

# A snapshot of public procurement experiences among EPR members December 2017

## Introduction

A number of EPR members highlighted challenges related to tendering as a topic that could be developed within the EPR network. An initial survey was carried out to better understand the situation in different countries, their challenges and potential role for EPR in supporting members, as well as promote good practice. This document will help see what role EPR might have for members on this topic.

The European Commission and other stakeholders are also interested in good and bad experiences of public procurement, particularly procurement that encourages good social outcomes, and is putting together a new guide on the topic.

The information is presented thematically; in each section responses are given by country.

## Type of services funded via tendering procedures among the respondents

NL 1. Assessment, training, education, innovative services

NL 2. medical rehabilitation

EE: Is also a public authority themselves. Sheltered work, also business presents etc.

IE: Social care, VET, VR

DK: Housing and social services.

ES 1: Mostly Residential Services

ES 2: Various services such as, among others, surveillance, cleaning of buildings, industrial laundry for hospitals, contact centers, management of nursing homes and day-care centers, digitization and document management, and consulting on universal accessibility. Also, provision of equipment for nursing homes, day-care centers, care centers for people with disabilities; urban furniture; among others.

NO: Vocational Rehabilitation services

## Do contracting authorities take quality into account in the tender process, and if so, how?

NL 1. They want to know about the quality of the services (a.o. by asking the degree of satisfaction of service users and referrers) and they want a description of the Quality Management System. Most of the tenders are very local (each city has its own tenders).



NL 2: they ask for data about the satisfaction of the clients, quality of life

EE: In the sheltered work tender it was taken into account through the qualifications' criteria of the staff involved.

IE: Necessary minimum Quality standards are specified, Tenderers are asked to state quality awards & accreditations. Generally recognised quality standards, both national and international, are a necessary minimum; if not mandatory, then as a criterion that is scored and difficult to succeed without it. Tenderers may be disqualified for Regulatory non-compliance. Which standard will vary between tenders based on factors such as target beneficiaries, type of service and depth of intervention. Examples might be HIQA compliance/experience, & for training, accredited to bodies such as QQI, City & Guilds.

DK: You will need to document how you have been working in the specific field previously - and what are your ambitions in the specific proposal. You are for example obliged to send signed letter of recommendations from your institutions working with similar target groups.

ES 1: Usually more than 50% of evaluation of tenders is about price. The rest is based on technical aspects. If quality is featured it could be around 5% of total mark. In a recent tender 2 points (out of 100) was about Quality Management (EFQM). In some tenders a Quality Management Certification is required, but a particular one or another is not specified.

ES 2: The Spanish legislation comes into effect in March 2018. In the law the contracting authority may include environmental or social aspects to guarantee the quality of the service. Examples of social criteria would be the promotion of the social integration of people with disabilities, disadvantaged people or vulnerable groups among the people assigned to the execution of the contract; the subcontracting of special employment centers (where 70% of the workforce are people with disabilities)

in Article 147.2. a series of tiebreaker criteria are established that prioritize the highest compliance with social criteria.

a) Higher percentage of workers with disabilities or at risk of exclusion in the workforce in each of the companies, prevailing in case of a tie, the highest number of permanent employees with disabilities in the workforce, or the largest number of included employees in the workforce. b) Lower percentage of temporary contracts in the workforce of each one of the companies. c) Higher percentage of women employed in the workforce of each of the companies.

NO: There are now a discussion in the Parliament/ministry after an evaluation on this topic and the signal to Nav is that they must include results from former years regarding how many clients they have got into jobs (it was not included before because Nav wished to include newcomers in this business) and most probable they will have to reduce the size of the geographical area. In this way also smaller companies (with good results in former years) will then have the possibility to win tenders.

### **Do they usually only award the contract to the lowest cost offer?**

No; the challenge is often the ratio of price over quality.

### **Do the public authorities ever restrict tendering procedures to social enterprises/non-profit organisations ?**

IE: yes; qualifying criteria stated in tender invitation.

DK: The municipalities then only invite non-profit organisations to hand in a tender for a specific piece of work. For example, if they want an extra home for elderly people that is not publicly run.

### **Do the public authorities ever restrict tendering procedures to sheltered employment settings?**

ES: yes. This is quite common practice.

The Law on Public Sector Contracts in its Additional Provision 4 establishes the possibility of reserving contracts for Special Employment Centers (companies where at least 70% of the staff are persons with disabilities) and Insertion Companies. The minimum reserve percentages of the right to participate in the award procedures of certain contracts

or of certain lots shall be established by agreement of the Spanish Council of Ministers or the competent body at regional and local level.

The reservation of contracts for Special Employment Centers is limited exclusively to those considered as social initiative centers, that is, those promoted or participated in more than 50 percent, directly or indirectly, by one or several entities, whether public or private, non-for-profit or with a social goal as established in their Statutes. Also, they must be committed by statutes or social agreement to fully reinvesting their profit in improvement of employability and creation of employment opportunities for people with disabilities, improvement of their competitiveness and their social economy activity, with the possibility to decide to reinvest their profit in the special employment center itself or in other social initiative special employment centers.

NO: yes; these tenders are used when public authorities, mainly local governments, are buying products produced by their member companies, for instances; furnitures, running the cantina in the schools etc.

### **Do you have any examples of a tendering procedure that you think was conducted well?**

NL1: All tenders we do (with local government and with national bodies) are very well organised. The demands, timetable, way how the offers will be judged etc are all published and in some cases, all service providers can make suggestions before the call. In some cases, based on the procedure, the 2 or 3 remaining organisations can give a presentation about their offer. After that the funder decides who will get the tender. This is always published and there is always a procedure for complaints and appeal.

NL2: No longer having someone responsible for funding it is more difficult to submit tenders given the work needed and find partners where a submission requires the involvement of other actors.

IE: JobPath tender, Ability tender, both in activation, the first for Long-tern unemployed, the latter for Persons with a Disability. Clear instructions, extensive preparatory scoping work carried out by the tendering body, experience from international and national best practice incorporated into the tender scope, detailed briefings for Tenderers, responsive and comprehensive to requests for clarifications, Qualitative criteria out-weighed price criteria.

The landscape whereby Funding agencies procure rehabilitation services is evolving, with increasing experience and professionalism in procurement by open tender

DK: The municipality of Gribskov in the Northern part of Zealand in Denmark conducted the largest public tendering procedure in 2013-2014. The process was executed very professionally with an open process plan from beginning to the final decision on who was granted the contracts. It was in the field of social service provision, including four nursing homes, home care delivery, rehab centre, meals on wheels, and a small facility for young adults with multiple disabilities. The percentages for winning the various contracts were:

-50% price

-25% quality

-10% cooperation with other players

-10% Innovation

-5% CSR (involvement of community, work place ethics)

ES 1: Not many; the good ones are those in which price is not the main value

NO: most of their members (not for profit providers in vocational rehab.) are very positive to such contracts in general.

### **Are any challenges experienced with public procurement procedures?**

NL 2: A lot of work to submit the offer and a small chance to be successful

IE: Emerging competitive pressures due to new entrants attracted by the open tender process, transparent evaluation criteria.



DK: The organisation's costs are higher as it prides itself in offering a fair salary and working hours for their staff – and run a local kitchen in nursing homes/ assisted living homes. Such a kitchen is viewed as an unnecessary luxury in many of our competitors' institutions (they make food in a central kitchen, foil wrap it and puts it in the fridge 8-12 days at a time). There is both competition from commercial, private providers and the biggest provider in Denmark – the municipalities (80-85% of the market that they are also financing themselves). Competition from capital fund backed organisations in Norway and Sweden (Attendo, Aleris) has increased in recent years and some of their competitors in the tender processes that can apply tax heaven tactics via accounts in Luxembourg. That gives them a 10% advantage. They are also more cynical in their personnel policies (e.g. by giving huge bonuses for directors who can create bigger surpluses); they do not want to compete in this way. The market situation with the total dominance of the municipalities makes it hard to have direct influence on how to enter and grow in the social service market. After the financial crisis authorities have also imposed higher demands for bank guarantees from the various providers – this means that right now they are not able to borrow money for new buildings from the banks. This put new demands on their creativity in solid fundraising.

ES I: Technical expertise to respond to tenders, to draft/put together the proposals. How to manage knowledge of other organizations and the environment; business intelligence procedures.

NO: For small companies it is problematic to have the capacity to do the paperwork to get these contracts

Did you notice any difference since the EU Directive on public procurement was transposed into national law?

EE: NO, since the new Procurement Act only came into effect 01.09.2017.

DK: [English translation of the legislation](#)

**Would it be easier for you if the contracts were smaller (in volume)? (I.e. for fewer people, fewer services, or fewer types of services, rather than for example a contract that included different types of services for many people)**

**Yes:** DK, ES I, NO - **No:** NL I, NL 2, EE, IE, ES 2

### **Issues to be highlighted; reflections**

If an authority chooses the best price-quality ratio to award the contract the organisation of the staff which will perform the contract and their qualifications and experience, (where the quality of the staff which will perform the contract may affect the level of performance of the contract to a significant extent) may be taken into account.

Governments can pass a law that only not for profit organisations can respond to calls (this cannot be a decision at the local level). Other models of funding services are possible, including when the user can choose the provider (where the provider operates under a licensing or authorization scheme). This is the main model in Germany but is also used elsewhere such as the Balearic Islands.

It would be important for the European Commission to have a focus on social services in the planned guide on social considerations on public procurement.

In terms of accessing financing, there are some EU loan and guarantee initiatives that could support investment in buildings see here for example: <http://www.socialinvestment.eu/en/social/programmes>

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*The European Platform for Rehabilitation (EPR) is the Network of providers of rehabilitation services committed to excellence and innovation. EPR and its members contribute to a society where every person with a disability and persons in other vulnerable situations have access to the highest quality services that create equal opportunities for all and independent participation in society. More information on [www.epr.eu](http://www.epr.eu)*