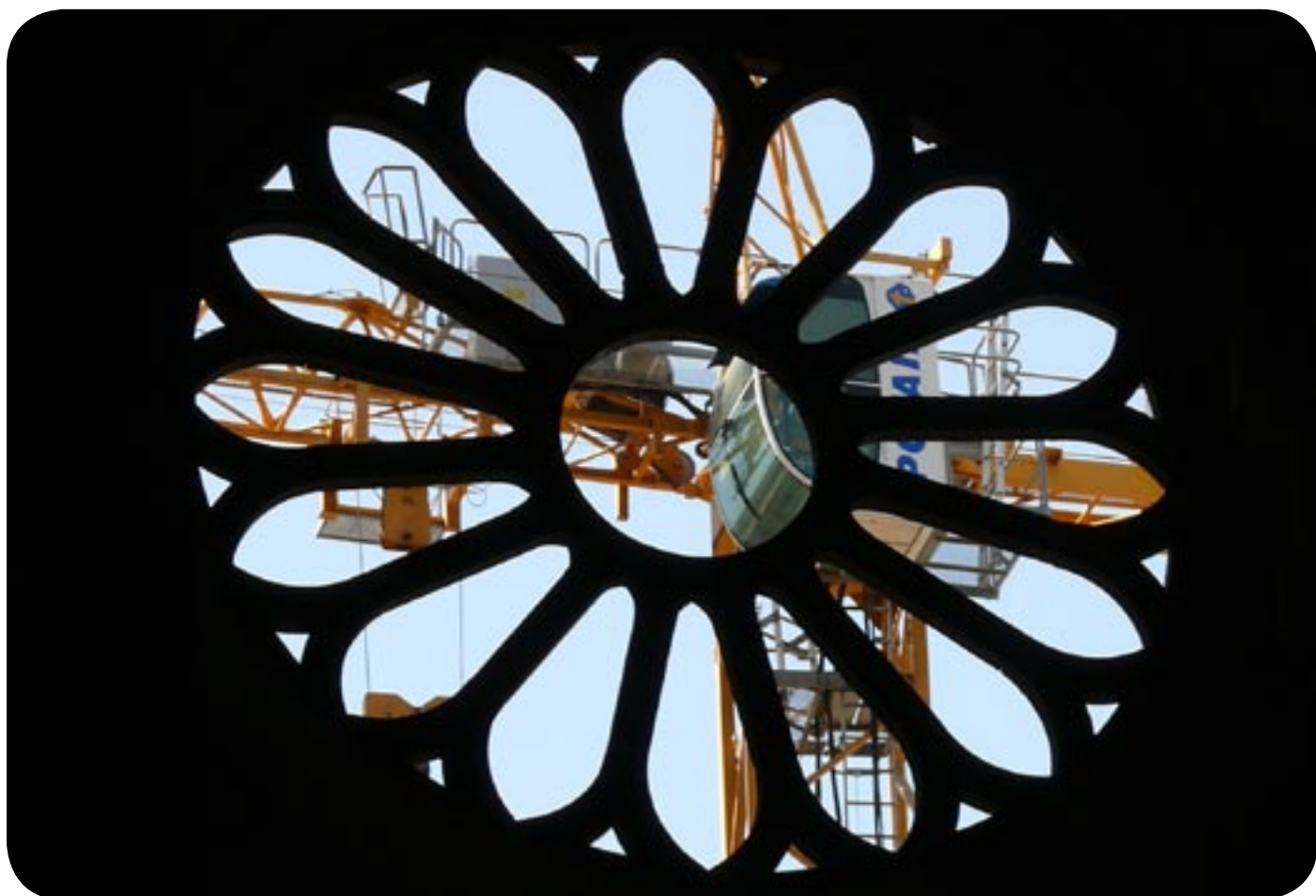
It is also finalising an analysis of the take-up of e-procurement in which it will assess the existence of barriers to cross-border participation in electronic procurement marketplaces.

In parallel, the Commission is embarking on a comprehensive evaluation of EU procurement legislation. This evaluation, to be completed in spring 2011, will examine the effectiveness of EU rules in promoting open, contestable and sound procurement. The findings will be used to inform reflection on the need for a modernisation

of EU procurement rules. Any such modernisation will be driven by the objective of enabling contracting authorities to undertake procurement in a timely and effective manner so as to accomplish the public missions entrusted to them. It could also clarify how contracting authorities can take account of environmental, social or other policy considerations when awarding contracts. Any eventual adjustments should not come at the expense of transparent and contestable procurement markets. These principles have served us well so far and should remain the cornerstones of EU procurement policy.

What is public procurement?

Public procurement is the process whereby the public sector (i.e. national, regional and local government and certain utilities) awards contracts to companies for the supply of goods or services, including building and construction works. For contracts with an expected value above certain thresholds, the procurement procedure is regulated by EU legislation. This legislation aims to promote transparency and competition in public tender procedures, thereby avoiding discriminatory or preferential purchasing and encouraging purchasing bodies to make the best use of public resources. Given the amount of public money at stake, and the number of public purchasers and suppliers involved, the way in which public procurement is regulated and administered has an immediate and significant influence on the business environment.



[Info](http://ec.europa.eu/internal_market/publicprocurement/e-procurement_en.htm)

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