

PRIMES

Introduction into Joint Public Procurement

Presented by



Co-funded by the Intelligent Energy Europe
Programme of the European Union

Overview

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3. International/Cross-border joint procurement actions and their challenges
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What is Joint Public Procurement (JP)?

Two or more contracting authorities agree to perform certain specific procurements jointly.

Joint procurement can take several different forms.

From **coordinated procurement** through the **preparation of common technical specifications** for works, supply or that will be procured by a number of contracting entities, each conducting a separate procurement procedure, to situations where the **contracting entities jointly conduct one procurement procedure.**

Joint procurement actions might be performed:

- among contracting authorities within the same country
- as international/cross-border joint procurement among contracting authorities from different countries



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Joint Procurement in the Directive 2014/24/EU on public procurement (1)

- Article 38. Occasional joint procurement :
“Two or more contracting authorities may agree to perform certain specific procurements jointly.”
- The Directive allows contracting authorities to carry out joint procurement (in case certain conditions are met).
- As the recital refers certain features of the of the joint procurement should be clarified because joint procurement plays an important role.



Joint Procurement in the Directive 2014/24/EU on public procurement (2) – Responsibilities

I. Contracting authorities are jointly conducting procurement procedure:

- 1) Procurement procedure in its entirety could be carried out jointly in the name and on behalf of all contracting authorities concerned **or**
- 2) Joint procurements could be conducted in a way that one contracting authority manages the procedure on its own behalf and on behalf of the other authorities.

In both cases the contracting authorities are **jointly responsible** for fulfilling their obligations.

- ## II. In case only parts of the procurement procedure are jointly conducted, joint responsibility should apply to those parts of the procedure that have been carried out together by the contracting authorities. Contracting authorities should be solely responsible in respect of procedures or parts of procedures conducted on their own (i.e. awarding the contract, conclusion of framework agreement etc.)

Cross-border Joint Procurement – Joint awarding of public contracts



- Both Directives (2004/18/EC and 2014/24/EU) allow the conduction of cross-border joint public procurement but there are several legal and practical challenges related to the implementation of such actions.
- As cross-border JP we define situations where two or more contracting authorities **from different Member States** are jointly purchasing works, supplies or services through one tendering procedure.
- **Main legal challenges:** different experience among the Member States, the question of applicable law, question of jurisdiction, civil law or administrative law, relation between national law and EU law

Benefits of Joint procurements

- **Administrative benefits:** lower administrative costs of the procedure (more effective procedures as separate tenders)
- **Financial benefits:** Lower tender prices might expected due to the higher quantities purchased (benefits of acting as a “buyer group”)
- **Competency related benefits:** contracting authorities can benefit from each other's procurement expertise and competences. This could be particularly relevant when procuring innovation, R&D services.



Benefits of Joint procurements –

encouraging the market for more environmentally sound products and services

- Entry door for introducing sustainable procurement
- Launching more environmentally innovative solutions
- Reducing the price of environmentally sound products and services
- Introducing new products into the national markets
- JP can help promote greater standardization
- JP can encourage suppliers to develop new products



Types of Joint Procurement actions

- Permanent JP organisation: to provide centralised procurement function on behalf of the contracting authorities (CAs). PRIMES partners:
 - Latvia: State Development Regional Agency <http://www.vraa.gov.lv/en/>
 - Denmark: SKI <http://www.udbudsportalen.dk/Om-portalen/>
 - Italy: Consip <http://www.consip.it/en/>
 - Sweden: Statlig inköpssamordning, Ekonomistyrningsverket <http://www.esv.se/>
 - Croatia: State Office for the Central Public Procurement <http://www.sredisnjanabava.hr/home>
- Collaborative agreements between the CAs: no need to set up permanent organisation, CAs may collaborate via groups (i.e. London Contract and Supplies Group - LCSG)
- CAs collaborating as one-off procurement action



Initiating Joint Procurement activity

- Internal/Organisational actions
 - Involving all relevant departments i.e. environmental, procurement, legal departments
 - Benefits of JP has to be promoted to convince the stakeholders
 - Importance of selecting the right product
 - Internal workflow/templates have to be clarified
- External actions – finding partners
 - Other CA can be approached i.e. by direct contact, public authorities networks, associations
 - Meeting between the partners: lead outlines the procedure, show some good examples, preliminary market research can be carried out
 - CAs may form a formal consortium (consortium agreement)

Case Study: Joint Procurement of Electric Vehicles in Stockholm

- Joint Procurement of 296 organizations (260 public, 36 private) led by Stockholm
- Subject of the framework contract: purchasing of electric vehicles
- Estimated purchase volume of 1,250 vehicles / year, 5000 over 4 years of the framework
- Reason for joint procurement: reducing administrative costs, achieving price reduction, send a strong signal to the market, ensuring the participation of smaller municipalities
- Two separate contracts have been tendered one for the public organizations, one for the private ones



List of references



- Directive 2014/24/EU on public procurement
- Directive 2014/25/EU on procurement by entities operating in the water, energy, transport, and postal services sector
- EC Report on Cross-border Procurement:
http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/cross-border-procurement_en.pdf
- LEAP GPP Project Modules: http://www.leap-gpp-toolkit.org/fileadmin/template/leap/user_uploads/295FG_Tool_D.pdf
- Factsheet – Joint Procurement, GPP Training Toolkit Module 1. – Managing GPP Implementation: Toolkit developed for the European Commission by ICLEI - Local Governments for Sustainability, 2008
- UK Statutory Instruments 2015 - No. 102. The Public Contracts Regulations 2015 Article 38. - Occasional Joint Procurement
- GPP website: http://ec.europa.eu/environment/gpp/toolkit_en.htm