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e-Procurement

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What is e-procurement? At its simplest, e-procurement is a catch-all term for the replacement of paper-based procedures with information technology-based communications and processing throughout the procurement process. E-procurement can be a tool to make processes more efficient and promote the effectiveness of procurement.

E-procurement technology and processes can be used, where appropriate, at different phases of a procurement process, including publication of tender notices, the provision of tender documents, submission of tenders, the evaluation process, notification of award, ordering, invoicing and payment.

Why use e-procurement? The use of e-procurement systems and processes can result in a number of advantages including:

- **Reduced administrative costs** of individual procurements;
- **Streamlined** procurement procedures;
- **Faster** procurement procedures;
- **Increased transparency** by providing information about individual tender opportunities but also providing a clearer and broader picture of tenders on a wider basis;
- **Better monitoring of procurement;**
- **Encouraging cross border competition** by reducing barriers presented by paper based procurement processes;
- **Supporting the development of centralised procurement administration** resulting in the potential reduction of costly procurement back-office functions and taking advantage of economies of scale in procurement administration;
- **Wider administrative modernisation and simplification**, encouraging the integration of various administrative processes as well as the diffusion of information technology solutions within and by government and society more generally.

The European Commission in its *Green Paper on Expanding the Use of e-procurement in the EU*¹ provides examples of the benefits of the introduction of e-procurement as follows.

Examples of savings and improvements:

Italian Emilia Romagna's agency Intercent ER offers e-Procurement services including e-Marketplace, e-Catalogues and e-Auctions and is now the reference point for 539 administrations (90% of local agencies). In 2008 it processed transactions amounting to some € 419 million, delivering efficiency benefits of € 67.5 million and time savings of 45 man-years.

The Austrian Federal Procurement Agency centralises purchases for federal authorities through e-Procurement functionalities. In 2008 it reported savings of €178 million against a procurement volume of €830 million. Benefits seem to significantly outweigh the annual maintenance costs of €5 million, which are less than 3% of the savings.

As of 1 February 2005, all contracting authorities in Denmark may only accept electronic invoices. This reform affects approximately 15 million invoices a year, and applies to the entire public sector, from ministries to nursery schools. The use of e-Invoicing is expected to save the public €100 million every year, on top of savings in internal administrative processes.

In Norway, the Ehandel platform is helping authorities to achieve 20-40% reductions in the time taken to handle orders, receipt of goods and invoicing and delivering price savings in the region of 2-10%.

In the UK, the Buying Solutions site reported in its 2008/09 annual report that it had facilitated sales of over £5 billion, delivering £732 million in savings. The UK also reported savings frequently exceeding 10% (and even up to 45%) through the use of e- Auctions and recently announced plans to use e-Auctions to save the taxpayer up to £270 million by the end of 2011.

A Portuguese study compared the best bids for public works contracted by 50 Portuguese public hospitals in 2009 (using paper based systems) and 2010 (using e-Procurement). It concluded that a cost reduction of 18% had been achieved in 2010, due to the increase in competition generated by e-Procurement.

It is worth noting that savings such as those outlined above are commonly achieved by using a combination of e-procurement, framework agreements and central purchasing. For further information, see *Procurements Brief 19 - Framework Agreements* and *Procurement Brief 20 - Central Purchasing Bodies*.

¹ COM (2010) 571 final

The European Union has incorporated specific provisions in the Public Sector Directive (Directive 2004/18/EC) (“the Directive”) to facilitate and encourage, but not oblige, the use of e-procurement in tender processes. These provisions are outlined further below.

How the Directive supports and encourages e-procurement

The degree to which e-procurement is used will vary according to a number of factors including local legislation, the technology available and the suitability of an electronic process to the particular stage or subject matter of a procurement. This Brief now goes on to illustrate how the Directive provides for and encourages e-procurement within the procurement process as well as providing information on some Commission financed and steered actions aimed at supporting the use of e-procurement.

It is worth noting that electronic communication (which is broadly defined in the Directive) and electronic processes may be used more widely than in the specific circumstances specified in the Directive and may even be used for the conduct of the entire procurement process and post-contract award, from e-advertising to e-invoicing and e-payment.

E-advertising - use and availability of OJEU notices electronically: The Directive requires the publication of specified notices in the Official Journal of the European Union (OJEU) in relation to contracts of a type and value to which the EU procurement rules apply in full. These obligatory notices are generally required at the start of the procurement process, to notify economic operators of the opportunity available, and also at the conclusion of a procurement procedure. Other notices may be required, for example where an amendment to an earlier contract notice is necessary or a procurement process is discontinued. Opportunities for contracting authorities to publish notices voluntarily in the OJEU are also available. See also *Procurement Brief 6 – Advertising*.

All notices for publication in the OJEU are available electronically in a standard format on the SIMAP website: www.simap.europa.eu. The SIMAP portal provides access to most important information about public procurement in the European Union. The standard form notices can be completed on-line and despatched electronically.

All notices published in the OJEU are available on line to the public at www.ted.europa.eu and economic operators can register to be notified of relevant contract opportunities.

E-advertising at a national level

Many member states either require or provide the option for e-advertising contracts on national websites, including national procurement agency or gazette websites.

E-advertising is a common requirement for many contracts including contracts below the EU financial thresholds. This is a cheap and transparent means of ensuring transparency and encouraging competition. See *Procurement Brief 15 – Below Threshold Contracts*.

Advertising before the start of the formal procurement process using a Prior Information Notice or Buyer Profile: The Directive includes provisions permitting, but not obliging, a contracting authority to pre-warn the market place of potential future contract opportunities by advertising using a Prior Information Notice.

There are benefits to both the contracting authority and the potential economic operators in advertising in advance in this manner, in particular in assisting both sides in forward planning. If a Prior Information Notice is used then in certain circumstances statutory tender time scales can be reduced.

Buyer profiles: It is in this context that the use of on-line buyer profiles can be particularly useful. A contracting authority may set up its own internet based “buyer profile”. The buyer profile will include general information about the contracting authority together with information on ongoing invitations to tender, scheduled purchases, contracts concluded and procedures cancelled.

A contracting authority can publish the standard form Prior Information Notices on its buyer profile. When a contracting authority uses this approach, it only has to despatch a short, standard form Buyer Profile Notice to the OJEU.

Advertising at the start of a specific contract opportunity: The publication of a standard form contract notice in the OJEU to notify economic operators of a contract opportunity is obligatory for contracts of a type and value which means that the EU procurement rules apply in full. Standard form contract notices are available in electronic format and can be completed online and despatched electronically.

The electronic despatch of electronic contract notices and the availability of contract and tender documents in an electronic format have a number of advantages, including:

Reduction in statutory timescales: To encourage the use of electronic despatch of contract notices, some of the statutory minimum timescales are reduced. For example, in a restricted procedure, the usual statutory period of 37 days from despatch of the OJEU notice to receipt of requests to participate can be reduced by seven days.

In addition, when all tender and contract documents are available electronically to economic operators at the date of publication of the contract notice on an unrestricted, direct access basis and at an address set out in the contract notice, the minimum timescale for receipt of requests to participate can be reduced by an additional five days.

No maximum word count: Contract notices despatched by non-electronic means are subject to a maximum of 650 words. Contract notices are completed and despatched to the Official Journal of the European Union using the on-line electronic system are not subject to this limitation. There is therefore a greater degree of flexibility and the opportunity to provide comprehensive information about the contract being advertised.

Advertising at the conclusion of the process: In most cases a contracting authority is required to publish a contract award notice following conclusion of a procurement process and the award of a contract. Again, this can be done on-line and is published in an electronic format.

Qualification of economic operators: e-procurement processes can be used to facilitate the process for establishing that economic operators are appropriately qualified.

E-Certificates and e-Attestations: The Directive permits the use of electronic communications between the contracting authorities and economic operators, which can include the submission of e-certificates and e-attestations. These are the electronic equivalent of the certificates and attestations used in traditional paper procurement, which are the documentary evidence submitted by economic operators in order to demonstrate compliance with particular requirements for qualification and qualitative selection.

eCERTIS: eCertis is a free, on-line information reference tool launched by the Commission in October 2010. It provides details of the different certificates and attestations frequently requested in procurement procedures across the 27 member states, Candidate and EEA countries. It helps interested parties to understand what information is being requested or provided and to identify mutually acceptable equivalents. eCertis is available at: <http://ec.europa.eu/markt/ecertis/login.do>

The Pan European Public Procurement Online (PEPPOL) project, the result of a bottom up approach, is also involved in looking at ways to streamline the provision of standard information, including the development of Virtual Company Dossiers (VCDs) to replace paper certificates with electronic attestations. <http://www.peppol.eu/>

See *Procurement Brief 7 – Selecting Economic Operators* for more information on the qualification and selection of operators

On line submission of tenders: this is also permissible under the Directive and is undertaken in practice in a number of EU member states.

E-signatures: Member states are permitted to require that electronic tenders are accompanied by an advanced electronic signature. E-signatures may also be required at the qualification and selection stages of a procurement process. In practice, this requirement can complicate inter-operability issues.

Procurement tools

E-auctions: Electronic auctions are a method of inviting revised final tenders following the conduct of a full tender process which has included the submission and evaluation of initial tenders. Electronic auctions can be used at the concluding stage of the open procedure, restricted procedure and negotiated procedure without prior publication of a notice, as well as for a mini-competition run under a framework arrangement and in dynamic purchasing systems.

E-auctions involve an online electronic system which allows economic operators to submit new, downwards revised, prices and/or other revisions to elements of their tenders for a particular contract in real time, and in direct, anonymous competition with other economic operators.

E-auctions can only be used when the specification can be established with sufficient precision. Only the elements of a tender which are suitable for evaluation using electronic means alone may be the subject of an e-auction. Electronic auctions should not be used for certain service contracts and certain works contracts dealing with intellectual performances, such as the design of works.

In all cases, in order to run an electronic auction, the contracting authority must indicate in the original contract notice that it intends to use an electronic auction.

E-catalogues: e-catalogues are referred to in a Recital to the Directive as a tool to facilitate public procurement, specifically as a means for participating in procurements under framework agreements or within a dynamic purchasing system.

At their simplest, e-catalogues are merely electronic versions of traditional paper based catalogues which show the details of an economic operator's goods or services. A good example is where a contracting authority sets up a single provider framework agreement which is then operated using an e-catalogue set up by the provider which describes products and prices in a pre-agreed structured manner. When purchasing under the framework agreement buyers can access information on line and, if e-ordering is also available, conduct the entire purchasing transaction on line.

Potential advantages include reduction of transaction and administration costs, the simplification of ordering processes, and the reduction unauthorised purchasing outside permitted systems.

Dynamic Purchasing Systems: The Directive contains specific provisions covering the establishment and operation of dynamic purchasing systems (DPS). A DPS is a completely electronic system which can be used for repeat, standardized purchases. A dynamic purchasing system operates rather like a live, online internet-based framework agreement, which economic operators can join at any time.

The contracting authority advertises the system using the open procedure. Interested economic operators then submit indicative tenders which set out the terms on which they will supply the requirements. All qualified economic operators who submit compliant indicative tenders are admitted to the system. New economic operators can apply to participate and submit indicative tenders throughout the life of the dynamic purchasing system. All economic operators can at any time also update their indicative tenders to improve them, and all of this information is held electronically. E-catalogues may be used in this context.

Contracting authorities wishing to purchase from the system must invite tenders from all economic operators registered in the system as well as advertising the opportunity in the Official Journal of the European Union. This provides economic operators who are not in the system the opportunity to participate. The purchasing contracting authority then places an order with the successful economic operator.

See also *Procurement Brief 11 – Procurement Tools*

Note on the introduction and operation of e-procurement systems

It is important to understand that e-procurement is only a tool. It will not remedy basic poor procurement practice and it is not a magic solution for underlying problems encountered in the operation of procurement systems. Poor practices can quite easily be perpetuated through e-procurement systems. E-procurement does not therefore replace the need to ensure that procurement processes are in general compliance with the requirements of the Directive and are appropriate to the needs of particular procurements.

It is also worth noting that the adoption of e-procurement tools and processes can be costly or slow and may present challenges of its own. The EC in its *Green Paper* abovementioned has highlighted a number of issues that have arisen in the implementation of e-procurement in EU member states, including:

- **Technology:** The technology is available to permit e-procurement at all phases of the procurement transaction but the technological solutions may be costly and some are not so good at dealing with certain phases of the procurement. In some member states this has resulted in “work arounds” involving less technically demanding solutions or combining on-line and off-line forms of communication. This has been seen, for example, in the case of the provision of evidentiary documents for selection and evaluation or automated evaluation, particularly in the case of more complex contracts.
- **Participation by contracting authorities:** Where use of e-procurement is not mandated, then take up by contracting authorities appears to have been slow. In the EC’s view this can be attributed to the costs of reorganising internal systems and low awareness of the advantages. There is concerns about the perceived risks of investing in e-procurement including technology risks and integration with existing information systems as well as security and control mechanisms.
- **Participation by suppliers:** Suppliers do not always see the benefit of making the transition. SMEs in particular are concerned that they may be edged out of the procurement market by the introduction of e-procurement combined with increased aggregation and centralisation. Another issue affecting suppliers is the problem of over onerous requirements of some e-procurement processes, particularly with reference to supplier registration and bidder authentication processes. If such processes or requirements have the effect of restricting participation by foreign bidders, this would be contrary to the requirements of the Directives and the Treaty.
- **Lack of common standards:** Suppliers are faced with different e-procurement platforms, arrangements and problems with the functionality of the systems. This points to the need for increased standardisation and alignment of e-procurement systems. This also links in with problems arising from the lack of mutual recognition of national electronic solutions.

Further reading:

- European Commission (2010), *Green Paper on Expanding the Use of E-procurement in the EU* - COM (2010) 571 final and accompanying Commission Staff Working Document SEC (2101) 1214 final
- European Commission's website page on e-procurement:
http://ec.europa.eu/internal_market/publicprocurement/e-procurement/index_e