



**Good Governance for development in
Arab Countries initiative**

**Working Group II on E-government
and Administrative Simplification**

**1ST HIGH LEVEL
SEMINAR
ON
E-PROCUREMENT**
Naples, 30 January 2006

Davide Colaccino

Establishing of a good regulatory framework for
e-procurement:
The Italian experience on reviewing existing laws on public
procurement to allow electronic processes

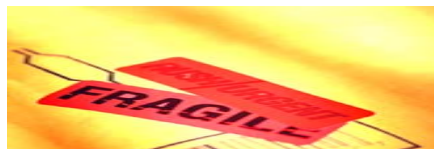
Agenda



Electronic public procurement in the new EU legislation



The Italian e-procurement system



**Action plan for the implementation of the legal Framework
for electronic public procurement**



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**ELECTRONIC PUBLIC
PROCUREMENT IN THE
NEW EU LEGISLATION**

**➤ EUROPEAN COMMISSION COMMUNICATION,
STRATEGY FOR THE INTERNAL MARKET, 7 may
2003:**

- Total public procurement in the EU is estimated at about 16% of the Union's GDP (€1500 billion in 2002)
- The european market of public procurement is not yet completely open and competitive

The new procurement directives of the European Union have two main objectives:

- 1) to simplify and clarify the existing Community Directives;
- 2) to adapt them to the modern administrative needs in a changing economic environment.



- Directive 2004/18/EC of the European Parliament and of the Council of March 2004 on the coordination of procedures for the award of public supply contracts, public service contracts and public works
- Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

➤ **DIRECTIVES 17 - 18**

- The new directives introduce detailed provisions on the use of electronic means in the procurement process and new procurement processes based on the use of electronic means (dynamic purchasing systems and e - auctions)
- The introduction of the new framework on electronic means is a major part of the efforts to adapt the public procurement in the Internal Market to the modern administrative needs
- The EU public procurement framework is based on three main principles:
 - ✓ transparency
 - ✓ equal treatment
 - ✓ non-discrimination

E –PROCUREMENT IN NEW DIRECTIVES

- **E –PROCUREMENT IN NEW DIRECTIVES:**
 - a. Use of electronic means for communication in the procurement process
 - b. *Electronic auctions*
 - c. *Dynamic purchasing system*

a. USE OF ELECTRONIC MEANS

- The definitions of: "written" or "in writing" in the directives is changed so that it now “may include information which is transmitted and stored by electronic means”.
- The directives only allow the use of electronic means for communication under the normal procedural guarantees of paper based procurement.
- The use of electronic means for communication in the procurement process is technological neutral (in the sense that it is compatible with the technologies used in other Member States).
- The choice of electronic means for communication in the procurement process is left to the contracting authorities.
- The regulation of the use of electronic means for communication in the procurement process is aimed at eliminating the legal barriers

b. ELECTRONIC AUCTIONS (*Award contract*)

- The electronic auction is a repetitive process involving an electronic device for the presentation of new prices, revised downwards, and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.
- The Directive introduces the use of electronic auctions in the open, restricted and negotiated procedure, and when reopening of competition among the parties to a framework agreement or in dynamic purchasing system.
- Electronic auctions can be used with contracts for works, supplies or services. The electronic auction can, however, only be used when the contract specifications can be established with precision. E-auctions shall be based on prices and/or other elements of the tenders suitable for automatic evaluation by electronic means indicated in the tender specification.

c. DYNAMIC PURCHASING SYSTEM (*new procedure for repetitive purchases of standard goods and services*)

- The DPS is a completely electronic process for making commonly used purchases. The duration of a dynamic purchasing system should be limited to 4 years and should be open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification.
- The DPS is set up following the rules applicable to the open procedure. Every operator taking part is automatically invited to submit a bid but in addition a new operator who submits an indicative tender in accordance with the specification and meets the selection criteria is also allowed to join the system.
- This allows for a list of operators to be established and increases competition. New market entrants will be aware of the system via a notice when the system is put in place and a simplified contract notice is published for each specific contract to be awarded under the system.

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THE ITALIAN E-PROCUREMENT SYSTEM

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➤ E –PROCUREMENT IN ITALIAN SYSTEM:

▪IMPLEMENTATION OF DIRECTIVES 2004/17/EC - 2004/18/EC BY THE PUBLIC PROCUREMENT CODE

▪PRESIDENT'S DECREE NO. 101 OF 4TH APRIL 2002 CONTAINING "THE CRITERIA AND METHODS FOR THE PUBLIC ADMINISTRATION'S EXECUTION OF TELEMATIC PURCHASE PROCEDURES FOR THE PROCUREMENT OF GOODS AND SERVICES"

**➤ IMPLEMENTATION OF DIRECTIVES 2004/17/EC -
2004/18/EC:**

- ITALIAN COMMUNITY LAW (law 18 April 2005, no. 62)

Art. 25

The Italian government has been entrusted with the power to adopt a legislative decree for the implementation of the European directives 2004/17/CE and 2004/18/CE

- “PUBLIC PROCUREMENT CODE”

**▪ IMPLEMENTATION OF EUROPEAN E-PROCUREMENT
PROCEDURES**

THE ITALIAN E-PROCUREMENT SYSTEM

➤ PRESIDENT'S DECREE NO. 101 OF 4TH APRIL 2002 CONTAINING "THE CRITERIA AND METHODS FOR THE PUBLIC ADMINISTRATION'S EXECUTION OF TELEMATIC PURCHASE PROCEDURES FOR THE PROCUREMENT OF GOODS AND SERVICES"

- E-PROCUREMENT PROCEDURES:

- a) ON-LINE AUCTIONS (GARE TELEMATICHE)

- b) MARKET PLACE (MERCATO ELETTRONICO)

THE ITALIAN E-PROCUREMENT SYSTEM

a) ON-LINE AUCTIONS

- Can be used for contracts for goods or services of any value
- Development of Frame contracts or ASP towards other administrations.
- Automatic Technical and economic offer evaluation
- Purchase scope:
 - Specialized
 - High price volatility
 - Rapid obsolescence.

b) "MARKET PLACE" (MERCATO ELETTRONICO)

- It is realised through the use of a technological infrastructure developed on the internet which allows a dynamic interaction between the system's protagonists.
- The (already qualifying) contracting authorities can proceed directly to negotiation (Direct Purchase) with the qualifying supplier or they can even request further bids (Request for Quotation) through subsequent negotiation (for example, when the goods or service present particular technical characteristics that the goods/service offered by the qualifying suppliers do not possess).
- The chosen suppliers present their catalogues displaying the products on offer. The purchasing units can purchase directly from the catalogues or request further bids from the suppliers: the bids are evaluated automatically by the system which prepares a list of rankings (using the criteria chosen by the purchasing unit from amongst the options the system itself proposes).



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**ACTION PLAN FOR THE
IMPLEMENTATION OF THE
LEGAL FRAMEWORK FOR
ELECTRONIC PUBLIC
PROCUREMENT**

ACTION PLAN FOR THE IMPLEMENTATION OF E- PROCUREMENT

➤ **ACTION PLAN (Communication from the european commission - Brussels, 21.10.2004)**

▪ **OBJECTIVES:**

- ✓ Ensure a well functioning Internal Market when public procurement is conducted electronically
- ✓ Achieve greater efficiency in procurement and improve governance
- ✓ Work towards an international framework for electronic public procurement

Thank you for your attention

Davide Colaccino