



Enhancing Innovation in Pre-Commercial
Public Purchasing Processes

REPORT FROM UNIONCAMERE DEL VENETO

PRE-COMMERCIAL PUBLIC PROCUREMENT IN ITALY



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A short overview

The concept of Pre-Commercial Procurement is quite new in Italy. Some regional governments, such as Val d'Aosta/Vallée d'Aoste and Tuscany, have already made use of it, even though to a very limited extent; other ones, such as Veneto, have recently included PCP in their political programme for the period 2010-2015. The new regional government of Veneto is willing to help companies and research centres to innovate through pre-competitive funds. Unioncamere del Veneto hosts the regional desk of APRE, the Agency for the Promotion of Research in Europe, established by the Italian Ministry of Research. APRE recently created a PCP Working Group to investigate on the matter. The WG is coordinated by Mr. Renato Fà, FP7 SME Delegation Expert. At national level, the use of this tool is mainly restricted to the Ministry of Defence and its agencies, as it happens at EU level with agencies and initiatives such as ESA, EDA, JTI FUSION (Fusion4Energy) basically monopolising PCP in the energy, space and military sectors. In Italy nowadays, public procurement is seen more as a flexible tool of economic policy rather than a refined instrument to obtain goods and services at the best possible quality/price ratio. According to ISTAT 2008 data, procurements directly managed by the Italian public sector, including intermediate consumes and public works but excluding defence, are worth a good 11% of national GDP.

Legislation

The main legislative tools regarding procurement of innovation currently are the Competitive Dialogue (art. 58 of Legislative Decree 163/2006) and the Public-Private Partnership (art. 153 of Legislative Decree 163/2006).

When the innovative content of a service – also seen as the result of goods or instrumental works – is so high that a public administration is not able to evaluate and manage it using the traditional procedures, then the Competitive Dialogue (CD) might be the right solution.

Basically, the CD is a call for tender including also the “game rules”, that is the timetable of the procedure and the components of the most advantageous offer. This last criteria will be used to progressively exclude the offers until a winner is selected.

Participants are met separately and a non-disclosure policy of information is adopted by the public administration, thus avoiding industrial secrets leaking. Once shortlisted, the remaining participants will ask them to make their final offers. The process ends when, according to the criteria of the best economic offer, a winner is selected.

The public-private partnership (PPP) to supply public services is defined, in Italian legislation, with the term of Project Financing, which actually is just one of the many ways of implementing a PPP contract. A clear standardisation of this kind of instrument was given by the Determination n. 3/2009 of the Italian Authority for the Monitoring of Public Contracts on Works, Services and Supplies. This kind of contract includes one or more activities such as planning, building, management of a public work or a service supply, including in any case a

complete or partial funding which is up to the private partners and an efficient risk allocation. Legislation make a difference between “hot works” and “cold works”. In both cases the private partner must plan, fund, build and make the structure work. Moreover, they must manage and maintain it. The main difference between the two patterns is the source of revenues: in the hot works, the payers are the final users, whereas in the cold works the payer is the public administration. The main feature of the PPP scheme is the idea that the bundling – that is the concentration of all tasks in the hands of just one private player – allows for an optimisation of the final result.

A further consideration is that PCP, in Italy, is promoted also through the adoption of specific standards to raise quality level. For instance, the adoption of ISO 9000, 14000, 16000 etc. standards in a call for tender may increase the innovation content of the good or service provided by the winner of the tender. However, the use of standards may also inhibit innovation, as it tends to exclude alternative solutions which may well be even more innovative than the standardised ones following the mainstream. This is mainly due to a passive use of innovative technologies or a strict implementation of standard rules.

Last, even Joint Bidding might be used to foster PCP practices, event though its use varies a lot from country to country.

What follows are the results of the SWOT analysis carried out by the above mentioned PCP Working Group set up by APRE at national level.

Shadows...

The limited use of PCP in Italy (but at EU level we could tell the same) is due to a series of problems of both a juridical and practical nature.

The most important one is the capability of the public administration to evaluate a research project. Some branches of the public sector have skilled personnel and an efficient organization capable of carrying out such an evaluation (i.e. military, space) but most part of public employees lack of a specific training in this field.

A second aspect regards the “design” of a PCP call for tender. The main question is: how should it be configured? It is not just an academic problem, but a juridical one. Indeed, EU rules regarding State Aids as implemented in Italy may prevent from adopting a PCP scheme in some cases. A third consideration is that price matters. From a market point of view, the best idea should be the less expensive one. If an idea is strong enough, R&D costs are easily covered by the company developing it. The advantage of such an operation is not getting funded by the public hand, but having the public administration as a customer. To the eyes of a company, that means creating a safe market for their products. Moreover, such an institutional customer represents a massive marketing tool, helping PCP-winning companies to further expand their market.

A fourth issue is the communication and management of information. A tender generates public information and that may bring to industrial secrets leaking. A related problem is that the criteria upon which a PCP call for tender is based might be “adjusted” to help certain companies instead of other ones. We should not forget that a PCP evaluation process is based

on a series of refinements heading to the selection of just one final competitor. If the refinement process is not transparent enough, we run the risks to make some discriminations amongst the participants.

Last but not least, the public administration is not able to directly manage the whole PCP process and hire private consultants to do so. That means a growth in management costs and possible conflicts of interest.

...and lights

However, PCP may give birth to some advantages, such as a lower level of risk. Stimulating innovation does not mean co-funding of R&D expenses only, but also less time-to-market for the final product. A public administration covering part of private R&D costs works also as a marketing leverage. Another advantage of the adoption of a PCP process is the creation of skills in the public administration in the medium-long period, depending on the product lifecycle.

Last, PCP might bring to hire highly qualified personnel in the public sector: this could lead to adopt innovative solutions to raise quality of life, such as a stronger enforcement of tender rules and a widespread adoption of certifications and markings.

The Consip case: a good example

A Good example of PCP is represented by the Consip *“Energy saving procurement”* case, showing how a performance-based contract for a large number of administrations may become a tool to combine cost efficiency (size) and incentives to innovation in public procurement (performance standards). Consip, the Italian central procuring agency, was assigned with the task to organise, implement and monitor the procurement of heating services for the public administration. The performance-based contract was promoted as the best alternative given impediments such as the complexity of the market, the lack of skills and market intelligence in many of the public agencies and the high level of expenditure in energy procurement. The contract helped to overcome these impediments effectively, encouraging innovation to the suppliers and transferring the responsibility of skill intensive tasks to either Consip or suppliers. Lessons refer to the difficulties and merits of performance contracts.

The Consip case: energy conserving procurement

The State-owned enterprise Consip has the task of implementing rationalisation programmes for goods and services, and so is in a position to coordinate purchases on behalf of public authorities in administration, healthcare and education. Consip identified a major rationalisation potential in the heating of public buildings and therefore proposed a function-based procurement that eventually extended to all ministries and local authorities, and that was voluntary in the rest of the public sector. Consip had a good conception of current energy needs, based on historical data. As part of a market study, Consip announced, to all potentially interested suppliers, its plans for the scope of the forthcoming procurement, and the suppliers were offered the opportunity to take part in the process. As a result of the process, Consip acquired good knowledge of existing technological solutions in the national and international markets, which enabled the specification of requirements to be determined. The procurement was divided into 12 sections, corresponding to different geographical areas, with a fixed number of suppliers per area.

For the MEAT evaluation, all that was calculated was the functionality of the heating systems (temperature, volume to be heated and hours per day the systems were to be in use). Innovation was not an evaluation criterion, but because no particular technical solution was specified, innovation was nevertheless encouraged. The contracts were signed between the suppliers and Consip on behalf of the public authorities, and included operations for five years, which offered the suppliers further incentives for innovative solutions. Once completed, the total value of the procurements will amount to €855 million and the total volume will comprise nearly 5,000 buildings.

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