



EUROPEAN PARLIAMENT

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Committee on Industry, Research and Energy

2011/2048(INI)

19.7.2011

OPINION

of the Committee on Industry, Research and Energy

for the Committee on the Internal Market and Consumer Protection

on modernisation of public procurement
(2011/2048(INI))

Rapporteur: Konrad Szymański

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SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas a well functioning procurement market is of essential importance in order to foster the single market, stimulate innovation, promote a high level of environmental and climate protection, as well as social inclusion, throughout the EU and achieve optimal value for public authorities, citizens, business and taxpayers,
1. Appeals to the Commission to present a thorough and in-depth revision of the existing public procurement directives, which should simplify procedures, increase flexibility, transparency and legal certainty for all parties to procurement, and reduce errors in the transposition of EU law into national law as well as the risk of unfair trade practices; it should therefore avoid frequent reforms in the future, as they are the main reason for participants' facing high costs and administrative burdens, which significantly and disproportionately narrow SME access to public contracts;
 2. Calls for public procurement to be anchored in the 'think small first' principle, and appeals to Member States to implement fully the European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts; draws attention to the fact that simplification of procedures is crucial to achieving that aim; also calls on the Commission to accompany revised legislation with non-legislative initiatives such as a platform for the exchange of best practice between Member States, as some are already applying public procurement procedures which ensure effective use of taxpayers' money;
 3. Notes that the objective of this revision should be to return to the original purpose of public procurement, i.e. ensuring effective use of funds by the Member States and competition in the market, in order to achieve optimum results; believes that criteria should be applied which are clearer, simpler and more flexible and transparent, in order to encourage SMEs to participate in public procurement; calls, furthermore, on the Commission to explore options for strengthening the dialogue between public procurers and potential bidders, thus making this part of the procurement process;
 4. Urges the Commission to prioritise the de-bureaucratisation and simplification of the various procedures for public procurement, both reducing the overall number of procedures and streamlining processes in the respective procedures; believes open competitions should remain the cornerstone of public procurement but that they should be simplified, in particular by allowing greater use of functionality-based award criteria, instead of overly detailed technical specifications, thus leaving it to the potential suppliers to define the specific methods, material, technologies etc. to be used; believes, furthermore, that administrative burdens could be reduced by allowing more simultaneous assessment of selection and award criteria and by allowing flexibility with regard to shortcomings in compliance with format requirements, e.g. allowing bidders to submit missing forms at a later date; notes that SMEs in particular suffer from a lack of flexibility, being disqualified for minor and non-intentional procedural errors;

5. Calls on the Commission and the Member States to take the necessary measures, including the introduction of specific provisions in the future public procurement directive, to ensure that at least 50% of both the EU institutions' and the Member States' public procurement operations are carried out electronically, in line with the commitment made by the Member State governments at the ministerial conference on e-government in Manchester in 2005;
6. Welcomes the use of e-procurement, which will play a positive role in reducing the cost and increasing the accessibility of procurement procedures; calls, therefore, for any legislative proposals to expand and simplify the use of e-procurement to be integrated into the planned review of the main public procurement directives; underlines the importance of open standards and technology neutrality in order to ensure the interoperability of different systems and avoid vendor lock-in; calls on the Commission to ensure genuine interoperability between the various platforms for e-procurement already in place in Member States;
7. Notes that the majority of public contracts are granted to companies from the same Member States as the contracting authorities, and calls for the establishment of a truly EU-wide public procurement market;
8. Urges the Commission, furthermore, to conduct a survey across the 27 Member States to assess the rate of cross-border bids, with a view to evaluating the pertinence of current thresholds and potentially raising them to make cross-border bidding more attractive;
9. Recognises that the current distinction between A and B services is out of date, as some of the B services, e.g. water and rail transport, recruitment and security services, are clearly of cross-border interest; invites the Commission, therefore, to revise the annexes to the directives as part of its reform of public procurement rules; believes, however, that core social services should remain a B service, exempt from EU public procurement rules;
10. Emphasises that public procurement must play a key role as a driver of innovation, in particular in the field of energy efficiency and other policy areas identified in the EU 2020 strategy, and that it can stimulate the market for sustainable products and services; supports the steps taken towards ensuring that these factors are taken into account by public authorities in their contract-awarding criteria; stresses, however, that it is important to pay due attention to the extra administrative costs this may entail for businesses and public authorities, and that it should be preceded by proper impact assessments, as well as individual SME tests, to avoid excessive red tape;
11. Notes that introducing mandatory prescriptions for innovation, or excessively detailed technical specifications on, for example, the energy performance of the subject of a public contract, carries the risk of restricting competition and limiting choice for contracting authorities;
12. Endorses the conclusions of the European Council of 4 February 2011 calling on Member States to include energy efficiency standards in public procurement as of 1 January 2012; recognises that the up-front cost of energy-efficient and sustainable products or services may initially appear to conflict with current public procurement rules concerning the use of the 'most economical price' criterion in the award of contracts, but stresses that it is

offset by lower operating and maintenance or disposal costs; recommends application of the 'economically most advantageous' principle, including not only price but also quality aspects and life-cycle costs, in order to foster more innovative solutions;

13. Believes that future EU public procurement legislation should reinforce existing provisions which require the mandatory use of energy efficiency criteria when deciding on the award of a public contract, without hampering the rules on free competition; insists that such an approach will stimulate innovation and the diversification of supply;
14. Calls on the Commission to propose clear energy efficiency criteria for public procurement technical specifications;
15. Notes that any 'best available technology' (BAT) and energy efficiency requirements must be subject to a cost/benefit analysis based on depreciation;
16. Calls on the Commission to establish rules, based on existing best practice, whereby contracting authorities can measure total costs in relation to the energy-saving potential of a given product or service, i.e. by applying the 'life-cycle costs' approach when choosing the most economically advantageous bid; recommends, therefore, that the Commission follow the model of Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles, which enables public authorities to use, as an evaluation criterion in public procurement procedures, the total cost generated by vehicle use over a normal use period, rather than merely the original purchase price;
17. Welcomes the initiative taken by some Member States to support innovation through pre-commercial procurement, where contracts are offered that develop solutions to specific challenges identified by public services; notes that excessive demands and technical prescriptions in the public procurement process may produce excessive administration, thus hampering innovation; believes public procurement should focus instead on function and end results;
18. Highlights the fact that the specific issue of safeguarding equal treatment and fair competition on public procurement markets in the EU and in third countries needs more political attention, especially in the light of current problems regarding access to public-sector markets in third countries, slow progress in negotiations on the revision of the WTO Government Procurement Agreement (GPA) and the obvious reluctance of many third countries to join the GPA;

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	12.7.2011
Result of final vote	+: 47 -: 0 0: 2
Members present for the final vote	Jean-Pierre Audy, Zigmantas Balčytis, Ivo Belet, Bendt Bendtsen, Jan Březina, Maria Da Graça Carvalho, Giles Chichester, Lena Ek, Ioan Enciu, Vicky Ford, Gaston Franco, Adam Gierek, Norbert Glante, Fiona Hall, Romana Jordan Cizelj, Krišjānis Kariņš, Lena Kolarska-Bobińska, Philippe Lamberts, Bogdan Kazimierz Marcinkiewicz, Marisa Matias, Jaroslav Paška, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Teresa Riera Madurell, Michèle Rivasi, Jens Rohde, Paul Rübig, Francisco Sosa Wagner, Konrad Szymański, Britta Thomsen, Patrizia Toia, Evžen Tošenovský, Ioannis A. Tsoukalas, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Alejo Vidal-Quadras, Henri Weber
Substitute(s) present for the final vote	Antonio Cancian, Rachida Dati, Francesco De Angelis, Françoise Grossetête, Cristina Gutiérrez-Cortines, Jolanta Emilia Hibner, Holger Kraemer, Bernd Lange, Mario Pirillo, Silvia-Adriana Țicău