

INNOVATION IN THE NEW PUBLIC PROCUREMENT ACT IN HUNGARY

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Public Procurement
Authority

Public Procurement Authority – Role in the Hungarian Public Procurement System

- **Council** acting within the frame of the Authority – main procurement stakeholders are represented: contracting authorities, tenderers, general interests
- **Public Procurement Arbitration Board** functions alongside – as first instance review body in procurement legal disputes
- **Secretariat** – Legal/ International / Notice Control / Statistical Departments – daily functioning

Other actors:

- **Prime Minister's Office** – pp legislation, control of EU funded projects/ pp of institutions controlled by the government
- **Central Services Directorate** (KEF) – main central purchasing body



Public Procurement Authority – Duties

- reports to the Parliament on procurement
- may initiate procurement legislation, prepares opinion on draft legislation
- helps enforcement of procurement rules – guidelines, presidential briefings, other non-binding opinions on how to apply procurement legislation
- help-desk
- edits the Public Procurement Bulletin
- operates its homepage with mandatory data content
- manages and publishes up-to-date lists: the list of the contracting authorities falling under the scope of the legislation, the official list of approved tenderers, the list of official public procurement consultants, the list of tenderers excluded from participation in contract award procedures
- collects and publishes statistics of Hungarian procurements
- organizes trainings, conferences, seminars,
- maintains relationship with public procurement organizations of foreign countries

NEW:

- control of modification of procurement contracts, performance of procurement contracts
- decides in case of self-cleaning requests



Public Procurement of Innovation

EU reform

„Research and innovation, including eco-innovation and social innovation, are among the main drivers of future growth and have been put at the center of the Europe 2020 strategy for smart, sustainable and inclusive growth. Public authorities should make the best strategic use of public procurement to spur innovation. Buying innovative products, works and services plays a key role in improving the efficiency and quality of public services while addressing major societal challenges. It contributes to achieving best value for public money as well as wider economic, environmental and societal benefits in terms of generating new ideas, translating them into innovative products and services and thus promoting sustainable economic growth.“



Public Procurement
Authority

Public Procurement of Innovation EU reform

Maintaining existing instruments

- technical specifications expressed in terms of functional requirements,
- alternatives,
- exemption of research and development projects, including pre-commercial public procurement

New rules

- life cycle costs
- competitive dialogue procedure - simplified rules
- new procedure: innovation partnership
- cross-border joint procurement



Life -Cycle Costs

Life-cycle costing shall to the extent relevant cover parts or all of the following costs over the life cycle of a product, service or works:

- costs, borne by the contracting authority or other users, such as:
 - costs relating to acquisition,
 - costs of use, such as consumption of energy and other resources,
 - maintenance costs,
 - end of life costs, such as collection and recycling costs.
- costs imputed to environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified; such costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.



The new PP Act – Entry into force

Act CXLIII of 2015 on Public Procurement

- published on 2 October 2015
- Parliament voted on 22 September 2015
- entry into force
 - 1 November 2015 - as a general rule
 - 1 November 2016 - e-procurement for centralized purchases
 - 1 February 2017 - e-procurement



Definition of innovation Article 3 (12)

Innovation: implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations inter alia with the purpose of *helping to improve efficiency of an activity, reach favorable social and environmental effects.*

(Directive: ...helping societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth)



Innovation partnership – Article 95

„a specific procurement procedure that **aims at the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works**”

2 phases:

- **procedural phase** – to conclude innovation partnership contract(s)
- **contractual phase** – development and purchase as set out in the partnership contract

rules of **negotiated procedures** apply with specific provisions in Article 96 (2)

procurement documents:

- need for innovation to be detailed
- contract clauses stipulate intellectual property rights in details
- best price quality ratio to be used as evaluation criterion, maximum price of end-product shall be evaluated

partnership agreement shall include:

- process of research and innovation – to be built up in successive stages
- intermediate targets to be set up – payment of the remuneration in appropriate instalments



Procurement of R&D services - PCP - Article 9 (8) I)

- This Directive shall only apply to public service contracts for research and development services which are covered by CPV codes 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5 provided that both of the following conditions are fulfilled:
- the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and
- the service provided is wholly remunerated by the contracting authority.



Other possibilities helping PPI

Negotiated procedure (=Competitive procedure with negotiation) can be used if (Article 85 (2))

- **the needs of the contracting authority cannot be met without adaptation of readily available solutions;**
- **the subject of procurement include design or innovative solutions;**
- the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of the risks attaching to them;
- the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference; ...

Evaluation criteria (Article 76)

- LCC can be used
- best price-quality ratio – innovative aspects can be evaluated

Cross-border joint procurement (Article 30)



PCP- Smart Personal Protective Systems for firefighters



- Smart@fire is a European project (2,2 million euros) aimed at encouraging and financing companies and researchers specialised in ICT, sensors, transmission, localisation and visualisation systems or **smart textiles**.
- **961 European** fire and rescue services were asked to indicate their innovation expectations
- **Entrepreneurs and researchers from all over the EU** came together in unique sessions for exchanging knowledge and experience with fire brigade procurement officers.
- Prototypes will be developed and tested with financial support of the **European Commission**
- The ultimate goal is to develop cost-effective and functional Personal Protective Equipment on a large scale for a broad market.



**THANK YOU FOR YOUR
ATTENTION!**



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