

Digitalisation of Public Procurement Law – E-Procurement

With the Public Procurement Reform Act 2018, the progressing digitization has also made a significant impact on public procurement law: Since 18.10.2018, all public contracting authorities have been obliged to conduct award procedures in the cross-threshold sector electronically. Not only the submission of bids, but also all communication with bidders must be conducted electronically via award platforms. The paper form has become obsolete. The catchword "e-award" has become established for this purpose. SAXINGER offers the scwp.com/award platform for this purpose.

Over the past few months, numerous empirical values have been gathered on e-procurement. These show that both the client and contractor sides have become very friendly with the electronic process handling and that initial scepticism has evaporated.

What has changed?

Electronic communication had also been encountered at times before, in particular with regard to the provision of documents and the introduction and answering of questions. E-procurement in the cross-over area is now mandatory at all stages of the procedure. This applies not only to the provision of tender documents by contracting authorities, but in particular to the submission of requests to participate and the submission of tenders.

Contracting authorities must define a suitable, generally compatible communication channel, e.g. processing via an awarding platform.

Documents created in electronic form must be stored for at least three years in such a way that the time of writing can be determined and subsequent changes can be seen.

What is the status of experience since the introduction of e-procurement?

E-procurement could be implemented without major technical problems.

Both contracting authorities and contractors have consistently prepared well for e-procurement. This also showed that when selecting the awarding platforms, clients often use software solutions that are already on the market instead of creating their own platforms by means of individual programming.

The challenge on the contractor side is not so much the procurement of the qualified electronic signature itself, which is relatively easy to handle using mobile phone signatures, for example. Instead, the internal process needs to be carefully defined. The uploading of the offer or the application for participation is usually not done by the authorized representative body itself. What was secured by the signature run during paper submission now requires a corresponding approval procedure.

What are the concrete advantages?

The procedures are carried out faster and more efficiently. This is particularly due to the simple handling of the awarding platforms.

All procedural steps are transparent. For the client, a complete documentation of the tender is available at the push of a button. The effort required to open the tender has been massively reduced. Large punching machines and securing bids with wire or other utensils are a thing of the past. The complete opening protocol ensures the authenticity and completeness of the offers much better.

Controls due to compliance requirements or other reasons can be carried out efficiently and without great preparation effort. Even retrospectively, all steps can be completely traced. Documents are saved in the versions provided or delivered.

Manipulations are excluded from the outset due to the technical signature and the so-called hash value, which is unmistakably attached to every document. This means that any discussions and any doubts that may exist are suppressed from the outset. Authenticity and confidentiality of the documents are technically guaranteed.

Operation is simple. The user is guided through the system with instructions. Forms are predefined. Thus, there is (almost) nothing that can be done wrong in the entire award procedure.

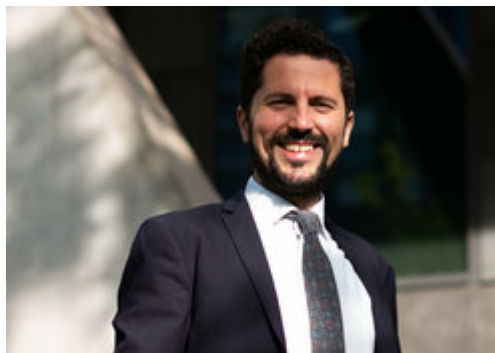
The award procedure is also transparent for the bidder. The first registration effort is manageable. In addition, registration is open to everyone. This easy access to the award documents also has positive effects on competition.

The risk of postal dispatch is completely eliminated. Any known discussions as to whether the bid has now been submitted in good time are now also irrelevant. The time of submission is documented electronically without any doubt, and after the deadline

has expired there is no longer any possibility of submitting bids for the respective procedure.

Our conclusion on the digitalisation of public procurement law through e-awarding is therefore very positive. The use of awarding platforms (such as scwp.com/awarding platform) has rightly become established; we can only recommend this also for the sub-threshold range, for which e-procurement is not mandatory.

Nevertheless, there is also potential for improvement. It would be desirable, for example, to link the awarding platforms so that bidders can apply to all procedures of federal and state contracting authorities with only one registration. But that is a dream of the future.



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