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Role of the state in implementing innovative and renewable energy in public procurement

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NHH



Content

- Public procurement in 2 minutes
- Importance of public spending
- Room for innovative and sustainable energy purchases
- New tools
- Some food for thought

Public Procurement

- What does the public sector do?
- Public purpose and public tasks

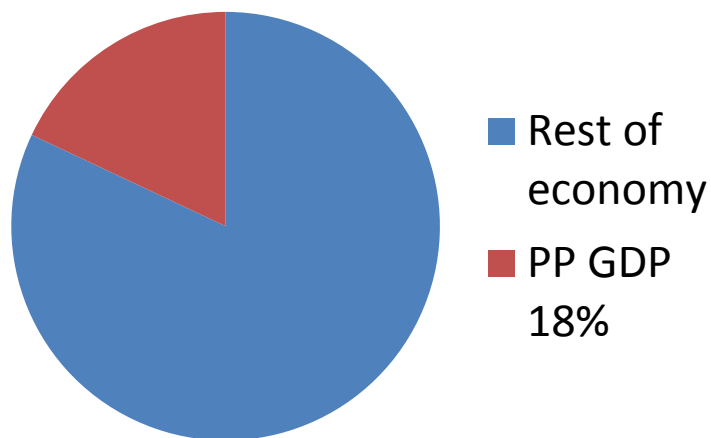


Public Procurement: generalities

- Sets the rules “**contracting authorities**” must follow when awarding a public contract
- Contracts awarded to **economic operators**.
- Takes place in **public markets**
- Regulated in the EU-EEA by: GPA of the WTO (general level) and the 3 EU Directives (Public Sector, Utilities and Concessions)
- In Norwegian ***offentlige anskaffelser***

Importance of public spending

EU GDP



In Norway by 2010 = 380 billion NOK



Environmental and social considerations



unemployment
poverty
ill-health poor housing
insufficient **education**

tackling the global nature of
key social problems

Environmental and social considerations

- PP intends to cover needs of general interest by financing the carrying out of public tasks.
- Part of the «welfare state» system.
- Environmental and social considerations are **in principle accepted unless deemed unjustified/out of proportion.**
- “The Union’s aim is to promote peace, its values and the well-being of its peoples.” (Art. 3.1 TEU)

The Concordia Bus case



Can “environmentally friendly” be used as award criteria?

“It cannot be excluded that factors which are not purely economic may influence the value of a tender from the point of view of the contracting authority” (C-513/99 - Concordia Bus Finland, para. 55)

“(…) Article 36(1)(a) of Directive 92/50 does not exclude the possibility for the contracting authority of using criteria relating to the preservation of the environment when assessing the economically most advantageous tender” (C-513/99 - Concordia Bus Finland, para. 57)

“that criteria relating to the level of nitrogen oxide emissions and the noise level of the buses, such as those at issue in those proceedings, must be regarded as linked to the subject-matter of a contract for the provision of urban bus transport services” (C-513/99 - Concordia Bus Finland, para. 65)

Environmental and social considerations

- Both can be **included in the specifications but must be related to the subject matter.**
- Will be considered when doing the selection as some exclusions are linked with them.
- These considerations will be taken into account when awarding the contract (art. 67.2)

New tools - Innovation partnership



- Newly introduced and encourages its use by CA.
- Allows to establish a **long-term innovation partnership** for the development purchase of a new, innovative product, service or works.
- Many last minute changes by the EU Parliament

Innovation partnership

- **‘innovation’** means the implementation of a new or significantly improved product, service or process (...) with the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth (art. 2.1(22)).
- **Procedure (art. 31):**
 - Any EO may request to participate. The contract notice must detail the need for new product/service. 30 days.
 - Assessment is made and invitations sent to no less than 3.
 - The CA may set up the IP with one or more partners that will carry out R&D

Innovation partnership

- Allows for successive phases following the R&D and must set intermediate goals and pay for the effort
- Based on the steps, the CA may terminate the IP or reduce the partners.
- Negotiations in all phases except in the final tender.
- The IP rights over the new product/service must be stipulated on the contract notice.

Some food for thought

- Room (quite some) for renewable/innovative solutions in public spending
- Tools are there – with limits
- Requires awareness of buyers
 - But also of the economic operators
- Policy issue to foster even more?
- What about the utilities sector?
 - Even more room and reason to look for renewables/innovative?