THE OPENING OF GOVERNEMENT PROCUREMENT IN THE EU AND IN A GLOBAL CONTEXT

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EUROPEAN UNION – some history…

- 1957: creation of the European Communities by France, Germany, Italy and Benelux countries
- The EC evolved from a Customs Union into a Single Market, process of economic and political integration
- 1992: the EC becomes the EU (European Union)
- 1992: creation of the European Single Market without internal borders
- After several enlargements, the EU has now 27 Member States with over 500Mion citizens, speaking 23 different languages
EUROPEAN UNION – The Single Market

• Objective: remove barriers to trade between countries that are part of the European Union

• “4 Freedoms”: goods, services, citizens and capital

• As public authorities purchase 16% of EU GDP (i.e. 2.300 Bion €) …

• … without a single market in public procurement, the EU Single Market would be incomplete

Moreover, public procurement cements democracy and the rule of law by fighting corruption
EUROPEAN UNION – The Single Market

• Single Market in the area of Public Procurement

• Objectives:
  - Create one single procurement zone
  - Bring each MS legislation closer to each other
  - Ensure transparency
  - Forbid discriminatory measures

How? Through EU legislation
PUBLIC PROCUREMENT IN THE EU - Objectives

Administrative rationale:

• Transparency and accountability
• Rule of law / fight against corruption

...EVERYWHERE WHERE TAXPAYERS’ MONEY IS INVOLVED

Recent EU-wide survey results taxpayers (Eurobarometre):

• Rules must curb favoritism and corruption
• Most important criteria to award a contract: VALUE FOR TAXPAYER
PUBLIC PROCUREMENT IN THE EU

Objectives

Economic rationale:

- EFFICIENCY OF PUBLIC SPENDING
- Best value for money
OVERALL FACTS AND FIGURES

• The EU: the largest procurement market in the world
  – Estimated total EU public procurement (2008): 2300 bion € (16% of EU GDP)
  – Estimated total above thresholds (TED): **377 bion €** (3% of EU GDP)

• Size of other procurement markets above thresholds:
  – USA: 279 bion € (above-thresholds)
  – Japan: 96 bion € (above-thresholds)
PUBLIC PROCUREMENT IN THE EU
- What benefits for the EU economy ? -

- Competition has brought savings
- The more bids, the more savings
- Each call for tender attracts today 5 bids in average
- …and an average saving of 8%
- In 2008, EU Member States were therefore able to save 30 billion €
- …very important for Europe in a context of crisis and ageing societies
PUBLIC PROCUREMENT IN THE EU
- What benefits for the EU economy

Competition delivers savings

Competition and savings

Savings
-25,0%
-20,0%
-15,0%
-10,0%
-5,0%
0,0%

0 5 10 15 20 25 30
Number of bids
TYPES OF PURCHASES

• All supplies (except warlike material)
  Volume: 93 billion EUR

• All construction services (CPC 51)
  Volume: 162 billion EUR

• Services with cross-border relevance
  Volume: 122 billion EUR
**CONTRACT VALUES**

Distribution of contracts varies in each MS:

- **FR/DE** – median value = 200,000 EUR
- **UK** – median value = 700,000 EUR

Very high values – few contracts

- Most of the contracts (99%) below 200 million EUR
- Only few contracts above 1 billion EUR
PUBLIC PROCUREMENT IN THE EU
- Closer Legislation -

- Public procurement directives:
  - Directive 2004/18/EC that applies to central and local contracting authorities in the “classical sector” (supplies, services, construction)
  - Directive 2004/17/EC that applies to utilities (water, energy, transport, postal services)

- Each MS then lays down its national procurement law based on the Public Procurement Directives

- The directives coordinate public procurement procedures in the EU

- The procedural rules of the GPA are also implemented through the directives
European Public Procurement Directives are like a toolbox:

- They don’t define how to purchase
- They establish **common approaches** on how to purchase transparently & without discrimination
  - Common scope
  - Common procedures
  - Common rules on specifications
  - Common rules on publication
PUBLIC PROCUREMENT IN THE EU
- Closer Legislation -

• EU Directives are a “mini-GPA” but more detailed
• …they are complemented by Member States and case law
• Ideal model for regional integration
• Key point: central point of publication of calls for tender
PUBLIC PROCUREMENT IN THE EU
- Closer Legislation -

Defining a common scope:

• All goods (exc. Defence), all works
• Main services
• All central/regional/local authorities
• All public bodies
• Utilities (railways, electricity, airports…)
• Thresholds
TYPES OF ENTITIES COVERED – Annex 1

- Central government authorities (National, federal level)
  e.g. Ministry of Finance in France
- Subordinate entities of Central government authorities
  e.g. Agencies
- European Commission and Council of EU
- Thresholds:
  130 000 SDRs (125,000€) for services/supplies
  5 000 000 SDRs (4,845,000€) for construction services
- Volume: 68 billion EUR (18% PP market above thresholds)
TYPES OF ENTITIES COVERED – Annex 2

- **Regional authorities**
  e.g. Comunidad Autonoma de Catalunia

- **Local authorities**
  e.g. City of London or small city of Vlissingen (NL)

- **Bodies governed by public law**
  e.g. Societa Stretto di Messina

- **Thresholds:**
  - 200 000 SDRs (193,000€) for services/supplies
  - 5 000 000 SDRs (4,845,000€) for construction services

- **Volume:** 261 billion EUR (68% PP market above thresholds)
TYPES OF ENTITIES COVERED – Annex 3

- **Airports** - e.g. AENA, ADP
- **Electricity** - e.g. EDF, ENEL
- **Urban Transport** - e.g. London Underground,
- **Ports**: Rotterdam, Antwerp
- **Water** – e.g. Aigües de Barcelona
- **Thresholds:**
  - 400 000 SDRs (387,000€) for services/supplies
  - 5 000 000 SDRs (4,845,000€) for construction services
- **Volume**: 47 billion EUR (12% PP market above thresholds)
Common procedures

- OPEN – all participants submit an offer (70% of proc.)
- RESTRICTED – only some of the participants are invited to submit an offer (20% of proc., mostly in the UK)
- NEGOTIATED – under very specific conditions, contracting authority consults specific companies and invites them to submit an offer (10% of proc.)
  Conditions: extreme urgency, design of works, first reception of unacceptable offers…
- COMPETITIVE DIALOGUE – for very complex contracts
Public procurement in the EU - Closer Legislation -

Common rules on specifications:

• Technical specifications: reference to common standards, use of performance or functional requirements
• Always use the reference ‘or equivalent’
• Possibility to include environmental characteristics
• Possibility to use variants
FOCUS – Railways/Urban Transport

- Green economy = development of railways and urban transport everywhere in Europe
- IMPORTANT OPPORTUNITIES: high-speed trains, mass transit, infrastructure
- Current market = 20-25 billion EUR
- Currently: 36 billion EUR of projects in pre-approval in the EU
FOCUS – Railways/Urban Transport

• Examples of forthcoming projects:
  New suburban metro lines in Paris – 4 billion EUR
  Barcelona metro line 9 – 2 billion EUR
  Dublin metro (West) – 1 billion EUR
  Lyon-Turin high speed line: 6 billion EUR
  Portuguese high speed lines: 7 billion EUR
FOCUS - Services

• A growing share of the number of contracts: from 36% in 2001 to 44% in 2005

• Voluminous GP for some services:
  IT services – 9 bion €
  Business services (engineering, consulting, audit services) – 28 bion €
ONE SINGLE POINT OF ACCESS: TED

• All contracts covered by the European Public Procurement Directives have to be published in the OJEU (Official Journal of the EU), now TED

• TED: http://ted.europa.eu

• TED is a free access website containing all public procurement opportunities in the EU (contracts covered by EU legislation)

• …in 23 languages!

• In 2008: 377 billion € were published (1 billion € business opportunities per day)
Example: TED (OJEU) - online business opportunities
UK-West Bromwich: electrical supplies and accessories

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SECTION I: CONTRACTING AUTHORITY

I.1) NAME, ADDRESSES AND CONTACT POINT(S):
Sandwell Homes Ltd, Finance/Purchasing Department, Sandwell Road, Attn: Terry Armstrong, UK-West Bromwich B70 8TB. Tel. 01215696038. Email: matthew_cotter@sandwellhomes.org.uk. Fax 01215696041.

Internet address(es):

Further information can be obtained at: Sandwell Homes Ltd, Finance/Purchasing Department, Sandwell Road, Attn: Terry Armstrong, UK-West Bromwich B70 8TB. Tel. 01215696038. Email: matthew_cotter@sandwellhomes.co.uk. Fax 01215696041.

Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained at: Sandwell Homes Ltd, Finance/Purchasing Department, Sandwell Road, Attn: Matthew Cotter, UK-West Bromwich B70 8TB. Tel. 01215696038. Email: matthew_cotter@sandwellhomes.co.uk. Fax 01215696041.

Tenders or requests to participate must be sent to: Sandwell Homes Ltd, Finance/Purchasing Department, Sandwell Road, Attn: Matthew Cotter, UK-West Bromwich B70 8TB. Tel. 01215696038. Email: matthew_cotter@sandwellhomes.co.uk. Fax 01215696041.

I.2) TYPE OF THE CONTRACTING AUTHORITY AND MAIN ACTIVITY OR ACTIVITIES:
Body governed by public law.
Housing and community amenities.

SECTION II: OBJECT OF THE CONTRACT

II.1) DESCRIPTION

II.1.1) Title attributed to the contract by the contracting authority:
SHS13 Supply Of Domestic Electrical Items.

II.1.2) Type of contract and location of works, place of delivery or of performance:
Supplies.
Purchase.
Main place of delivery: West Midlands.
NUTS code: UKG34.

II.1.3) The notice involves:
PUBLIC PROCUREMENT IN THE EU - Common business opportunities -

...of course, process of ensuring that everybody publishes has been gradual...

• Life of contracting authorities has been eased thanks to automatic database to send contracts for publication in TED

• Thanks to TED, firms across Europe can identify business opportunities in other countries...
PUBLIC PROCUREMENT IN THE EU
- Common business opportunities -

• Thanks to the Common Procurement Vocabulary, businesses can break linguistic barriers: around 7,000 different codes

• Take an Irish firm specialised in construction of airports…

• Let it use the code 45213331 in TED

• …and let it find a contract in TED for the construction of an airport in Lisbon, without speaking Portuguese

• Although TED will provide it with an English and Gaelic translation
PUBLIC PROCUREMENT IN THE EU
- Challenges -

Finding common grounds for:

• Electronic procurement
• Public-private partnerships
• Sustainable and social procurement
EU is an important actor in the public procurement world

- EU has gained precious international experience internally, and with the EU Enlargement process (from 6 to 27 members)

- Technical assistance under the European Neighbourhood Policy, covering some 16 neighbouring countries

- Regulatory dialogues with Russia, China, Japan
  - Exchanging policy and legal developments
  - Exchange best practices
  - Contributing to transparency and equal level legal playing field

- FTAs, TAs and Association Agreements with provisions on procurement chapters with 27 States regions. Recent: Colombia, Peru, South Korea, Central America
Global perspective
- the GPA -

A plurilateral agreement with 14 Parties, but mostly only “older” industrialised economies (EU/US/JPN/CAN)

…but now attracting the interest of several emerging economies:

• Albania, Armenia, China, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama

• India « observes »

…thanks to forthcoming revision/modernisation, including special & differential treatment for developing countries
Global perspective - the GPA-

• GPA – Structure : « Text » & « Coverage »

• Applies only to « covered procurement »

• « Coverage » defined in in Annexes (scheduled by parties) in Appendix I On the basis of reciprocity

• Limited to GPA members

• Text in English, French and Spanish

• General Principles: Transparency and Competition
Global perspective - the GPA-

- **Transparency** of government procurement regime
  - transparency of information
  - accessibility to public, interested suppliers
  - predictability of bidding environment
- **Effective and fair competition**
  - maximum competition; opportunities for new suppliers
  - use of appropriate procurement procedure
  - cost-effective bidding and procurement processes
  - transparency, objectivity, of evaluation criteria & process
- But also:
  - incentive for fair, transparent and efficient internal GP legal framework
  - protection against protectionism from GPA partners
Global perspective - the GPA-

General principles reflected in the GPA text

• Tendering procedures
• Publication/invitations to participate
• Qualification of suppliers
• Time limits
• Necessary Documentation
• Award criteria
• Bid challenges/remedies….
Global perspective
- The Economic impact -

• A worldwide market of some 500 billion EUR

• EU market: 300 bn EUR (Spain & Portugal – 35 Bn €)

• EU: 12 billion EUR of contracts awarded to companies from GPA Parties

...roughly as much as GPA countries import share (% GDP) in the EU: 3-4%

• Size will dramatically increase with China’s accession
CONCLUSIONS

• EU Directives are more than a useful reference for regional integration

• In this sense, the EU is ready to share its experience and to learn from other experiences in the world

• Global opening of public procurement is underway

• Beneficial for trade but also for transparency and equal level playing field at a global scale

• GPA is a powerful and attractive instrument

• Geographical scope should be enlarged
THANK YOU!

• More information on:
  • http://ec.europa.eu/dgs/internal_market/index_en.htm
  • http://ec.europa.eu/trade/index_en.htm/
  • http://ec.europa.eu/external_relations/index_en.htm