

Public Procurement – the current context

COVID 19 and other developments

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Emerging issues in procurement - pre COVID

- Impact of remote sensing/intelligent infrastructure
- Market dominance/"too big to fail" operators
- Portfolio management by economic operators/asymmetry of information
- Emergence of disruptive technologies
- Citizen expectations of/levels of trust in government
- Need for greater transparency about processes and conclusions



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Public procurement – Impact of COVID 19 – 1

- The COVID 19 pandemic has had and will continue to have a significant impact on the conduct of procurement in several ways arising from pressure on Contracting Authorities to reassess their priorities, meet urgent needs, identify new risks and reassess existing risks and their relative importance
- Given the horizontal significance and evolving nature of the pandemic, this reassessment will need to be dynamic i.e. continue to be re-assessed on a continuing basis

Public procurement – Impact of COVID 19 – 2

- The need to review decisions to approve infrastructure projects arising from shifts in usage patterns of physical and digital infrastructure, including, but not restricted to, privately financed infrastructure projects and concession contracts where demand risk has been transferred to economic operators
- The need to shift attention in terms of concentrating procurement expertise away from infrastructure contracts which are important in the medium term to supplies and service contracts in the health and social care sector which are important in the short term
- Assessing the potential for adaptation of existing infrastructure to meet the needs of the response to the pandemic, such as adaptation of existing buildings for use as medical or care facilities

Public procurement – Impact of COVID 19 – 3

- Reassessing the operational capability of suppliers to deliver performance levels on existing contracts
- Reassessing the financial stability of suppliers, especially for mission-critical contracts or where the provider market is limited, in view of the possible economic impact of the pandemic
- The need for a strategy to enable continuity of services and supplies in the event of threats to security of supply, including options to diversify sources of supply, a review of the extent of need and of service models based on ability to scale up quickly such as the capability of suppliers to increase volumes in response to the demands of the pandemic and the robustness of supply chains based on just-in-time supply

Public procurement – Impact of COVID 19 – 4

- Assessing the impact of remote working on matters such internal controls and effective governance of procurement procedures and on security of ICT systems
- A redefinition of user needs especially those vulnerable to the virus for economic, social and health reasons
- The need for more effective use of collaborative procurement across different public sector bodies, which can form the basis of effective needs-based equality of territorial distribution of supplies/services
- Dealing with unsolicited offers not arising from procurements initiated by the public sector
- Greater need to ensure propriety where contracts are awarded to related parties

Public procurement – Impact of COVID 19 – 5

- More flexible interpretation of economic operators' past experience as a capability criterion, especially if there is evidence of adaptive ability to meet emerging needs
- Review of effective management of direct award of contracts, including limiting use and decreasing risk of such contracts and enhancing the effectiveness of approaches to negotiation
- Ensuring proper implementation of the obligation to document procurement decisions, including by recording the specific justification for the use of accelerated procedures and the Negotiated Procedure without Prior Publication to dispel any potential risks of fraud and corruption associated with such contracts, including, but not restricted to, contracts with parties related to the Contracting Authority

Public procurement – Impact of COVID 19 – 6

- Where contracts have been directly awarded, the need for transparency about the number, value and subject matter of such contracts awarded, contract documentation, prices paid (including price benchmarking where available) and performance, including how underperformance has been addressed
- Increasing the focus on checking the quality of goods supplied (including of medicines and personal protective equipment)
- Ensuring that goods and services are received against advance payments
- Enhancement of the need to review contract changes to include economic justification as well as legal compliance

Public procurement – Impact of COVID 19 – 7

QUESTIONS AND ANSWERS