

Social Considerations in Public Procurement

3 March 2011

Klaus Wiedner, Head of Unit
DG Internal Market & Services
Directorate C: Public Procurement Policy



Public procurement and sustainable development

Public Procurement (PP)

- represents around 17% of EU GDP
- has the potential to steer the market in a more socially and environmentally responsible direction

Socially responsible public procurement: current rules and new challenges

- current EU PP directives : large number of possibilities to take into account social considerations in the PP process
- Guide on taking account on social considerations in PP: aims at
 - explaining these possibilities further:
 - improving awareness about the potential benefits of socially responsible PP
- Green Paper (GP) on the modernisation of PP rules:
 - many questions about how to use PP to better respond to new societal challenges, e.g. climate change, improving social conditions and more generally promoting sustainable development.

Link with the subject matter/performance of the contract

- = important condition : ensures that purchase itself is central to the procurement process
 - = to guarantee efficient use of public money
- Relaxation of this requirement might influence the undertakings' general policy towards social inclusion and environmental considerations, but triggers risks such as:
 - creating discrimination and restricting competition
 - affecting convergence between PP and State aid rules
 - creating additional burdens for SMEs

Link with the subject matter/performance of the contract

The Green Paper asks stakeholders' views about :

- the need for relaxation of this condition + possible corrective mechanisms in order to mitigate risks
- the most appropriate stage of the procurement process for softening the need of a link with the subject matter of the contract

Some stakeholders suggest:

- allowing public purchasers to apply selection criteria on characteristics not linked to the subject matter of the contract,
- but permitting to verify to a larger extent the “social morality” of candidates
- however, appropriate safeguards = necessary to avoid discrimination.

Verification of requirements

- Current rules :
 - specific certification schemes (e.g. forest certifications, social certificates) = acceptable as possible means of proof,
 - but equivalent means must also be accepted
 - = permits access to public contracts also to undertakings that cannot afford certification, but comply with CA requirements
- Problem: capacity of public purchasers to verify compliance and reliability of alternative means of proof provided by candidates.
 - = issue particularly relevant where part of the supply chain is situated in a third country (e.g. how to verify absence of child labour during the production of stones used for the construction of public works).

Verification of requirements

- Green paper asks
 - how to facilitate effective and efficient verification of compliance with social/environmental considerations
 - but without additional administrative burden and prohibitive certification costs for SMEs.
- = much easier if trade instruments would permit to guarantee that all products entered on the EU market are produced with the respect of certain social and environmental standards
- = much too complex, therefore PP legislation must find effective solutions to deal with uncertainty as regards reliability of means of proof submitted by tenderers

Conclusion: we hope that this debate and the contributions received during the public consultation will permit to identify the most adequate solution.