

Post-COVID Strategies in Public Procurement

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Abstract

One of the most important factors leading to the success of the public procurement process is the internal organization of the entity and the relationship between all participants in this process. The events during this pandemic, the issues in the supply of medical units emphasized that the poor organization, the absence of internal procedures and of trained staff are risk factors, increasing fraud and corruption.

The purpose of this article is to present solutions to improve the public procurement process: developing internal procedures, together with their adaptation to the telecommuting regime (as a basic element of organization), and digitizing the public procurement system, which will help achieve a faster and more transparent procurement process. In order to achieve the proposed purpose of this paper, qualitative and quantitative research was conducted, using data and information from various official documents.

The main results of the research are establishing a framework of reference used to further build internal procedures for public procurement activities, and the identification of development guidelines, digital transformation of the public procurement process. The novelty elements brought by the paper consist in the analysis on the procedure of drafting the internal procedures (a process which can be conducted with the organization's employees or by contracting a third company), but also the presentation of benefits obtained by using computer programs for procurement management.

This paper supports those involved in procurement (from the procurer to the manager), raising awareness of the importance of internal procedures, and digitizing the public procurement process.

Keywords

public procurement, pandemic, procedures, digital procurement, telecommuting

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Introduction

The Covid 19 pandemic has changed the way the world works, in all areas of activity, including the area of public procurement. Telecommuting has become the (often inefficient) alternative to performing tasks, to some extent facilitated by IT equipment and the communications system, allowing employees to work outside the conventional workplace (Taskin, 2010). Employers had to adapt their activity to the new telecommuting system, finding solutions so as not to block the activity of institutions, due to lack of staff. The transition to this type of work was conducted based on written orders, issued by managers, but without effectively establishing the process of working "remotely". On the contrary, disorder was a part of the workflow for a few days, even weeks.

As for the sanitary units (mainly hospitals), the telecommuting of the procurement department could not be a viable option, due to the continuous needs of sanitary materials, equipment, medicines,

installations, etc. The medical staff requests the purchase of all the necessary equipment and materials, in an emergency regime, without specifying all the detailed technical characteristics. In addition, increased demand for products has led to an unprecedented "explosion" of prices. Many states have imposed export bans or restrictions (Hoekman, et al., 2021) on health goods and other essential products. This has led to issues such as: the impossibility of running existing contracts; the risk of not concluding new ones (OECD, 2020); purchasing through direct procurement from suppliers who held stocks; initiating negotiation procedures without prior publication.

Measures to prevent the spread and to eradicate the virus required rapid reactions, both from medical staff and from public procurement. In such extreme situations, those in the purchasing departments had to collaborate with doctors in order to identify the necessary goods from the specific field market, that required immediate purchase (directly) from the suppliers who held stocks. There was no discussion of any negotiation, the purchaser being in the "hands" of the supplier.

All these new problems were doubled by the old issues in public procurement (inefficient internal organization, poor training of certain employees, lack of endowment with procurement management programs, etc.) creating syncopes in supply.

The events showed that, among the measures that should be applied, two would be of utmost importance: one, in the short term – the elaboration of internal procedures, with telecommuting tasks; and the second, in the long term - the digitalization of the public procurement process.

The elaboration of internal procedures must be a priority for the entity, being vital for all employees involved in public procurement, supporting them in knowing the specifics of the entity in their implementation, but also of the applicable legal framework. The new version of internal procedures must reflect the new standard of procurement.

As the public procurement process consists of mainly intellectual work, that is energy consuming, it must transition electronically. The benefits of digitization are obvious: reducing the circuit of documents, reducing reaction time to various actions, transparency of the process, reducing fraud, reducing the risk of mistakes, etc.

The purpose of this paper is to find opportunities to improve the public procurement process, rendering it accessible and less exposed to errors. The main objectives of the research are: outlining the key issues in public procurement, creating a framework on which to build internal procedures for public procurement activities, establishing directions for transforming/digitizing the public procurement process, presenting the benefits of using software procurement management, formulating hypotheses for future research (Lefter, 2007).

This paper is based on qualitative and quantitative research, together with the evaluation of the process of carrying out the activities specific to public procurement, and the research of the specialized literature, in order to establish methods for the efficient development of public procurement. Following the research, it has been concluded that some of the problems registered in the procurement process, in the last year, were caused by the lack of internal procedures or their lack of adaptation to the context created by remote work, the lack of platforms / electronic programs internal to the organization used for managing the procurement process.

The paper is structured in the following sections: review of the literature; a summary of systemic problems in public procurement; identifying the problems in the elaboration of the internal procedures in this field and presenting some frameworks for their realization; digitization of public procurement; research conclusions.

Review of scientific literature

Public procurement plays an important role in the social development and economic growth of any country (EC, 2021). At the EU level, public procurement generates about 14% of GDP (Maciejewski, et al., 2020). Better management of this sector is essential for economic growth (World Bank, 2020).

Directive no. 24/2014 on public procurement emphasizes the following points: the development of SMEs; the inclusion of social and environmental requirements within public procurement contracts

(Trybus, 2010); the reduction of the administrative burden of public authorities; the electronic conduct of public procurement. According to these new rules, public procurement becomes an instrument of political strategy (Dragoș, 2014). The procedures established by European directives are not applicable to all public procurement contracts, but the condition of transparency must be met (Caranta, 2012). The opening up of public procurement competition must be achieved through a process of changing public sector policies (Bovis, 1998).

During the pandemic, in order to respond to urgent supply needs, especially in hospitals, the European Commission (2020) issued a series of guidelines on the use of public procurement rules, including the initiation of negotiation without prior publication procedures and the purchase directly from suppliers. Negotiation without prior publication was the most widely used procedure, involving consequently the highest risk of misapplication and fraud of public funds due to lack of transparency. Not having specific steps in the procedure of negotiation prior to the publication, the uses of unclear legislative provisions have created dysfunctions in the necessary goods supply chain (Dobrotă, 2020). To ensure the efficient application of public procurement rules (EU, 2017) it is vital to take into account the following steps: establishing strategies in public procurement; training of staff involved (with the development of professionalization policies); digitization of the public procurement process.

Research methodology

The commentaries, analyzes, and opinions in the paper are based on data, information from normative acts (laws, directives, etc.) communicated, reports of the EU institutions, reports of the Court of Accounts of Romania, OECD. The research in this paper was performed by applying the qualitative and quantitative methods to the information in these documents. Qualitative research is adequate for this paper as an interpretation of information from various reports, documents, the author relying also on personal experience (Popa, 2016). Also, the qualitative method was applied because the research involves the study behavior of those involved in procurement, the reasons that led them to make certain decisions, the way practitioners perceive the reality of public procurement, the interaction between phenomena. Through qualitative research, the interactions between phenomena were studied, in order to answer various questions addressed to the events in the field of public procurement. At the same time, the quantitative method was applied, by using statistical data from various documents stated in the paper.

As the hypotheses of the problem already exist (presented in the aforementioned documents), the data collected being realistic and consistent, the purpose of the research is to find solutions to improve the public procurement process (through internal procedures and digitization of procurement). Starting from the information in the aforementioned documents, we issued two possibilities for carrying out the internal procedures. We analyzed the relationship between the expectations of public institutions, the perception of the development and digitization of the procurement process, the intention to modify the internal procedures. In this sense, we set the objectives for qualitative and quantitative research, we studied the reports containing the data used, we developed a logical scheme of actions to be performed, we determined the conclusions (Ciora, 2003).

Results and discussions

All the events that have happened since the beginning of the pandemic are for all of us hard lessons, from which we have to learn how to act in critical situations. The field of public procurement, especially in the medical sector, has been tested by many problems created both by the medical crisis and by internal situations specific to each organization left unresolved prior to the pandemic period. It was in these specific times that many situations arose causing those in procurement to set aside the rules and to act ensuring the public interest (Sanchez-Graells, 2020), or to stray away from the law out of ignorance.

Old problems of the public procurement system became more apparent. Issues that had been left unresolved such as: lack of internal procedures, insufficient training of staff, lack of computer programs for procurement management that would have facilitated telecommuting. The management of each

entity should analyze the efficient and inefficient procedures of this year, should determine the weaknesses, the vulnerabilities, and the strengths of the organization.

OECD (2020) made recommendations on the conduct of public procurement procedures with short-term and long-term measures aimed to remove risks from the public procurement practice. As short-term measures, the OECD proposes: developing procurement strategies for crisis situations; audit of all procurement procedures carried out as a matter of urgency. In the long term, it recommends: the use or extension of e-procurement platforms; remote access to the platform by verifiers, auditors, control bodies; specialization of staff involved in procurement.

In Romania, the Court of Accounts (2020) identified in the inspection performed in 2020 on 949 public authorities, regarding the conduct of public procurement procedures during the state of emergency (16.03-16.04.2020), 147 cases of issues, systemic deficiencies, from the stage of initiating the public procurement procedure, to the stage of receipt and payment of products/equipment. Other issues were ignorance of the application rules of the negotiation procedure without prior publication or lack of fair play of suppliers who have speculated on the crisis. The report issued by the Romanian Court of Accounts (2020) includes a series of recommendations on public procurement: strengthening the internal managerial control system; promoting the accountability of those involved in emergency procurement; defining operational procedures and digitizing procurement.

From the report issued by the OECD and that of the Court of Accounts of Romania, for this paper the following recommendations will be noted: establishing procurement strategies; drawing up internal procedures; conducting telecommuting activities; staff training, and digitization of procurement.

Conducting public procurement at standards that meet the desired supply needs can only be done within an organized entity, which is based on rules contained by internal procedures, on a developed system, adapted to the current situation (telecommuting, procurement online, and electronic procurement platforms accessible to all actors involved), in which staff are trained and perform their tasks so as to maximize the positive impact of procurement (Andhov and Roberto, 2020). Without internal procedures, the work becomes difficult, sometimes chaotic, the staff does not know the stages implied in carrying out the activities, tasks are not by any employee, the overall performance is delayed, due to the lack of deadlines. Also, through telecommuting, the rules become difficult to follow due to the impossibility of following the usual flow of documents, approvals, and to the difficulty of conducting meetings.

The lack of software for procurement management is another acute deficiency, which has made the supply process even more difficult. Creating electronic documents - predefined (for example, necessity report, annual procurement program, technical specifications, etc.) and signing them electronically would have reduced the time required to complete the acquisition. Besides, the staff involved would have been able to carry out these tasks through telecommuting.

Problems in developing internal procedures for procurement

Having a management system that is based on internal procedures showcases the level of organization of the entity, its desire to fulfill in a coherent way the mission it was created for, regardless of the times it goes through. In cases where the procedures would have already existed, their adaptation to crisis situations and to telecommuting should have been conducted involving minimum time and human resource. The implementation of telecommuting procedures will lead to a shift in the mentality of employees and employers, especially in the development of mutual trust (Del Aguila Obra, et al., 2002).

The elaboration of these internal procedures is an independent project, which begins with many questions: Who carries them out? Can they be adapted from another entity? What should they contain? How long does it take to draw up these procedures? Taking into account these questions, but also the recent events that made them resurface, several issues emerged (see below) that the entity must reflect on in order to choose the right strategy to address the project of internal procedures for public procurement through telecommuting.

"Customization" of internal procedures

In the field of public procurement, the rules for awarding contracts are, relatively, defined in Law no. 98/2016 and in its application norms. However, the operational/internal procedures must be "customized" for each entity, depending on its objectives, organizational structure, types of contracts it concludes, etc.

Internal procedures may be identical, from one entity to another, only if the entities are similar/operate in the same field and if they have a small number of employees. For example, distinct groups of institutions can be established: town halls, child protection departments, another group might be university education institutions, etc. If the institution has over 50 employees, the organization, implicitly the internal circuit of the documents, differs. Ministries, state-owned companies, national companies are authorities with totally different organizations from each other to which identical operational procedures cannot be applied. Hospitals fall into a different category of entities for which internal procedures have specific content, especially taking into account the difficulty of applying the telecommuting regime.

Taking over the internal procedures from another institution is not a viable solution, but rather a formal demonstration of their implementation (to avoid sanctions), but without efficient organization, based on quality.

Planning the implementation of internal procedures

The project for the elaboration of the operational procedures must be rigorously planned, so that, within the proposed deadline, the expected results will be obtained.

Step 1 of project planning consists of identifying the need, by:

- a) inventory of activities in the public procurement process;
- b) determining the risks associated with these activities;
- c) compiling the list of internal procedures to be drawn up, as well as assessing the complexity of each procedure with associated the instructions and the forms;
- d) establishing the recipients of the internal procedures;
- e) specifying the moment of project completion.

Step 2 of the planning sets out the conditions and implementation of carrying out the internal procedures:

- a) identification of the necessary personnel for the elaboration of the procedures;
- b) calculating the number of hours for performing the procedures;
- c) elaboration of the scenarios for the realization of the project for elaboration of operational procedures;
- d) estimating the costs of carrying out the project.

All this information is part of the project implementation strategy for the development of internal procedures.

Responsibility for developing internal procedures

Usually, the task of developing internal procedures is assigned to a team of employees of the entity. However, empirically, this way of working does not lead to the desired result. On the contrary, there will be shortcomings in reaching this target for the following reasons. Drawing up procedures for activities within the public procurement process requires extensive amount of work and is performed by employees of the entity who, among daily tasks, must devote additional time to thorough documentation and elaboration of internal rules. The team must analyze the existing procedures, interview the colleagues involved in the public procurement process, regarding the way in which they accomplish their tasks, identify the activities to be carried out and, possibly, modify the current ones. However, the public procurement department is often undersized in terms of human resources. As the

awarding of contracts is prioritized, the internal procedures will be carried out with additional effort by those in the department and within many months after the initiation of actions.

The nomination of employees in the project implementation team creates tensions among colleagues, many of them considering that those who draw up the procedures seek to relieve themselves of tasks, transferring them to others. Moreover, the staff (interviewed about the way in which they accomplish their designated tasks) fears that the team members will communicate the mistakes identified during the interview in regards to carrying out these tasks, the faulty communication between the employees, or various other problems noticed in the interview stages to the management. Therefore, the staff do not pay due attention to team members; are reluctant to work with them; do not provide the required documents; do not answer questions honestly; do not present the real process in which they perform their duties.

Furthermore, the research phase is difficult to fulfill when the interviewing team asks questions about the accomplishment of the tasks at the management level. The reaction of a manager to his subordinate is intuitive, although the latter was appointed by the general manager.

One aspect not to be neglected is the lack of experience of the team in carrying out the entire process of developing internal procedures, from research to their publication.

Team members must be good communicators, they must use interview techniques, so as to dismiss employees' doubts regarding the interviewer. They are to also prepare question sheets in order to obtain the necessary information.

For the aforementioned reasons, it is clear that the execution of this project, by the employees of the entity, encounters a series of shortcomings. The issue can be resolved by contracting a third party (external to the entity) that, in a team, includes specialists in the field of public procurement, with experience in developing operational procedures and communication skills. The critical external viewpoint, emotionally detached from the organization in question, leads to a better elaboration of work procedures (Ulmer, 2016). At first glance, outsourcing the project would be considered unnecessary. But, balancing the advantages and disadvantages associated with such a contract, the costs will be "amortized" by the quality of the work and its result.

The analysis of the opportunity to conclude a public procurement procedure contract must include qualitative, quantitative, logistical, but also financial aspects. The author of this paper considers that a form of "quantifying" the benefits of each working scenario can be tabular (Table no. 1), with questions in which the advantages will be marked with the number 1, and the disadvantages with the number 0. In the end, the total will tip the balance towards the most advantageous scenario: will the project be carried out with its own employees or with a contracted specialized company?

Table no. 1. Example of substantiating the decision of a work scenario

Question	Third party	Entity
Is there a person experienced in?		
- public procurement	1	1
- inventory technics	1	0
- drawing up internal procedures	1	0
Can team members' impartiality be affected?	1	0
Can the research activity be affected by the communication between the team members and the directors?	1	0
Can internal procedures be developed in a maximum of 2 months?	1	0
Can the team train staff be involved in public procurement?	1	0
Total advantages / disadvantages	8	1

Although the contract signed with the third party will generate additional costs for the entity, it must be seen as an investment, benefits being immediate: public procurement procedures are drawn up according to the rigors of the field, people involved in public procurement are to be trained immediately, public procurement procedures is to take place in an organized manner.

Digitization of the public procurement process

An important step in streamlining the public procurement process is its development by electronic means: from the issuance of the report of necessity to the preparation of the document which certifies the fulfillment of the contract.

The current period, where many tasks could be performed online and through telecommuting, is the right time for the transition towards electronic procurement, given that a multitude of activities involves working on a computer. They can be performed from any indoor/outdoor space (office, private apartment, garden, park, etc.); from any distance, provided there is a good internet connection, secure remote access to information, IT equipment, and a minimum technical comfort.

The transition of the entire public procurement process, from offline to online and telecommuting implies the need for reform/intervention on the entire system. Participants act electronically, at all stages, and all levels:

- the contracting authority, at the stage of preparing the award procedure, issues and approves the documents in electronic format;
- economic operators, in the bidding stage, submit the documents electronically, regardless of whether they participate in a direct procurement or a competitive procedure;
- the evaluation commission analyzes them digitally;
- the courts have access to information from the electronic case file;
- the contracting authority and the supplier issue the contract documents electronically;
- the control/audit bodies verify the acquisition based on the information in the electronic file.

The fulfillment of this desideratum - digitalization of public procurement - can be achieved acting on two levels:

- horizontally, within each entity, where managers must invest in: laptops, electronic signatures, and a computer program for document management related to the procurement process, interconnected to the stock program, but also to the accounting program (to verify the existence of budget, registration freight invoices, etc.);
- vertically, for the creation of an electronic platform, accessed by all "actors" in procurement: contracting authorities, economic operators, courts, control bodies.

The implementation of the horizontal plan involves openness on the part of the institution's management and awareness of the advantages of computer programs for conducting public procurement. By "transitioning" to online work and telecommuting, the institution avoids blocking the activity, during periods when employees have to work outside office space, or when safe office working conditions cannot be guaranteed. This institution knows, at any time, the status of each document, of each task. There is a reduction in the time spent circulating the documents. The tension between employees is eliminated, due to efficient communication between them. There is no need for pressuring colleagues to procurement documents on time; the traceability of the documents is ensured by the metering performed by the program and by the use of the electronic signature of each employee.

Vertically, electronic platforms/public procurement portals accessible to all participants in these processes must be created. In Romania, there is the EPPS (SEAP) portal - the electronic public procurement system (from the website www.e-licitatie.ro).

Such platforms should be developed in several directions: to allow access to all those involved in procurement to the documents/information it contains; allow (easy) interaction between contracting authorities and tenderers, in order to set up a good procurement strategy (CEU, 2020); to include technical prescriptions/conditions established for certain products, implicitly standardized award documentation for the products/services of interest; to include a database of suppliers whose eligibility is verified, constantly updated; to allow the interconnection with the computer programs for document management, of the entity; include an access section of the courts.

All changes in the process of conducting public procurement will contribute to: reducing the administrative burden, improving the business environment of economic operators (CEU, 2020); accountability of the staff involved; procurement transparency, reducing fraud and corruption (EU, 2017); reducing the time allocated to auditing public procurement; reducing the time for resolving appeals, by reducing the time for copying and handing over documents to the courts.

Conclusions

In any country, crises, unforeseen situations other than pandemics (natural disasters, fires, large-scale explosions, etc.) can occur at any time. The difference in overcoming them will be given by the reaction of the system. The more prepared it is, the faster it will recover. Reaction and recovery require organization, discipline, an efficient communication system, the necessary equipment to meet the needs of the moment. The public procurement system must be able to respond quickly and efficiently to various demands. Implementing internal procedures, training the staff involved (from the manager to the warehouse worker), creating an IT system in the non-crisis period, this mix can be the key in extreme situations, allowing for lives to be saved and the focus on solving new issues.

Through this research, we determined a framework of reference on which to further build internal procedures in the field of public procurement, but also development guidelines, digital transformation of the public procurement process.

Also in the sense of improving the activities in the sphere of public procurement, the research must be continued to identifying the proper process for the professionalization, and increase of performances of the specialists in this field.

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