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**TRANSPARENCY IN PUBLIC PROCUREMENT: THE ITALIAN  
PERSPECTIVE**

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# TRANSPARENCY IN PUBLIC E-PROCUREMENT: THE ITALIAN PERSPECTIVE

by

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## EXECUTIVE SUMMARY

This case study assesses whether electronic tools effectively contribute to a feasible, affordable, reliable, transparent and accountable technological solution to reducing corruption and increasing transparency in the purchasing process of the public sector in Italy. The paper is based on social science literature on e-procurement, but also on qualitative and quantitative data and on two case studies – the Province of Mantua and the University of Bologna – supported by *ad hoc* interviews with the project managers.

The executive summary starts with a brief presentation on the introduction of electronic tools in the purchasing sector of the Public Administration (PA) and then proceeds to analyse the feasibility, affordability, reliability and transparency of the Italian e-procurement system.

### **E-Procurement in Italy: Background**

The e-procurement rollout started with the Rationalisation Programme on Public Spending for Goods and Services – part of the wider Italian public sector reform of the 1990s – aimed primarily at the optimisation of public spending and the modernisation of the PA through electronic purchases, but also at the reduction of corruption. In this context, transparency was an important aspect, albeit a side effect, of the reform; through e-procurement the Italian government aimed primarily at obtaining significant savings in expenditures for procurement of goods and services and at opening up the government supply market to make it more competitive. The adoption of this selected perspective has led to the creation of a system that succeeded in generating substantial savings, but that considered transparency as a spill over naturally emerging from the automation of the purchasing procedure and not an explicit policy commitment. This partially explains why most Public Administrations did not adopt specific governance tools to support the

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online procurement, e.g. rotation of public officials participating in the Adjudicating Commission, conflict of interest rules, guidelines for communication between buyers and suppliers, etc.

The then-Ministry of the Treasury decided to implement an “untying model,” which follows three principles: promotion of the new economy and of e-commerce in general; autonomy of the Public Administration in managing its own purchases; simplification and innovation of the purchasing procedures. Development of the procurement process was outsourced to a private entity, CONSIP, a joint-stock company totally and directly owned by the Ministry of Economy and Finance.

CONSIP’s strategy is threefold:

1. It stipulates National Frame Contracts with suppliers and allows PAs to purchase directly online via an e-shop.
2. It runs online auctions on behalf of public agencies, or supports them in the bidding process.
3. It sets up the Public Administration’s e-market place.

National Frame Contracts (NFCs) are stipulated by CONSIP directly with suppliers and list both the technical and the economic features of the negotiated goods and services. The Public Administrations’ position towards NFCs has changed over time. In 2000, central Public Administrations were obliged to purchase through CONSIP, whereas local entities were not obliged to buy through NFCs, but were simply required to take into account the price and quality displayed in the agreements. On one hand, this provision facilitated market start-up, enabled expenditure aggregation and brought about a price reduction; in addition, it acted as a killer application for the diffusion of ICT competencies among civil servants. On the other hand, small and medium-sized enterprises (SMEs) felt cut out from the market, which was left open only to a few big enterprises, while public agencies were unprepared to switch to the new procedures and reported poor quality of the supplies, late deliveries, excessive ties imposed by NFCs and limited assistance by CONSIP in the assessment of their needs and in follow-up operations.

To respond to the pressures from both SMEs and the public agencies, in 2003 and 2004 the “mandatory market” was lifted and public agencies were set free to negotiate their own contracts, provided the conditions established therein were more favourable than those displayed in the NFCs.

Thus the Italian experience reveals the need to strike a balance between the promotion and rollout of e-procurement through a compulsory market, and the possible subsequent restriction to competition.

Another milestone in the path towards e-procurement is marked by Presidential Decree N. 101 of 2002, which introduced both online auctions and the electronic marketplace in Italy.

The auction consists of four phases – the decision of what to buy (internal to the PA), the qualification of the bidders, the online auction itself, and the adjudication. The auction is run in a single or multiple rounds through an electronic platform where suppliers and buyers meet to negotiate goods and services, at either the lowest possible price (reverse auction) or at the most economically advantageous solution (weighing price, technical characteristics and service level). The auctioned commodities are those that are not frequently purchased and that can be evaluated mainly on objective terms. The entire process can even be followed online by interest groups.

The price obtained after the auction is optimal if the starting price is established in a fair manner and collusions among bidders are avoided. In order to do so, the auctioneer first analyses the PAs’ needs and then verifies if there are enough competitors on the market for the specific negotiated commodities. To this end, CONSIP co-operates with the national antitrust authorities.

At the end of the process, the winning supplier is sent a notification through an automatic e-mail message. Finally, the offers are digitally signed. Thus the selection of the supplier is simplified due to the reduced time and costs of the bidding process. Moreover, the cost for suppliers to participate in the auction is abated through digitalisation of the procedure, which ensures clarity and equity.

Presidential Decree N. 101 of 2002 also allows Administrations to purchase from the e-marketplace: a new business channel for enterprises, a complementary means to NFCs, and a virtual area where the PAs' demands meet with suppliers' offers. The goods best suited to the e-marketplace are those bought regularly in small quantities and – being a selective procedure – available only for orders below the EU threshold. Once qualified, the vendors and the registered public agencies can “meet” virtually to negotiate. Administrations, in fact, can either order commodities directly via the e-catalogue or ask for a price quotation. In this case the system automatically evaluates the offers using the criteria proposed by the system itself and chosen by the Administration. In brief, CONSIP's marketplace:

- Allows immediate comparisons of different offers and qualities of suppliers.
- Favours interactions with numerous selected suppliers.
- Increases competition by allowing local dealers to participate.
- Supports and facilitates the evaluation process (to note the difference with online auctions, where offers are simply classified and not evaluated).
- Reduces the phases in which human intervention is necessary. The search for suppliers and their qualifications – delicate areas for bribery – is left to a centralised procedure.
- Reduces time consuming and, at times confusing, paper procedures.
- Offers the opportunity to follow the transactions and keep record of the purchases and of the different bargaining phases.
- Allows the internal monitoring of the PAs' expenditures.

Finally, Article 5 of Presidential Decree N. 101 of 2002 allows local entities to converge and create local e-marketplaces aiming at favouring innovation and process reengineering at the local level, aggregating demand in order to reduce costs and increase the entities' bargaining power, obtaining better quality products and rationalising expenditure. *Ad hoc* e-procurement systems were created in some of the most advanced municipalities and regions, as spill overs of CONSIP's experience; this shows how CONSIP's expertise and knowledge of the subject has been capitalised.

### ***Feasibility and Affordability***

Savings and efficiency are relevant to understanding whether the Italian model is feasible and affordable for a country. Estimated savings reached EUR 3.196 million in 2003, deriving primarily from the services linked to mobile and fixed telephone contracts; among technological goods major savings were obtained in the purchasing of laptops. The measurement of savings obtained through e-procurement is, however, controversial, given the fact that it does not derive from routine monitoring at the agency level.

Moreover, the incidence of unexpected costs cannot be underestimated, e.g. formalities, legal obligations and general non-bid-related information requested from firms and aimed at guaranteeing

fairness during online auctions and equal access to procurement opportunities. If these obligations become too stringent, they turn into a serious barrier to e-procurement uptake and may reduce the potential benefits of the use of ICTs in the purchasing process. In Italy procedural requirements related to the publication of a call, for example, are quite expensive and can discourage smaller Public Administrations.

Another important element for evaluating whether the Italian e-procurement solution is feasible and affordable is to assess the status quo of the instruments needed to use e-procurement tools: i.e. broadband connection, digital signatures and ICT skills in general. During online auctions, large amounts of data are transferred; therefore, an ordinary connection can act as a serious obstacle. In addition, old PCs or local servers might be unable to store voluminous records. Technical features also impact on the question of system security and reliability discussed later. Italy and the Public Administration are in the process of updating their digital infrastructure and training public employees to use ICTs, thus the PA seems prone, albeit not immediately ready, to use e-procurement platforms.

### ***Reliability***

As far as reliability of the country's e-procurement system is concerned, the perspective is twofold: first, guaranteeing security during the auctions and the online transactions in general; second, selecting "reliable" suppliers to ensure high-quality products. Both perspectives should be adequately considered in order to reduce corruption.

From the first point of view, Italy has created a new valuable professional figure: the System Manager (SM), whose task is to guarantee the correct technical functioning of the negotiating tools and to oversee system security, while avoiding privacy violations. The SM can even face criminal responsibility for not having adopted the necessary measures to guarantee data security and civil liability for damages caused in the management of personal data. The SM's role is now crucial, particularly in view of the fact that while technologies allow increased transparency, they also facilitate the transmission of sensitive information. The person in charge of e-procurement for the University of Bologna declared that "at present a totally secure environment for data protection cannot be fully ensured; intrusion by hackers or possible opening of offers before time cannot be excluded." Tina Soreide of the Michelsen Institute also believes that: "One of the benefits deriving from the use of the Internet is the new opportunity for a quick and paperless exchange of critical business information. This will, however, also imply a simplification of the opportunities for corruption. Electronic documents can easily be copied, changed and forwarded to companies offering bribes." (Soreide 2002)

Reliability under the selected perspective of suppliers' reputation and quality of transacted goods has also been considered by CONSIP. A recent study<sup>2</sup> points towards the adoption of the eBay model as the choice of NFCs and of the e-marketplace contractors. The reputation mechanism should be unilateral, use non-negative ratings, and measure the reputation as the average of recent transactions' ratings in order to allow comparisons of recent dealings. Susan Rose-Ackermann<sup>3</sup> suggests that performance rating may help to reduce malfeasance and encourage good performance; underperformance on a contract or low-quality products are often by-products of corruption, thus the Italian attempt to keep this phenomenon under control is remarkable.

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<sup>2</sup> Dini Federico and Spagnolo Giancarlo, *Meccanismi reputazionali e mercati elettronici: problematiche economiche e possibili soluzioni per il public procurement*, in Quaderni CONSIP, November 2004 and in English Dini Federico and Spagnolo Giancarlo, *Reputation Mechanisms and e-Markets: Economic Issues and Proposals for Public Procurement*, powerpoint presentation available at [www.consip.it](http://www.consip.it).

<sup>3</sup> Rose-Ackermann, Susan, *Corruption and Government. Causes, Consequences and Reform*. Cambridge University Press, Cambridge, 1999.

The National Framework Agreements do indeed include measures to limit the risk in case of the vendors' underperformance. The latter is particularly relevant in the fight against corruption; by-products can often result in substandard goods and services, unfinished projects and other waste<sup>4</sup>. The NFCs provide for penalties in case of late delivery and for resolution of the contract in case of non-execution on the side of the supplier. CONSIP not only requires records from the suppliers to oversee the performance of each contract and of enterprises in general, but also offers consultancy services to PAs for the interpretation of the contract and the management of possible litigation with the suppliers. Moreover, CONSIP adheres to the "Guidelines on the quality of ICT goods and services for the management of PA's contracts" drawn up by CNIPA<sup>5</sup> in co-operation with other institutions and CONSIP itself.

### **Transparency**

CONSIP's experience and the analysis of concrete case studies reveal significant findings concerning transparency in the Italian e-procurement system.

To begin with, the introduction of e-procurement tools has led to increased competition. According to our interviewees, the number of suppliers has risen in Bologna from five or six suppliers for traditional tenders to 17 bidders for online auctions; in Mantua suppliers nearly quadrupled, from three to 10 to 12 bidders. Competition has also expanded geographically, thereby overcoming regional borders. Mantua, a province situated in the north of Italy, reported that enterprises from the south participated in – and won – a recent auction. Moreover the use of electronic means, such as the e-marketplace, favours interactions with numerous selected suppliers at the same time. Finally, the government market has been opened to local dealers, a category which was traditionally excluded from the PAs' auctions.

Although an increase both in the number of bidders and in the level of overall competition cannot *per se* point to reduced corruption, it certainly signals the existence of a wider array of opportunities for potential suppliers.

Furthermore, the possibility of accessing online information about auctions provides real-time notification of new business opportunities, thus reducing the so-called "power of invitation" whereby a public official decides which enterprises to invite to the tender and/or tries to keep the call secret for as long as possible. Della Porta and Vannucci report a case in Parma where a corrupt public official published the call during the summer period, with a very tight deadline for the submission of applications<sup>6</sup>. In brief, online publication reduces the exclusive power of the Administration to detain information, re-balancing the information asymmetry which is typical of the procurement "game".

Italian procurement opportunities are now published in the newspapers and on the auctioning Administration's website at least 60 days prior to the bid, while the tender alert is repeated 30 days before the tender. The criteria for participating in the call are set as low and as wide-ranging as possible to avoid creating unnecessary entry barriers; the same is true for admittance to the e-marketplace. Standardised products with clear technical specifications usually transacted on the marketplace or during online auctions in Italy, also generate anti-corruption benefits.

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<sup>4</sup> See Weber Abramo Claudio, *Institutional risks in Public Procurement – A Study of the Regulations of Latin American Countries*, Interim Report for Transparência Brasil, November 2004.

<sup>5</sup> National Centre for the Informatics in the Public Administrations.

<sup>6</sup> Della Porta, D and Vannucci, A., *Corrupt Exchanges: Empirical Themes in the Politics and Political Economy of Corruption*, as quoted by Soreide (2002).

Suppliers have to meet only a single online qualification in order to be invited to the relevant tenders occurring in the following 24 months; this simplifies the pre-qualification procedure and brings about a substantial cost reduction. The Province of Mantua considers simplification a precious benefit related to the introduction of e-procurement tools. Clear and simple procedures, in contrast with uncertain and unpredictable rules, drastically reduce the opportunities for corruption. Moreover, managing the entire procedure online reduces time-consuming and confusing paper procedures and favours process standardisation. In particular, during the auction or on the e-market, offer evaluation is to some extent freed from human intervention, reducing the opportunity to extract bribes. Bologna, in particular, cites minor discretion as one of the advantages of e-procurement.

Auctions can be followed online, allowing transactional transparency. CONSIP's auctions are even open to interest groups, while the bids of the Province of Mantua and the University of Bologna can be followed online exclusively by qualified bidders.

The use of ICTs, however, does not guarantee a clean process; governance tools are even more necessary. Preparation of the auction is the result of a network of technological/economic capabilities, of policies for disciplining conflicts of interest and avoiding restriction to competition. None of the interviewed Administrations (apart from CONSIP) has adopted specific "guidelines" for the regulation of conflicts of interest. The interviewees from both Mantua and Bologna seemed surprised that such situations may arise and referred to the general loyalty obligation of all civil servants. Adequate training could act as a remedy for the lack of awareness by e-procurement responsible officers while, at the same time, warning them about collusion during bids. Professionalism remains one of the best antidotes to corruption. Specialised training is also necessary for enterprises, particularly for local dealers who often lack the necessary technological skills and legal knowledge to participate in online auctions. The experience of the University of Bologna points towards this direction.

Finally, e-procurement tools enable record-keeping of purchases and different bargaining phases. The Province of Mantua believes that archival transparency is one of the major benefits from their e-procurement experience. CONSIP shares the same view. (See interview in the Annex.)

To conclude, the Italian experience is particularly valuable. Italy was the first European country to set up an e-procurement regulatory framework allowing purchases above the EU threshold to occur online. Moreover, the Italian case turned out to be exemplary – the Italian model has subsequently been adopted by the EU PHARE programme for similar e-procurement projects both in Turkey and in Cyprus<sup>7</sup>.

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<sup>7</sup> The PHARE programme is one of the instruments financed by the European Union to assist the candidate countries of Central and Eastern Europe in joining the EU.

## INTRODUCTION

Definitions of e-procurement vary across specialised literature in the field. To quote a few definitions: Is electronic procurement “any technology designed to facilitate the acquisition of goods over the Internet”<sup>8</sup> or “the electronic management of all procurement activities”<sup>8</sup>? Or simply “aspects of the procurement functions supported by various forms of electronic communication”<sup>8</sup>? The World Bank suggests a three-layered definition of e-procurement<sup>9</sup>. While the second- and third-level definition make a subtle distinction between e-tendering and e-purchasing, the first-level definition states that “electronic Government Procurement is the use of information and communication technology (especially the Internet) by governments in conducting their procurement relationships with suppliers for the acquisition of goods, works and consultancy services required by the public sector.”

The Italian definition overlaps in part with the World Bank classification, as the doctrine tends to regard e-procurement as the set of technologies, procedures and organisational steps that allow the purchasing of goods and services online, through the opportunities offered by the development of the Internet and of e-commerce<sup>10</sup>. Compared with the World Bank designation, the Italian omits the “acquisition of works”.

The definition appears complete, albeit somehow biased towards the technological aspect of e-procurement. A partial integration in the above should underline the organisational and “democratic” impact that the process brings about – i.e. increased transparency and supplementary choice. In particular, e-procurement in Italy was conceived as part of the reform of the public sector and as an instrument of the country’s wider e-government strategy. Like all e-government tools, an e-procurement system is fully beneficial only if preceded by, and supported by, back office transformations<sup>11</sup>. E-Procurement in Italy has brought about widespread changes both in the regulatory and in the socio-organisational framework, i.e. new legislation, new competencies, creation of *ad hoc* professional figures to manage the purchasing process, disintermediation, etc.

From the economic point of view, the purchasing sector of the Public Administration is an area of intense public interest, where there is much scope for savings, but also for rents. Douglas C. North determined that for a modern economy, 45% of GDP can be accounted for by the cost of transactions<sup>12</sup>. In a sector where information asymmetry is quite deep, in consideration of the non-bid

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<sup>8</sup> Davila, Tony, Mahendra Gupta and Richard Palmer, *Moving Procurement Systems to the Internet. The Adoption and the use of E-Procurement Technology Model*, in *European Management Journal*, 21(1), 2003.

<sup>9</sup> World Bank, *Electronic Government Procurement (e-GP): World Bank Draft Strategy*, Procurement and Policy & Services Group, The World Bank, Washington DC, October 2003.

<sup>10</sup> See Sarzana Fulvio di S. Ippolito, *L’e-procurement pubblico*, in (same author), *E-Government, profili teorici ed applicazioni pratiche del governo digitale*, La tribuna, Piacenza, 2003; see also Gatti Mauro, *E-procurement. Il D.P.R. 101/2002 e gli acquisti in rete della PA*, Edizioni Simone, 2002.

<sup>11</sup> EUREXEMP, *Does e-Government pay off?* November 2004 Paper realised under the authority of the Dutch Ministry of the Interior and Kingdom Relations to investigate whether it was worth investing in eGovernment initiatives, and to identify the back office changes required for that. The study is made by collecting information on a number of “European exemplary public services – Eurexemps”. The analysis framework, selection criteria, etc. were discussed with the E-government Working Group of the European Public Administration Network (EUPAN).

<sup>12</sup> Wallis, John J and Douglas C. North (1986), *Measuring the Transaction Sector in the American Economy*, in S.L. Engerman and R.E. Gallman, (eds) *Long Term Factors in American Economic Growth*, Chicago, University of Chicago Press.

related information required by firms<sup>13</sup>, the use of electronic media can make the difference in reducing the heavy procedural costs and ultimately gaining a better value-for-money ratio<sup>14</sup>.

It is not only a question of efficiency. The use of ICTs in the procurement process may lead to reduced costs – and time – for managing information (i.e. increased transparency), to integration, comparability and rapid update of data coming from different sources (i.e. enhanced monitoring), and, finally to disintermediation and reduction of discretion (limiting the opportunities for bribery)<sup>15</sup>. The transparent tender brought about by e-procurement tools is also conducive to increased competition between bidders, thanks in part to cross-border procurement when the value of the contract makes it worthwhile for foreign firms to participate to the tender.

However, at the national level the costs of introducing e-procurement systems must not be underestimated and at the international level the risk of “fragmenting” the market by implementing national non-interoperable solutions should be taken into account. Moreover effective savings stemming from e-procurement are difficult to assess and to measure<sup>16</sup>. The EU maintains that if e-procurement were generalized it could save governments up to 5% on expenditures and 50-80% on transaction costs<sup>17</sup>.

Policy makers should also consider possible market failures. According to Celentani and Ganuza the consequences of a larger number of potential suppliers in the procurement market and of increased competition in the market for procurement agents may well be increased corruption. Increases in competition are always desirable and to some extent beneficial, but “it is reasonable to expect that corruption and competition will grow together in certain markets”<sup>18</sup>. Soreide admits that firms exposed to increased competitive pressure are also more likely to resort to unethical business practices<sup>19</sup>.

The above statements reinforce the need to support e-procurement and e-government in general through governance tools. In order to avoid collusion in bids, for example, interaction between the

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<sup>13</sup> See COWI, *Monitoring Public Procurement in the European Union using Firm Panel Data*, Lot 1, Final Report, July 2003. It is a study based on questionnaires addressed to sample firms from 8 countries in Europe drawn from nine economic areas corresponding to sectors that account for 66% of all published tenders in the EU (chemicals, machinery, office equipment, medical products, motor vehicles, motor repair, construction, business service and sewage).

<sup>14</sup> Asian Development Bank, Interamerican Development Bank, the World Bank, *Strategic Electronic Government Procurement*, March 2004, pages 8-9; See also European Commission, *A report on the functioning of Public Procurement markets in the EU: Benefits from the Application of EU directives and Challenges for the future*, February 2004, page 22.

<sup>15</sup> See Bhatnagar, Subhash, *E-government and access to information*, in Transparency International, *Global Corruption Report*, 2003; Heeks Richard, *eGovernment for Development. Role of ICTs in Transparency Projects*, University of Manchester, UK, 2004; for the benefits of e-procurement like increased transparency and probity see OECD, *Synthesis of Lessons Learned of Donor Practices in Fighting Corruption*, June 2003.

<sup>16</sup> See Tonkin Christine, *E-procurement in the Public Sector: Story, Myth, Legend*, Working Paper, the Policy Institute, Trinity College Dublin, November 2003, pages 6-7.

<sup>17</sup> Commission of the European Communities, *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the regions. Action Plan for the implementation of the legal framework for electronic public procurement*, Brussels, December 2004, p. 3.

<sup>18</sup> Celentani Marco, Ganuza Juan-José *Corruption and competition in procurement*, Universidad Carlos III de Madrid Universitat Pompeu Fabra January, 2001.

<sup>19</sup> Soreide, Tina, *Corruption in international business transactions: The perspective of Norwegian firms*, CMI Report R 2004:10, available on [www.cmi.no](http://www.cmi.no), Chr. Michelsen Institute, 2004.

public procurement body and the national antitrust authority could be increased. Controlled or affiliated suppliers could be banned from taking part in the auction or contracts could be split into lots accessible to SMEs<sup>20</sup>. To supervise the behaviour of the purchasing entity, policy makers may use a mixed system of codes of conduct and monitoring authorities.

### *Aim of the study*

In the following pages, the Italian e-procurement system is examined in order to assess whether it provides a transparent, accountable, reliable, feasible, and affordable technological solution to reduce corruption and increase transparency and accountability in the purchasing process of the public sector. Transparency is here defined as “accessible information on laws and procedures as well as on specific procurement opportunities” (OECD, 2004)<sup>21</sup>.

### *Methodology*

The study is based on social science literature dealing with e-procurement, which in Italy is specifically focused on the juridical aspect of the subject, but also on official papers reporting both qualitative and quantitative data supplied by the Ministry of Finances, the National Centre for Informatics in the Public Administration, the Observatory on the Information Society and CONSIP (the company called upon to introduce e-procurement tools in the public sector). Complementing this theoretical framework are CONSIP’s concrete experience and two case studies – the Province of Mantua and the University of Bologna – supported by *ad hoc* interviews with the corresponding project managers.

### *Structure of the paper*

The first part of the paper locates e-procurement within the Italian public sector reform. At the same time, in order to assess the effective feasibility of the Italian solution and its affordability for the central and local Public Administration, the chapter illustrates the presence of the so-called enabling factors needed for the introduction of e-procurement – the diffusion of ICTs in Italy and the development of the e-administration (digital signatures, etc.).

The analysis then delves into the existing Italian reality by examining the functioning of e-procurement tools such as e-shops, online auctions and e-marketplaces. The study is not limited to the technological and procedural aspect, but also verifies whether specific corruption prevention mechanisms are in place, such as policies for conflicts of interest, the possibility of redress for unsuccessful bidders, and the existence of principles of equity at the regulatory level. Finally, two case studies are offered.

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<sup>20</sup> See Piga, Gustavo and Zanza Matteo, *An Exploratory Analysis of Public Procurement Practices in Europe*, in *Quaderni CONSIP*, September 2004.

<sup>21</sup> OECD, *The role of Transparency in Preventing Corruption in Public Procurement*, paper distributed at the OECD Global Forum on Governance-Fighting Corruption and Promoting Integrity in Public Procurement. Paris, 29-30 November 2004, p.2.

## **E-PROCUREMENT: A CENTRAL ELEMENT OF THE GOVERNMENT STRATEGY FOR ADMINISTRATIVE SIMPLIFICATION AND EFFICIENCY**

### **Public sector reform and e-procurement in Italy: Blazing a new path**

“Over the past ten years, progress on improving the environment for business and on modernising the public administration in Italy has been rapid, broad and impressive. Although Italy started reforming later than many countries, modern Italy is far advanced compared to the Italy of 1990. The public sector itself needed reform. Unclear and complex laws that were difficult to implement had resulted in unnecessary burdens on citizens and businesses, as well as low compliance, sowing fertile ground for corruption. The public administration suffered from inefficient use of resources, low productivity, fragmentation and duplication, and inadequate training of civil servants.”<sup>22</sup>

The public sector reforms of the 1990s were viewed as highly necessary not only to respond to a different budget reality, but also to re-establish the citizens’ trust in government<sup>23</sup>. Accordingly, the reforms brought in:

- Vertical subsidiarity by transferring responsibilities to the institutions and organisations closest to the citizens (Regions, Provinces and Municipalities).
- A reshaping of the central government to improve co-ordination, to avoid duplication and reduce the number of Ministries.
- A range of simplification tools, *inter alia* the Observatory on Simplifications, the regulatory impact analysis, one-stop shops for business, the combined services conference.
- Civil service restructuring, making it more similar to the private sector, e.g. link between wages and productivity, new forms of flexible contracts.
- The e-government action plan to speed up the administrative simplification process, increase transparency and deliver better and faster online services. This came about with appropriate legal tools to regulate digital signatures, the use of electronic documents and ID cards.

Within this framework, the purchasing sector of the Public Administration attracted special attention as the constant increase in public spending<sup>24</sup> gave rise to substantial savings, and as

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<sup>22</sup> Jacobs, Scott, *Statement for FORUM PA on regulatory reform in Italy*, Rome, 7 May 2001.

<sup>23</sup> On the need for governments to regain legitimacy and trust see OECD, *Government of the Future*, Paris 2000 pages 23 *et seq.*

<sup>24</sup> The analysis of the last ISTAT data relating to “Consolidated Economic Account of the Public Administration” shows that in the period 2000-2003, there was a constant increase in public spending for the purchasing of goods and services in Public Administration (so-called intermediate consumption), an increase of +8.8% in 2003 compared to 2002, that is EUR 5.611 million.

significant differences in adopted procedures created high expectations for innovation. On one side, a few administrations experimented with the use of electronic tools in pilot e-procurement projects, while on the other side, the majority were still validating offers with sealing wax.

In 2000 the then-Ministry of the Treasury laid down in the Budget Act for that year<sup>25</sup> the “Rationalisation Programme on Public Spending for Goods and Services” with the aim of:

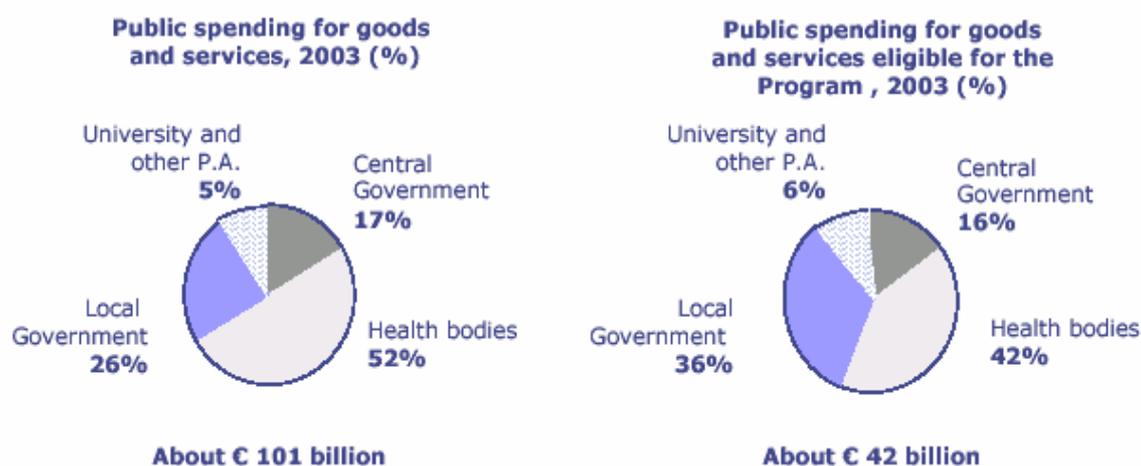
- Optimising public spending through the use of electronic means
- Guaranteeing efficiency and simplifying the purchasing process
- Promoting e-procurement tools
- Supporting innovation of Public Administration

And side effects of:

- Increasing transparency and timely tracking of PAs expenditures
- Enhancing market dynamics (e.g. favour competitiveness of the country).

Public expenditure for goods and services amounted to approximately EUR 97 billion (15% of overall public spending in Italy and 7.9% of GDP). It was calculated that about 40% of expenditures – EUR 40 billion – were eligible for the Rationalisation Programme. The latter’s activity covered about EUR 16 billion in 2003 (see Figure 1).

**Figure 1. Public spending for goods and services eligible for the Rationalisation Programme**



Source: CONSIP.

The development and management of the Programme was entrusted by the Ministry of Economy and Finance<sup>26</sup> to CONSIP<sup>27</sup>, a joint-stock company totally and directly owned by the Ministry itself,

<sup>25</sup> Law of 23 December 1999, n. 488.

which also monitors the enterprise's activity. Within this outsourcing model CONSIP was given the task of delivering, promoting and monitoring the use of innovative e-procurement tools in the Public Administration. The Ministry centralised the management of the demand for goods and services of the Public Administration, and not the administration of the purchases themselves<sup>28</sup>.

The purchasing system offered to the Public Administrations was – and to a certain extent can still be considered to be – a “mixed untying” model. Such a model foresees that the Ministry, through CONSIP, stipulates National Frame Contracts directly with suppliers. In the year 2000, central government administrations were obliged to purchase within the limits established by such contracts (tied system), whereas local bodies were free to either adhere to the contracts or to run their own tenders provided the price and quality of the frame contracts were taken into account (untied system).

Legal evolution has progressively freed Public Administrations from their obligations to purchase through CONSIP up to a substantial liberalisation of the procedures in use. A cornerstone in this process is Presidential Decree N. 101 of 2002, which entrusts the Ministry with the development of the Public Administration's e-marketplace; for the first time in Italy major phases of the project – the presentation of offers, their evaluation and the adjudication of contracts – could take place online.

### **Savings and ICT endowment as enabling factors for e-procurement: Conditions for making e-procurement affordable**

The paragraph above shows the initial approach of the Italian government to e-procurement – a way to realise public interests by achieving efficiency, savings and transparency.

Savings are fundamental to understand whether the Italian e-procurement system in place is feasible, advisable for the country and affordable. In 2003 purchases of goods and services from National Frame Contracts amounted to EUR 1.959 million, of which 1.092 was for the Central Public Administration alone (See Tables 1 and 2). The number of supply orders that reached CONSIP was approximately 183 000. Only 12% of the Administrations used electronic means to send their orders to suppliers; the remaining agencies still followed the fax procedure. However, in 2004, 62% of the Administrations registered online for CONSIP's purchasing system, compared to 58% in the year 2000, with 42% registering offline.

Estimated savings reached EUR 3.196 million, deriving primarily from the services linked to mobile and fixed telephone contracts; among technological goods, major savings were obtained in the purchasing of laptops. This figure, however, is not the result of routine monitoring at the agency level. The percentage reduction in unit costs, obtained at the end of the tender to select suppliers for the NFCs, has been applied to the annual estimated expenditure for goods and services managed through the Programme. Thus, savings stemming from reduction in unit costs over total expenditure for 2003 have been calculated.

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<sup>26</sup> The Ministry of Economy and Finance (<http://www.mef.gov.it/welcome.asp> , hereinafter MEF) has taken over the responsibility of the Ministry of the Treasury, Ministry of Budget and Economic Program and of the Ministry of Finances (Article 23 of the legislative decree 30/07/1999 n.300).

<sup>27</sup> Public Information Services Agency (Concessionaria Servizi Informatici Pubblici), [www.consip.it](http://www.consip.it) .

<sup>28</sup> This is the opinion of Bertini, Leonardo and Sciandra Luisa, *La riforma del procurement della P.A. Il nuovo modello di gestione e le estensioni alla sanità*, paper based on a research made for the Technical Commission on Public Spending -Ministry of Economy and Finance-, October 2001, chapter I.4.

**Table 1. Main items managed through the Rationalisation Programme in 2003 (million Euro)**

Volume	Central PA	Health Sector	Local entities	Universities	Other PAs	Total
Value of purchases from NFCs in 2003	1.092	210	527	118	11	1.959
Annual estimated expenditure for goods and services	3.876	4.949	4.328	543	1.341	15.036
Estimated Savings	1.267	587	899	135	309	3.196

Source: Ministry of Economy and Finance – Office for the Rationalisation of PA's online purchases.

Savings include both direct savings – deriving from purchases made by public entities through the frame contracts – and indirect savings, stemming from the so-called “benchmarking effect”. The latter occurs when the administrations run their own procurement procedures, taking into account the unit price shown in CONSIP's NFCs.

Another important element for evaluating whether the Italian e-procurement solution is affordable is to assess the status quo of the e-tools needed for the diffusion of e-procurement in a country. These are the so-called “enabling factors” for the development of e-procurement: digital signatures (identifying both the bidder and the administration), email use for PAs' internal mailings, ICT skills of public employees and general ICT penetration in the country (broadband, PCs, etc.).

Table 2 shows the development of some of the 10 objectives to be realised during the legislature adopted by the Committee of Ministers for the Information Society<sup>29</sup> in February 2002, of which one is specifically addressed to e-procurement while others relate to the development of the e-administration in general. The National Centre for the Informatics in the Public Administration<sup>30</sup> – an entity created to speed up the modernisation of the central and local Public Administration – is called upon to monitor the advancement of the public sector towards the aforementioned objectives.

**Table 2. Italian e-government programme: status of the objectives**

The chart below shows the status of the intermediate targets – those goals selected for the mid-term review – in 2003. The proposed objectives for the same year are in brackets. The last column provides a synthetic comment.

OBJECTIVES	2001	2003(target for 2003)	Comments
Digital signature tools	585 000 (value for 2002)	1 121 700 (1 000 000)	On track
Public e-procurement expenditure (million euros)	293	1 959 (3 000)	Behind
E-Mail use for internal mailing	10%	61% (40%)	On track
E-Payments	300 000	24 655 000 (20 000 000)	On track
Public employees with certified ICT skills (ECDL)	0.1%	1.2% (60%)	Behind

Source: CNIPA's data, commented and revised by the author.

<sup>29</sup> To promote the development and use of information and communication technologies in the various sectors, a Committee of Ministers for the Information Society has been set up  
[http://www.innovazione.gov.it/eng/intervento/riunioni\\_comitato\\_eng.shtml](http://www.innovazione.gov.it/eng/intervento/riunioni_comitato_eng.shtml).

<sup>30</sup> In 2003 the National Centre for the Informatics in the Public Administration (hereinafter CNIPA) took over the responsibilities of the Authority Centre for the Informatics in the Public Administration (AIPA) and of the Technical Centre of the Presidency of the Council of Minister. [www.cnipa.gov.it](http://www.cnipa.gov.it).

Digital signatures are widely used because Italy was one of the first EU countries to confer binding legal effect to electronic documents and to put digital signatures on par with traditional ones. Now enterprises use such signatures for legal obligations with the Public Register for the Enterprises, with an estimated savings of about EUR 260 million per year. The police forces (Carabinieri), the Ministry of Justice, and the National Council of Forensic Research have also adopted digital signatures<sup>31</sup>.

The number of employees with an email account – an indicator used as a proxy to measure the percentage of internal mailing sent electronically – shows a steady increase, plus 34.9% since 2002.

The certified training of employees, although behind government schedule, is not particularly worrying. Currently, 91% of employees that need training already use a PC and 50 000 employees have attended to ECDL courses or similar.

A final useful element for evaluating the Italian system from the point of view of its affordability is the status of the digital infrastructures in the country (see Box 1).

One of the risks associated with the introduction of e-procurement solutions is that the latter need to be able to “talk” to external constituencies. Suppliers (mainly SMEs) and customers (public employees) must be ready (ICT penetration) and prepared (diffusion of the culture for innovation, e.g. PC per student) to accept the novelty. By measuring the time new products need to penetrate the European markets it appears that, while in Finland innovative products penetrate the market within 4.6 years, in Italy the same happens in 6.7 years. (Source: European Innovation Scoreboard 2003) This may be taken to point to a sort of reluctance of the country towards innovation. The person responsible for e-procurement in the Province of Mantua reported, in fact, that SMEs were suspicious about the new system, mainly due to a lack of specific technical knowledge. However, the quantitative data provided show that Italy is undergoing profound changes; increased internet and broadband penetration, together with a steady development of online services to citizens, reveal transformation of the country and the readiness to take on e-procurement solutions.

The final evaluation of the Italian e-procurement system from the affordability perspective is a mixed positive one, as both positive and negative aspects emerge from the analysis.

According to CONSIP, the toolkit needed to use e-procurement tools is quite simple – broadband connection, digital signature tools and limited ICT skills. As described, the Italian Public Administration has recently updated its digital infrastructure and is proceeding to train its employees to use ICTs; it seems prone, albeit not immediately ready, to use e-procurement platforms.

Moreover, the Italian system has generated substantial savings, which makes the solution viable for other countries. However, measurement of the savings is controversial given the fact that it does not derive from routine monitoring at the agency level.

Lastly, the incidence of unexpected costs – such as formalities, legal obligations the general non-bid related information required from firms – can represent a serious barrier to e-procurement uptake in Italy. These are taken into account in the following chapter.

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<sup>31</sup> See [http://www.innovazione.gov.it/eng/comunicati/2004/2004\\_03\\_22.shtml](http://www.innovazione.gov.it/eng/comunicati/2004/2004_03_22.shtml).

### Box 1. ICT penetration and the development of e-government as enabling factors for e-procurement

- Internet household penetration: 42%; + 17% since 2001
- Internet penetration in enterprises: 45.5% average; maximum 98.4% in big enterprises; minimum 43.2% in SMEs)
- % of enterprises with Internet access using broadband: 45%; +120% since 2003
- % of households with Internet access using broadband: 38%; + 107% since 2003
- PCs per student in 2001: 1 per 28
- 2004: 1 pc every 11 students)
- % of surfers visiting PA websites: 53,9%; + 17% since 2003
- Compared to other OECD countries like Spain, where the percentage is around 50%, Germany (37%), the UK (42%) or France (55%), the Italian public sector's Web sites seems well placed to attract more and more users.
- Satisfaction of citizens using PAs websites: 62% are very satisfied; 2% are totally dissatisfied; 10% are not satisfied and 26% do not have an opinion.

#### **Maturity of online services**

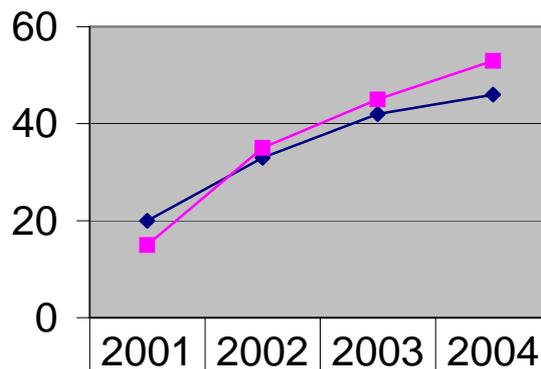
According to the latest European measurement of the maturity of online services, in Italy the sophistication of online services has increased on the average from 39% in October 2001 to 72% in October 2004. While in 2001 Italy was below the EU average (39% vs. 45%), now it is perfectly aligned with the EU average (72%). As far as the percentage of services totally available online is concerned, Italy is above the EU average (53% vs. 46%) (See Figures 2 and 3).

The best results are registered for the services supplied to enterprises; their maturity reaches an average of 90% (+ 10% since October 2003), 6% points above the EU average (EU 15 + Iceland, Norway, Switzerland). On the other hand, the maturity of services to citizens offered online is lower at 60%, but with a substantial increase since 2003 of 14 percentage points.

Source: Observatory on the Information Society.

Figure 2 Percentage of services totally available online in Italy

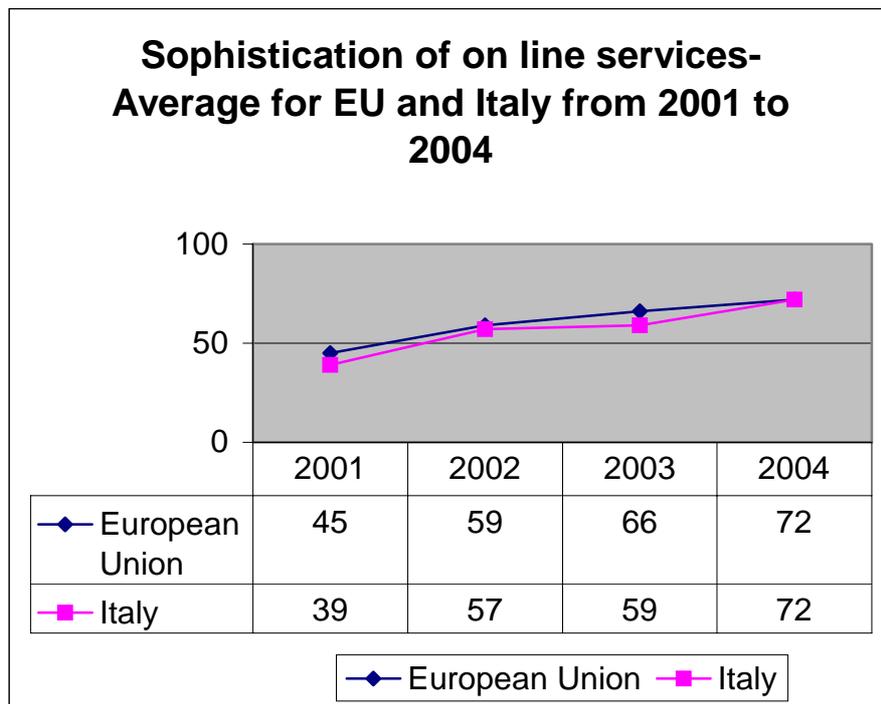
### Services Totally available on line- Averages for EU and Italy from 2001 to 2004



—◆— European Union	20	33	42	46
—■— Italy	15	35	45	53

—◆— European Union  
—■— Italy

Figure 3. Sophistication of online services in Italy



Source: EU, revised by the Research and Studies Unit of the Minister for Innovation and Technology.

## **E-PROCUREMENT TOOLS AS A MEANS TO FOSTER TRANSPARENCY: E-SHOPS, E-MARKETPLACES AND ONLINE AUCTIONS**

After having analysed the context in which e-procurement takes place, the paper describes the role of CONSIP and of the regulatory framework in which it operates. The study then proceeds to examine the opportunities for increased transparency offered by the individual e-procurement applications available in Italy.

### **CONSIP's role in the Italian regulatory framework for e-procurement**

Before the year 2000 laws disciplining procurement auctions, sometimes in the form of royal decrees, did not make any reference to the use of electronic means in the procurement system.

In Italy, the first administrations to introduce electronic tools in the purchasing process were decentralised local entities: the regions. In 1997 a law of the Lombardy region, in the North of Italy, foresaw the possibility of operating auctions through electronic means, both for collecting information on suppliers and for presenting offers. More recently, local entities – such as provinces and municipalities – were given substantial autonomy from the central government through a constitutional reform (in 2003). These bodies are now free to adopt their own rules in the procurement field (provided EC regulation is respected). There is room for the introduction of digital means in the purchasing procedure and the first e-procurement experiences can be traced down to municipalities.

The Budget Law for the year 2000 marks a watershed in the e-procurement rollout in Italy. CONSIP's role for the rationalisation of public spending was consolidated in that year, when the company – totally owned by the Ministry of Economy and Finance – was made responsible for the optimisation of public expenditure for goods and services. In particular CONSIP was given the tasks of:

- Defining purchasing strategies.
- Drawing up competitive frame contracts for public administrations.
- Promoting the use of e-procurement within the PAs.
- Providing monitoring tools for the PAs.

National Frame Contracts (NFCs) are stipulated by CONSIP directly with suppliers and list both the technical and the economic features of the negotiated goods and services. NFCs prove to be an efficient tool, as they lower the unit cost of goods and services and simplify purchasing procedures when applied to standardised goods and services and whenever demand aggregation is feasible. In the first case, benefits deriving from economies of scale can be reaped, whereas in the second case suppliers are required to make an offer for huge quantities of commodities, negotiating a price

reduction. In particular, demand aggregation reinforces the bargaining power<sup>32</sup> of the Public Administration, thus favouring above others smaller municipalities that are often unable to negotiate substantial discounts with local suppliers if left to their own devices. According to a recent study by the European Commission, e-procurement generates major benefits when used for the acquisition of goods that are standardised, not technologically complex, of low value and ordered frequently or very rarely (e.g. office furniture). In brief at least some of the e-procurement tools are used at best when quality evaluation is reduced to a minimum<sup>33</sup>.

The role of CONSIP in managing NFCs is to define a tender strategy, act as auctioneer by selecting suppliers through a tender run following EC legislation of the field, and monitor the agreements. CONSIP acts as a crucial interface between the public and the private sector (see Figure 4). By endorsing the NFCs, suppliers are obliged to satisfy orders coming from PAs within the limits of the agreements themselves.

The Public Administrations' position towards NFCs has changed over time and needs further attention. Article 26 of the Budget Law for the year 2000 mandated that central Public Administrations adhered to the frame agreements unless they could provide an "adequate reason" for not doing so and for resorting to alternative solutions (i.e. prove that the goods or services were available elsewhere at better conditions or that the commodities needed were not included in the NFCs). A motivation for not following the frame contracts was required in order to identify responsibilities and enable future inspections. A subsequent internal document of the Ministry of Economy and Finance<sup>34</sup> specified that administrations had to identify public servants "responsible for the optimisation of the initiatives to rationalise the expenditure." The aim was to increase the accountability of public officials.

Local entities, on the other hand, were not obliged to buy through NFCs, but were required to take into account the price and quality displayed in the agreements.

In brief, PAs were free to assess their needs (i.e. to decide when and what to buy), but when the choice to purchase was made they either had to adhere to NFCs or refer to them within the limits specified above. The orders were then sent directly to suppliers (the latter part of this procedure is still valid today). Adhesion to the agreements can be carried out both online by registering on a portal ([www.acquistinretepa.it](http://www.acquistinretepa.it)) or by traditional means (mail/fax). In this way e-procurement tools work as a killer application for the diffusion and use of ICTs in the public sector.

NFCs are operated through an electronic catalogue available on the above mentioned portal. The catalogue is easy to integrate into the traditional procurement process of public agencies, which need only click on the items that interest them and choose the quantity required at the price displayed in the NFCs. The e-shop is efficient, especially for standard goods that have well-known technical features, stable high prices, are ordered frequently and have numerous buyers.

The agreements include measures to limit risk in the case of vendor underperformance. The latter is particularly relevant in the fight against corruption, which can often result in substandard goods and

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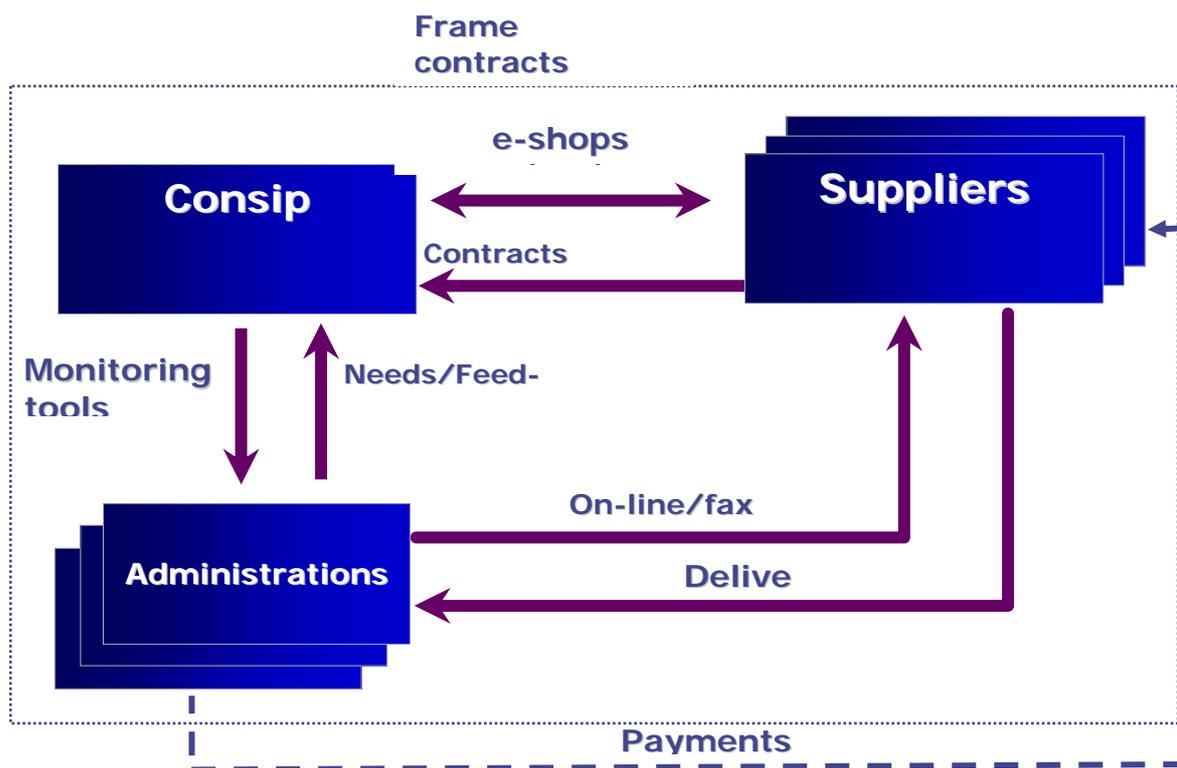
<sup>32</sup> See Barbiero Alberto, Osimo David, Spagnolo Laura, *L'e-procurement nella Pubblica Amministrazione: guida pratica all'acquisto on-line di beni e servizi*, Maggioli Editore, 2001, p.24.

<sup>33</sup> European Commission, *Analysis of Electronic public procurement pilot projects in the European Union, November 2000*; see also IDA, *Public eProcurement. Analysis of Public eProcurement Initiatives*, May 2002, pg. 4.

<sup>34</sup> *Circolare N. 1/2000* of the Ministry of Economy and Finance.

services, unfinished projects and other wastes<sup>35</sup>. The NFCs provide for penalties in case of late delivery and for resolution of the contract in case of non-execution on the side of the supplier. CONSIP requires records from the suppliers to oversee the performance of each contract and of enterprises in general, and also offers consultancy services to PAs for interpretation of contracts and management of possible litigation with suppliers. CONSIP also adheres to the “Guidelines on the quality of ICT goods and services for the management of PAs contracts” drawn up by CNIPA<sup>36</sup> in co-operation with other institutions and CONSIP itself<sup>37</sup>.

**Figure 4. The functioning of NFCs: CONSIP as a crucial interface between the public and private sectors**



Source: CONSIP.

This analysis reveals that transparency is obtained through simplification and personal exposure, i.e. smoothing out of the procurement cycle. Some phases of the process are managed by CONSIP directly, leaving to PAs the “onus” of emitting orders, reducing paper procedures and consequent minimising of errors in documents, standardising the procurement cycle, shortening the time required for the procurement process and clearly identifying public officials responsible for purchasing decisions (see Figure 5). Moreover, at the end of the year 2000, Law N. 340 established that the PAs were obliged to publish bids below European thresholds on one or more Web sites specified by the Presidency of the Council of Ministers. This form of publicity aimed to substitute for the traditional

<sup>35</sup> See Weber Abramo Claudio, *Institutional risks in Public Procurement – A Study of the Regulations of Latin American Countries*, Interim Report for Transparência Brasil, November 2004.

<sup>36</sup> National Centre for the Informatics in the Public Administrations.

<sup>37</sup> ([www.cnipa.gov.it/site/it-IT/In\\_primo\\_piano/Qualit%c3%a0\\_dei\\_servizi ICT](http://www.cnipa.gov.it/site/it-IT/In_primo_piano/Qualit%c3%a0_dei_servizi ICT)) guidelines presented on 25<sup>th</sup> January 2005; see also the Interview with Ferranti director at CONSIP.

practice from 1 July 2001 (provided EC legislation was respected and that advertisements on major newspapers were maintained). Transparency is facilitated by a free flow of information between the PA and the constituency, in this case enterprises and interest groups.

The budget law for the year 2000, together with subsequent legal specifications, extended the scope of application to almost all public agencies until the year 2003, creating (at least initially) a “compulsory market” for e-procurement and facilitating its rollout. If goods and services were present on the electronic catalogue, most purchasing entities were obliged to use this instrument to carry out their purchases. As a result, during the period 2000-2003, 61 NFCs were concluded for 35 different categories of goods and services ranging from telecommunication services to copy machines, desktop computers, laptops, vehicles for rent, stationery, etc. Overall, 90% of public agencies also applied to NFC (the percentage is obtained as the ratio between the number of registered users and the number of potential ordering bodies: 44 982 vs. 45 609 entities).

Tighter conditions were also established for bids<sup>38</sup>. Contracts worth over EUR 50 000 had to be negotiated through open bids so as to ensure equal opportunities and transparency. CONSIP could even act as auctioneer and replace agencies in carrying out the procurement tender. Although this situation contributed to an increase in the number of orders through NFCs, it produced different reactions from PAs and vendors.

While a few public agencies decided to stop purchasing in order to avoid using unfamiliar procedures, others spent more money than necessary to take advantage of the reduction in unit costs determined by the NFCs. However, this increase in spending could also be attributed to the satisfaction of previously unexpressed needs, such as innovation and modernisation of offices (e.g. purchases of desktops and laptops). Moreover, some PAs lamented they could not find the specific commodities required for their activities (material, surgery products, etc.).

In general, public agencies found it difficult to switch to the new procedures – the personnel was not adequately trained and had limited technical skills – and reported poor quality supplies, late deliveries, excessive ties imposed by NFCs and limited assistance by CONSIP in the assessment of their needs and in the follow-up operations<sup>39</sup>. CONSIP, on its side, is limited by current legislation to act generally as facilitator in the negotiations between the Public Administration and the supplier, and may not intervene in each contract or supply.

From the vendors’ standpoint the “compulsory market”, although used to start up e-procurement, crowded out local dealers, mainly SMEs with special ties to Public Administrations. In protest these enterprises gathered and set up a dedicated website with the explicit aim of contrasting CONSIP, as per its very name “againstconsip” (controconsip.it). In their opinion, CONSIP was displacing small firms, as proven by the fact that only large companies responded to CONSIP’s invitations for bids. Some of the larger enterprises even created cartels to monopolise the offers; in one case an oligopoly of eight enterprises bidding for restaurant tickets was actually sanctioned by the Italian Antitrust Authority with a fine of EUR 34.1 million. Public agencies also complained about insufficient specifications of technical features in bids and unclear requirements for participation in the auctions.

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<sup>38</sup> Article 24 of the law 289 /2002.

<sup>39</sup> See Galletti Anna, *Dossier sulle criticità degli acquisti tramite convenzioni CONSIP*, available on [www.codau.it](http://www.codau.it) and Marra, Mita, *Innovation in e-Procurement: the Italian Experience*, IBM Centre for the Business of Government, November 2004, p. 15 *et seq.*

The Italian Audit Court intervened on the subject and pointed out that the alleged savings advertised by CONSIP were difficult to verify due to the lack of an agreed system for gathering information on purchases at both the central and local levels (e.g. changes in the composition of budget lines over the years)<sup>40</sup>. There were therefore no reliable data to compare expenditures for goods and services before and after the introduction of NFCs.

Finally, legal doctrine maintained that the role of the central government was exceeding the limits imposed by the recent constitutional reform on decentralisation (see above). In other words, the mixed untying model and the state-supply driven approach were too stringent – especially for regions and local bodies – and while the model was well tailored to obtain savings, it failed to respect decentralised autonomies<sup>41</sup>.

### **Box 2. The experience of the province of Pisa in using National Frame Contracts**

While using CONSIP's NFCs, the province of Pisa experienced both disadvantages and advantages:

- Quality issues: Laptops' features did not adhere to the Administration's expectations.
- Knowledge Management: Online information on suppliers and products on CONSIP's Web site have made possible clear and efficient bidding calls and access to related documents.
- Internal procedural simplification.

### **Box 3 The experience of the University of Bologna in using National Frame Contracts**

Bologna University has offered criticism of the NFCs regarding:

- Poor quality of products.
- Late deliveries.
- Prices for stationery higher than those available on the local market.
- Difficulties in accessing the Web site and long registration procedure.

To respond to pressure from SMEs and from the public agencies alike, in 2003 and 2004<sup>42</sup> the “mandatory market” was lifted and public agencies were set free to negotiate their own contracts, provided the conditions established therein were more favourable than those displayed in the NFCs. The EUR 50 000 threshold was first interpreted by the Audit Court as a compulsory communication to be made to the Court itself and then abrogated *tout court* at the end of 2003<sup>43</sup>. The Audit Court asked

<sup>40</sup> See Marra Mita, *op.cit.* p. 14.

<sup>41</sup> See in this respect: Greco Maurizio, *Gli approvvigionamenti di beni e servizi nelle P.A. mediante sistemi elettronici e telematici*, available on <http://www.lexitalia.it> ; Sarzana, Fulvio, *op.cit.*

<sup>42</sup> Law 212/2003; legislative decree n. 269/2003; Budget law for the year 2004.

<sup>43</sup> See Ferrara Marina and Panassidi Giuseppe, *Gli acquisti di beni e servizi nella legge finanziaria 2004*, available on [lexitalia.it](http://www.lexitalia.it) ; Pitocchi Fiorella, *Acquisti in economia di beni e servizi*, available on [www.lexitalia.it](http://www.lexitalia.it); Scerbo Danilo, *L'acquisizione di beni e servizi secondo la disciplina prevista dall'art. 24 della legge finanziaria 2003*, available on [www.lexitalia.it](http://www.lexitalia.it).

CONSIP to set up a monitoring system in collaboration with ISTAT (the National Statistics Office) on the execution of NFCs. CONSIP made an effort to gain a better insight on pricing and on the consumption dynamics of products purchased by public agencies, and decided to set up a performance rating system with certified authors verifying the quality of supplies. In brief, CONSIP decided to customise its support to the public sector. A recent study suggests to CONSIP how to select a reputational mechanism for the frame contracts and the e-marketplace. The study argues that the eBay model is efficient, if adapted to the specific needs of the public sector. The reputational mechanism should be unilateral and use non-negative ratings, and should measure reputation as the average of recent transactions' ratings in order to allow comparisons of recent dealings and avoid the risk of "resting on the laurels"<sup>44</sup>.

Deeper analysis, however, reveals that poor quality in commodities meant for PAs and displacements of SMEs reflect market distortions that are only partially due to the introduction of the NFC system. Underperformance of the contract in general does not depend solely on the size of the firm. Local dealers value their customers, but are often unable to procure special and specific goods needed by government, while large firms often sell their dead stocks to the PA, which they consider to be a less demanding customer.

A recent analysis of the procurement environment in some Eastern European countries reveals that competition between local dealers and big corporations also emerged. An interviewee explains that: "In a recent tender (...) the requirements were set in such a way (quality of the equipment was not so essential in evaluation of offers) as to tip the scales in favour of a local company, which in the end won the tender, but which was offering low-quality products at high prices"<sup>45</sup>. Specific to Italy, instead, is the fact that public agencies are usually late in payments, which in turn leads to supplier inefficiency. Additionally, the personnel in the procurement sector are often under qualified for the task and not adequately considered within the internal organisation of the institution.

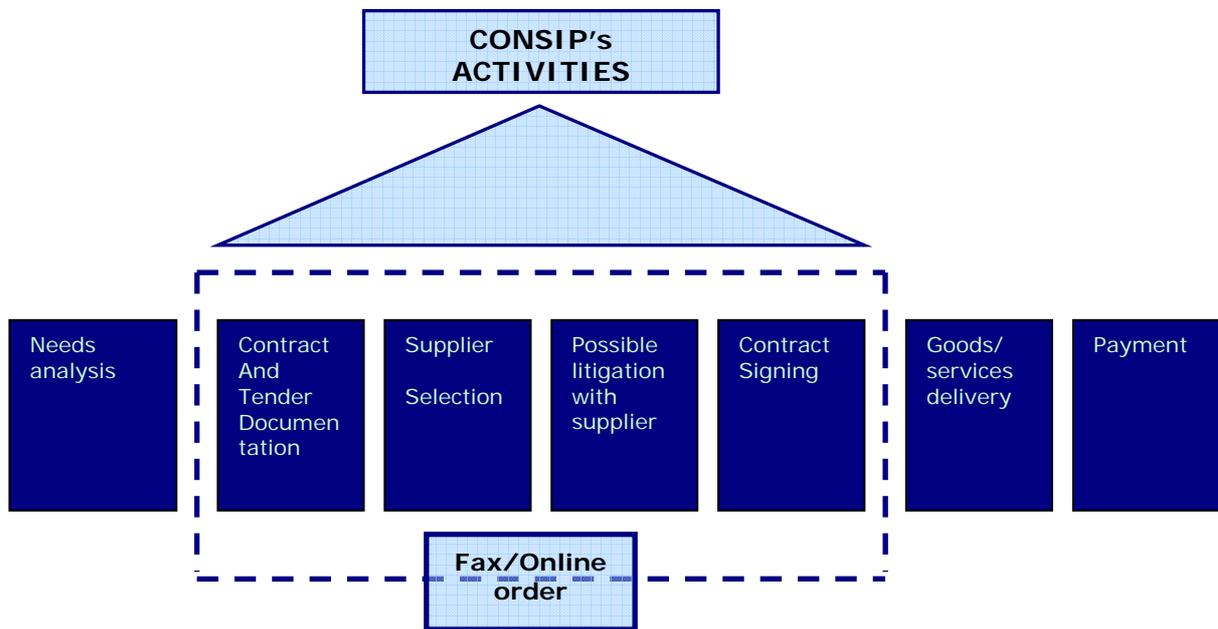
The natural evolution of the e-procurement system towards simplification, involvement of SMEs and customisation of offers through online auctions and e-marketplaces is illustrated in the following paragraphs.

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<sup>44</sup> See Dini Federico and Spagnolo Giancarlo, *Meccanismi reputazionali e mercati elettronici: problematiche economiche e possibili soluzioni per il public procurement*, in Quaderni CONSIP, november 2004 and in English Dini Federico and Spagnolo Giancarlo, *Reputation Mechanisms and e-Markets: Economic Issues and Proposals for Public Procurement*, powerpoint presentation available on [www.consip.it](http://www.consip.it).

<sup>45</sup> See Grødenland Åse, *The use of contacts and Informal Networks in Public Procurement: Findings from in-depth interviews with public procurement officials, representatives of local and foreign companies in the Czech republic, Slovenia, Bulgaria and Romania*, Paper presented at OECD Global Forum on Governance, *Fighting Corruption and Promoting Integrity in Public Procurement*, Paris, 29-30 November 2004, p.9.

Figure 5 CONSIP's activities for NFCs: Procedural simplification



Source: CONSIP.

### Online auctions: The role of transparency at different stages of public procurement

Another milestone in the path towards e-procurement is marked by Presidential Decree N. 101 of 2002, which introduced both online auctions and the electronic marketplace in Italy. The decree also provided an *ex post* regulation for experimental online purchases that were running since 2001 in municipalities such as Siena.

Online auctions are feasible both for purchases below the EC threshold and for contracts exceeding EUR 160 000 (for central PAs) and EUR 250 000 (for other public agencies). Electronic tenders are also run to select suppliers for NFCs. The decree is mandatory for those central administrations that decide to purchase online, while local entities may apply the provisions of the decree if they wish.

The auction consists of four phases – the decision of what to buy (internal to the PA), the qualification of the bidders, the online auction itself and the adjudication – which are all governed by public/administrative law. A fifth phase, which disciplines the execution of the contract, can be added – this phase is governed by the civil code.

All public agencies running a tender are obliged to respect the so-called “public evidence” procedures, which include the principles of transparency, respect of equality among bidders, adoption of favourable conditions to participate to the bids, etc.<sup>46</sup> The same principles are repeated and listed in the Presidential Decree N. 101 of 2002.

The first phase, the decision to enter into negotiation (i.e. identifying what and when to buy), concerns solely the Public Administration so the future bidders have no legitimate expectations.

<sup>46</sup> See Gatti Mauro, *E-procurement. Il D.P.R. 101/2002 e gli acquisti in rete della PA*, Edizioni Simone, 2002, page 27.

The second phase starts with the publication of a call to bid that contains the criteria required for admittance to the tender – volume and technical features of the goods (divided by merceological type) and the identification of levels or classes for which suppliers can be registered according to their technical, financial and economic capabilities. These criteria are set as low and as wide-ranging as possible to avoid creating unnecessary entry barriers. The process is structured as follows: the call is published on the Official Italian and European Gazette, in the newspapers and on the auctioning Administration's Web site at least 60 days before the bid takes place. The tender alert subsequently appears on the Web site 30 days before the auction, while the invitation to bid to qualified suppliers is sent out only 10 days before the actual tender.<sup>47</sup> This procedure, albeit transparent, is quite expensive for Public Administrations and can discourage smaller entities.

If on one hand web-publishing reinforces transparency insofar by offering real time notification of new business opportunities, on the other the State Council has recently decided that bidders can contest illegitimate provisions contained in a call only after the adjudication of the contract, that is when the suppliers' legitimate interest (to be selected) becomes concrete. Sole exceptions to this process are provided for by the clauses of the call directly disciplining the participation to the bid, which can be appealed immediately<sup>48</sup>.

Suppliers need qualify only once in order to be invited to the relevant tenders occurring in the following 24 months, thus concentrating the pre-qualification procedure with substantial cost reduction. Those suppliers who have not responded to the first qualification call can still be admitted to the bid if they apply after the tender alert. In this case, however, they may qualify only to take part in that specific procedure and would need to re-qualify for a different tender. The selected enterprises that intend to participate in the tender are sent a password and ID and asked to pay a deposit.

The registration procedure can take place either online or offline. In this context the relevance of clearly stated bid specification and selection criteria must be underlined. Indeed, the importance of reducing human intervention in defining the terms of the tender is a major issue in the above-referenced analysis of procurement in Eastern European countries<sup>49</sup>. The University of Bologna points to reduced discretion as one of the major benefits of e-procurement.

Finally, in the run-up to the event, both procurement officers and suppliers must be adequately trained, in order to ensure that the auction runs smoothly and that the bidding tactics are properly monitored, and that collusion is avoided. Another suggestion is to rotate public officials who normally participate in the Adjudicating Commission or are called upon to run tenders. An example of efficient training can be found at the University of Bologna, which trains officials and enterprises before running an online auction; however, the university neither has policies to solve conflicts of interest nor rotates the officials responsible for the procurement process (see interview in the Annex).

The "real" auction (3rd phase) is run through an electronic platform where suppliers and buyers meet to negotiate goods and services. The price obtained after the auction is optimal, if the starting price is established in a fair manner and collusions among bidders are avoided. In order to do so, the auctioneer first analyses the PA's needs and then verifies if there are enough competitors on the market for the specific negotiated commodities. To this end, CONSIP co-operates with the national

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<sup>47</sup> For further information on the publication procedure followed by CONSIP see the recent directive on "the Timing and Ways to diffuse information to stakeholders", published on 3<sup>rd</sup> March 2005.

<sup>48</sup> See Flore Raffaella, *Responsabilità precontrattuale della PA nei contratti ad evidenza pubblica, in Amministrazione in Cammino*, available online on [www.luiss.it](http://www.luiss.it).

<sup>49</sup> See Grødenland Åse, *op.cit*, p.8.

antitrust authorities: AGCM, the Guaranteeing Authority for the Competition and the Market, and AGCOM, the Communication Regulatory Authority.

It is important to draw up clear policies for conflicts of interest before the actual event takes place to deal with those situations where “(...) the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities”<sup>50</sup>. The code of ethics adopted by CONSIP<sup>51</sup> is applicable to CONSIP’s personnel, to anyone who co-operates with the company – including Commission members – and to CONSIP’s suppliers. The code forbids activities and behaviour which may be in conflict or in competition with CONSIP, and decisions that involve a monetary interest or any other benefit to the (interested) person or to his/her spouse/partner, relatives and friends or of organisations of which the person is an administrator or manager and that are in conflict with CONSIP or with the PAs for which CONSIP operates.

CONSIP clarifies that conflicts of interest may arise *inter alia* when:

- It is possible to obtain a personal advantage of any nature through access and improper use of information.
- Someone works for CONSIP’s suppliers.
- Someone divulges, even at informal meetings, secret information on CONSIP’s activities.
- Someone exploits his/her position to obtain a personal advantage which conflicts with CONSIP’s interests.

In all of these cases CONSIP’s employees, suppliers and anyone to whom the code is addressed should abstain from taking any decision or initiative which may have an impact on CONSIP. Communication of a potential conflict to one’s superior is required if someone detains bonds of a company involved in a CONSIP auction. The code also nominates an internal monitoring body (Organo di Vigilanza), which depends on the board of directors and verifies the effective application of the code. The Organo di Vigilanza ensures that the code is u-to-date, facilitates its dissemination and investigates those situations where crimes such as corruption, embezzlement, fraud, agiotage, abuse of power by public officials or “concessione”<sup>52</sup> are committed.

None of the Administrations interviewed had policies to solve conflicts of interest.

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<sup>50</sup> OECD, Guidelines on Managing Conflict of Interest in the Public Service.

<sup>51</sup> CONSIP, in recognition of the fact that e-procurement in the public sector is a delicate area due to possible commission of offences against the Public Administration, has introduced a self-regulatory organisational ethics code in response to the legislative Decree 231 of 2001 (adopted by Italy to implement the OECD Convention against corruption) and has diffused the culture of social responsibility within the firm through various *ad hoc* seminars.

<sup>52</sup> The crime of “concessione” is set out in Article 317 of the Italian Penal Code, which describes it as the case in which a public official takes advantage of his/her functions or power to oblige or induce another to unduly give or promise money or other assets to him/herself or a third party. In this situation criminalisation is not extended to the payment. The OECD Working Group on Bribery met to examine the compatibility of the Italian legislation against corruption with the OECD 1997 Convention against bribery; when faced with this provision it voiced its concern that the concept of concessione “may weaken the effective application of the Convention”. See OECD: “Italy: Review of Implementation of the Convention and 1997 Recommendation” [www.oecd.org/pdf/m00007205.pdf](http://www.oecd.org/pdf/m00007205.pdf).

At this point, it is time for the online auction. The negotiated goods are usually special commodities that are not frequently purchased and that can be evaluated mainly on objective terms. The offers are automatically classified by the electronic platform, which also highlights the ones that are excessively low in comparison to the others. The auctioneer, in this case, asks for further details and may disqualify the bidder. The entire process can be followed online even by interest groups.

The subjects involved in the online auction are the Administrations, the Suppliers (defined by the decree as “qualified users”) and the System Manager (SM). The SM is a new professional official (an IT expert) in either the private or the public sector whose task is to guarantee the correct technical functioning of the negotiating tools and whose activity is crucial to the online auction. Responsibilities of the SM can entail:

- Criminal responsibility for not having adopted the necessary measures to guarantee data security.
- Civil liability for damage caused in the management of personal data, as gathering/storing of economic offers amounts to treatment of personal data<sup>53</sup>. If these data are lost or the secrecy of the offers is violated (e.g. through a virus or insufficient protection) System Managers can be liable for damages, unless they prove that they have adopted all the necessary measures to avoid the damage. The activity of the System Manager (data handling) is considered by Law “dangerous”, and thus requires special attention<sup>54</sup>.

The minimum measures foreseen by the law<sup>55</sup> are the use of a password and its autonomous substitution by the person entitled to handle personal data, clear and written identification of the administrator entitled to manage data, assignment to this person of a code, and protection of the system from intrusions like viruses. Bologna University officers believe that data security is one of the major issues for guaranteeing fair online auctions and that new feasible solutions still need to be found (see interview in the Annex).

The auction run in a single or multiple rounds allows adjudication (4th phase) at either the lowest possible price (reverse auction) or at the most economically advantageous solution (weighing price, technical characteristics and service level). Offers are clearly shown, although the source is hidden; at the end of the process, the winning supplier notified through an automatic e-mail message. Finally, the offers are digitally signed. The selection of the supplier is therefore simplified due to the reduced time and costs of the bid. Moreover, the cost for suppliers to participate to the bids is abated thanks to the informatisation of the procedure and the clarity and equity ensured.

In this phase bidders have a legitimate interest to ask the PA for damages in case of unethical behaviour by the Administration.

Unsuccessful bidders are not debriefed, but can make their own evaluations by following the auction directly online. The University of Bologna and the Province of Mantua follow this procedure.

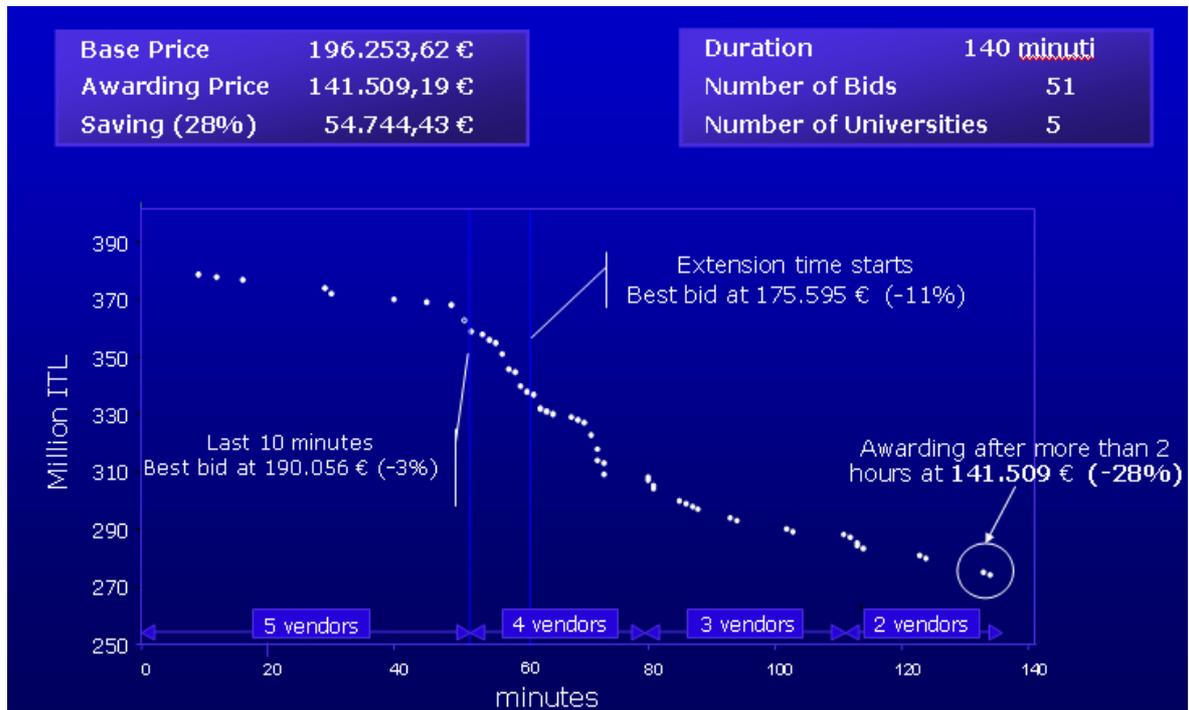
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<sup>53</sup> In Italy data belonging both to physical and to juridical persons can be protected.

<sup>54</sup> Article 7 (1) and Article 3 refer to Article 36 and Article 15 of the new code on data protection (former Article 18 of the law 675/1996). The latter, finally, refers to Article 2050 of the civil code, i.e. responsibility for dangerous activities.

<sup>55</sup> L. 675/1996 and Presidential Decree N. 318 of 1999.

Figure 6. Online auction for beaming projectors



Source: CONSIP.

## The e-marketplace

Presidential Decree N. 101 of 2002 allows Administrations to purchase from the e-marketplace, a new business channel for enterprises. It is a means that is complementary to NFCs, a virtual area where PAs' demands meet with suppliers' offers. Goods best suited for the e-marketplace are those bought regularly in small quantities and available only for orders below the EU threshold (since the e-marketplace is a selective procedure).

### Procedure

The procedure starts with a qualification call to select suppliers and goods to be shown online. Suppliers download the call and the annexed documents, upload their catalogue in an Excel file, fill in an *ad hoc* qualification form and then sign it digitally. A Qualification Commission set up by CONSIP evaluates the form and the catalogue, requires further specifications and admits or denies registration to the supplier.

Public agencies are also required to fill in an online form and obtain a user ID that the system automatically generates. A password and a PIN are chosen by the public agency, which downloads the completed form and signs it digitally.

Once qualified, the vendors and the registered public agencies can "meet" virtually to negotiate. Administrations, in fact, can either order commodities directly via the e-catalogue or ask for a price quotation. In this case, the system automatically evaluates the offers using the criteria proposed by the system itself and chosen by the Administration. The System Manager regularly updates the catalogues.

### ***Benefits of e-marketplaces***

The description of e-marketplaces shows that the system seems well suited to favour an increase in transparency. Although some of the following characteristics are shared by e-auctions and online processes in general, CONSIP's marketplace:

- Allows immediate comparisons of different offers and qualities of suppliers.
- Favours interactions with numerous selected suppliers.
- Increases competition by allowing local dealers to participate, levelling the playing field for big and small enterprises alike (EUR 20 000 turnover is enough to be admitted to the e-market). SMEs can restrict the selling of their products even to the territory of a single Province, therefore no big investments in terms of transport and delivery are required.
- Supports and facilitates the evaluation process (to note the difference with online auctions, where offers are simply classified and not evaluated).
- Reduces the phases in which human intervention is necessary. The search for suppliers and their qualifications – delicate areas for bribery – is left to a centralised procedure. In this way, valuable resources at the agency level are freed and buyers can concentrate on developing managerial competencies (deeper analysis of the agency's needs, monitoring of the markets, support to other offices, purchase innovation, etc.) rather than focusing on administrative procedures (formalities).
- Reduces time-consuming and, at times confusing, paper procedures (i.e. eliminates mistakes and reduces the exclusive power of the Administration to detain information which is put online, rebalancing the information asymmetry typical of the procurement "game". (This characteristic is in common with e-auctions.)
- Offers the opportunity to follow transactions (transactional transparency) and keep record of purchases and different bargaining phases. The latter are qualified as archival transparency and are important not only for enhancing efficiency but also for allowing future inspections and independent reviewers to verify that the procurement process is not affected by external factors, such as favoured buying or bribery<sup>56</sup>. (This is also the case with online auctions.)
- Allows the internal monitoring of PAs' expenditures (feature in common with online auctions).

### ***Initiatives at the local level***

Finally, Article 5 of Presidential Decree N. 101 of 2002 allows local entities to converge and create local e-marketplaces aimed at: favouring innovation and process re-engineering at the local level; aggregating demand in order to reduce costs and increase the entities' bargaining power; obtaining better quality products; and rationalising expenditures. *Ad hoc* e-procurement systems were created in some of the most advanced municipalities and regions, as spill overs of CONSIP's experience. In a few cases, independent portals for e-shopping were set up in addition to online

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<sup>56</sup> See Eurochambres, *Contribution Paper 2004, contribution to the EC consultation on e-procurement*, November 2004, p.3.

auctions, which shows how CONSIP's expertise and knowledge of the subject has been utilised. Now the question is how to co-ordinate the different initiatives at the local level, where there are at least 17 e-procurement systems<sup>57</sup>.

#### **Box 4. The Province of Mantua: A case of excellence**

The Province of Mantua in the North of Italy is among the most advanced administrations in the use of e-procurement tools. The province is an aggregating and co-ordinating entity of a pilot project, "Online purchases", which intends to run electronic auctions (both below and above the European threshold) for the procurement of goods, services and. Where feasible, it will work for the province itself and 22 of the 70 municipalities included in the Mantua territory, along with 8 centres for the elderly. The aggregation of entities is specifically foreseen by Article 59 of the Budget Law for the year 2001 with the aim of preparing common purchasing strategies, providing standardisation of orders and adhering to regional frame contracts.

The model chosen by the Province of Mantua resembles CONSIP's – the selection of an external partner to implement the project (Pleiade Ltd.), the rules governing the tender which take into account the Decree 101 of 2002, the creation of an online register for qualified suppliers (which now counts over 900 enterprises), use of NFC's prices as a benchmark, and creation of an open source electronic platform and of a dedicated website ([www.provincia.mantova.it/acquistionline](http://www.provincia.mantova.it/acquistionline)). In 2004 Mantua ran more than 50 auctions online. Main advantages of the use of e-procurement tools:

- Substantial savings: EUR 525 000 on a total tender value of EUR 1 590 000, so 33% (in 2004 alone).
- Creation of a network among public agencies operating in the territory.
- Simplification of procedures for both the agency and the suppliers: e.g. reduction of the formalities to participate in the auction due to a single registration for enterprises, which lasts for 24 months; elimination of paper procedures linked to reception of offers.
- Increased transparency through the possibility to follow the auction online.
- Enhanced competition among bidders.

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<sup>57</sup> See [www.buoniesempi.it](http://www.buoniesempi.it).

### Box 5 E-procurement at the University of Bologna

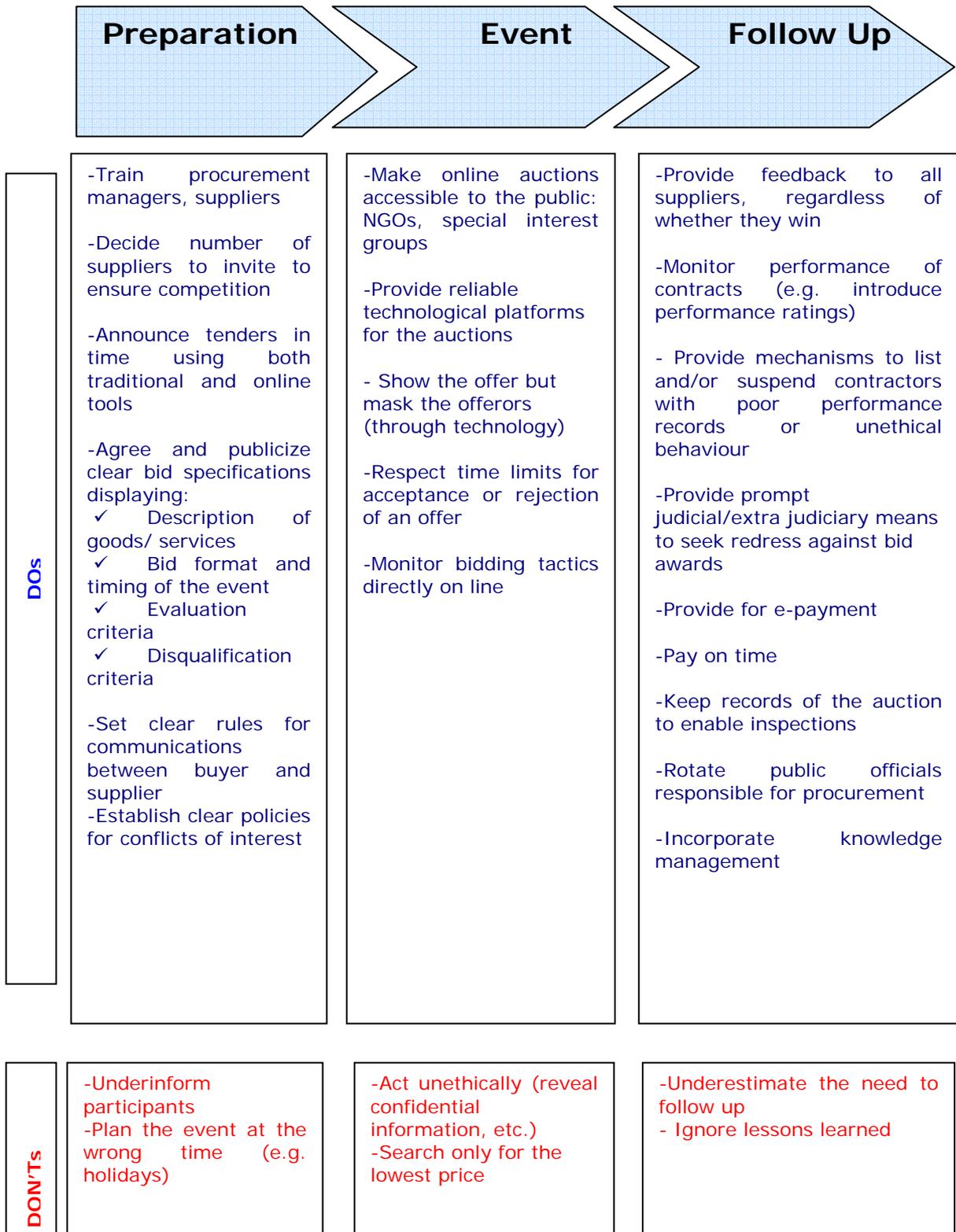
In 2001 the University adhered to the Rationalisation programme and started an intense collaboration with CONSIP, which turned out to be quite useful in the running of three online auctions (two with other Italian universities). One of the auctions, in particular, was run following Decree 101 for goods (240 PCs) above the EU threshold. The University acted as auctioneer.

- Special contributions of the University to the e-procurement rollout are:
- Cooperation with CONSIP in drafting of technical specifications of the NFCs.
- Analysis of common expenditure – the expenditure on goods and services whose features are the same for most public agencies (stationery, telephone services, cars, and meal coupons) – and of specific expenditure, the expenditure on goods and services that are sector specific. The analysis was used for NFCs and for the marketplace of the PA.
- Revision of internal University norms related to purchasing to guarantee uniformity of application.
- Evaluation of the impact of the new procurement system on the University buying department.

**Example:** Online auction for chemical goods run on 14 February 2002. Bologna acted as aggregating entity of three universities (Padova, Bari and Bologna itself). The auction starting price was EUR 70 000. Achieved savings: 31%.

Figure 7 presents a summary of the paper’s main points regarding actions that administrations should undertake and the mistakes they should avoid to enhance the transparency of online auctions.

**Figure 7 “Do’s” and “Don’ts” to increase transparency of online auctions**



## ANNEX:

### INTERVIEWS WITH PUBLIC ADMINISTRATIONS

#### UNIVERSITY OF BOLOGNA

**Interview with Ms Anna Galletti, Head of the E-Procurement Office at the University of Bologna. The interview aims at clarifying the mechanisms the University of Bologna has put in place to guarantee transparency in online auctions. The University has run three online tenders. Contact: [anna.galletti@unibo.it](mailto:anna.galletti@unibo.it)**

*Is there a specific suppliers' register (Albo Fornitori)?*

No, there isn't any, because of (European) Community legislation. Only the technical office of the University has a list of suppliers for their own works.

*What has been the reaction of the enterprises to the new online purchases system?*

The enterprises actively participated both to the bid and to the preparation of the event. The University in fact has set up both a workshop and a tender simulation to explain to potential bidders how the auction takes place. The suppliers signalled difficulties and helped the administration to clarify procedures and smooth the process.

The online auction has allowed us to increase the number of bidders: from five or six suppliers of the traditional tenders to 17 bidders. This allowed us to deepen the relationship between the Administration and the suppliers: the administration can now better illustrate its own needs and the enterprises can customise their offers.

*Do you have policies to solve conflicts of interest?*

No, we don't. However civil servants have a specific loyalty obligation towards the PA.

*How is the Adjudicating Commission elected?*

The President of the Commission is usually the director of the "Contract and Procurement" area of the university. (He does not rotate periodically.) Other members of the Commission are chosen for their technical expertise from the relevant area of the internal offices of the University. Usually the director of the specific area concerned signals to the Administration an eligible person.

*Can the auctions run by the University be followed online?*

Yes, it can be followed by the Commission and by the bidders, but not by external groups (at least for the auctions following the open procedure). On the other hand, for tenders run with the restricted procedure everyone can follow online.

*Are there rules that discipline communication among bidders during the tender?*

Bidders cannot communicate during the auction. During the tender, their identity is masked.

*What are the criteria for the adjudication?*

Usually we use the most economically advantageous solution. We have established a grid for quality evaluation containing technical criteria. In this way the system can automatically evaluate the offers.

*In the specific tender you are talking about (PCs) did you notice any particular bidding tactics?*

The tender was run in 7/8 rounds. At the 4th round, 13 enterprises were still participating in the auction, while after 7 rounds only 2 vendors were left.

*Do you debrief unsuccessful bidders?*

Indirectly, when they see the results of the grid. Everyone makes his or her own evaluations.

*As far as quality is concerned, how do you sanction underperformance of the contract?*

In case of late deliveries or poor quality supplies there are severe penalties or resolution of the contract.

*What about delays in payments?*

The University always pays on time.

*Why, in your opinion, do e-procurement tools favour transparency?*

Thanks to electronic tools enterprises make various offers and at the same time see the others' bids. In this way – already at a psychological level – competition is increased. This, in turn, leads to better results and savings for the Public Administration. Bidders are masked with a code, which does not allow them to know the identity of the others during the tender. In this way the Administration tries to avoid collusions.

Another element to take into account is the reduced discretion entailed by online auctions. The automatic evaluation of the offers realised by the system, in fact, guarantees bidders of the fairness of the Public Administration and reduces possible litigation.

*Do you have any suggestions for or criticisms of the system?*

The market is not ready yet to take on this innovative tool (e-procurement). The Public Administration therefore should stimulate demand aggregation and the development of the ICTs market in Italy as foreseen by the government's guidelines for the development of the Information Society. Moreover I hope that with the introduction of the new procurement directives, the Italian legal framework regulating the subject becomes more flexible. Finally it should be signalled that new technical solutions to guarantee security of data should be experimented. Currently the System Manager has an enormous responsibility, even a penal one, but a totally secure environment for data protection cannot be fully ensured at the moment; intrusion by hackers or possible opening of offers before time cannot be excluded.

## THE PROVINCE OF MANTUA

**Pilot project “Online purchases”** [www.provincia.mantova.it/acquistionline](http://www.provincia.mantova.it/acquistionline)

**Interview with Ms. Gloria Vanz, Director of Contracts and Purchasing, and Ms. Tiziana Cruciato, Head of the Supply Office. The interview aims to clarify the mechanisms the Province of Mantua has put in place to guarantee transparency in online auctions. The Province runs more than 50 auctions every year since the year 2002.**

*What are the qualification criteria to be admitted to the Register (Albo Fornitori)?*

There are no specific criteria. Enterprises need only to go on the specific website and fill in a form. The turnover requirement is optional. Thanks to the Register even small municipalities have access to a wide array of suppliers.

*What has been the reaction of the enterprises to the new online purchases system?*

At the beginning the enterprises were afraid of the new system mainly because of their lack of infrastructures (some of them did not have a PC) and ICT knowledge. It was a digital divide question. Afterwards they got used to the procedure and now seem highly satisfied. The online auction has allowed us to increase competition, from three bidders of the traditional tenders to 10/12 of the online auction. Moreover, recently the number of bidders has increased and includes also SMEs normally absent from tenders involving the Public Administration. Notice that the competition has extended also geographically, i.e. beyond regional borders. The last two online auctions have been won by an enterprise from the north and by another one from the south of Italy (Mazara del Vallo, Sicily)

*What about the reaction of the municipalities?*

They were also quite suspicious about the system, because they were used to “reliable” and well-known local dealers. However at the end they were convinced by the discounts obtained.

*How is the Adjudicating Commission elected?*

There isn't always the need to have an Adjudicating Commission; if the auction's criterion is the lowest price, the system selects automatically the best offer. In case a Commission is needed the members are chosen among internal experts of the offices of the Province.

*Do you have policies to solve conflicts of interest?*

No, we don't.

*Are there rules that discipline communication among bidders during the tender?*

It is forbidden by the law to interact during the auction. Not even the auctioneering PA knows the name of the bidder until the end.

*What are the criteria for the adjudication?*

We usually use the price as main condition and run a reverse auction to obtain the maximum discount. By following an objective factor the tender tends to be equitable. We have also used the “most economically advantageous solution” criterion. In that case quality of school furniture was evaluated following international classifications (UNI norms).

*Can the auctions be followed online?*

Yes, the auctions can be followed online by qualified bidders, but not by external stakeholders, e.g. interest groups.

*Do you debrief unsuccessful bidders?*

Yes, if they require it. In any case the auctions are mainly adjudicated at the lowest price. In this way the reason for losing the tender is immediately evident.

*As far as quality is concerned, how do you sanction underperformance of the contract?*

If underperformance occurs more than once, the underperforming enterprise can be excluded from the Register. In case of late deliveries, on the other hand, the call specifically foresees severe penalties.

*What about delays in payments?*

The Province of Mantua always pays on time.

*Why, in your opinion, do e-procurement tools favour transparency?*

A) Through the subscription to the Register interested enterprises are automatically alerted by the system (increase in competition).

B) The enterprise does not need to send documentation for each new tender; the registration for the system lasts 24 months. (Procedure simplification to present the offers.)

C) Every tender is run following the “public evidence” procedure and not the restricted procedure.

D) Enhanced record keeping. The bid can be monitored even sometime after the tender has finished.

## CONSIP

**Interview with Mr Francesco Porzio, Head of Telecommunication Procurement Strategy Office, CONSIP. The interview aims at clarifying the mechanisms CONSIP has put in place to guarantee transparency in online auctions and marketplace. Contact: [francesco.porzio@tesoro.it](mailto:francesco.porzio@tesoro.it)**

*What are the qualification criteria to be admitted to the e-marketplace?*

Criteria needed to sell on the e-marketplace are very simple and limited to the ones necessary by law (for example, registration with the Italian Chamber of Commerce, respect of the norms disciplining disabled right to work, non-existence of legal reasons for exclusion from the bid, etc.). In addition, a small turnover requirement is needed to ensure solvency, but even small enterprises may be eligible for it.

*What has been the reaction of the enterprises to the new online purchases system?*

The enterprises have been actively involved by several workshops whose aim is to inform and teach how to evaluate the business opportunity and how to interact with the marketplace platform (technical, legal and procurement aspects). The interest and participation of enterprises in the marketplace has been more active than expected.

*Do you have policies to solve conflicts of interest?*

Since 2001, CONSIP has adopted a self-regulatory ethic code. Moreover an *ad hoc* independent body (Organismo di Vigilanza) guarantees the correct implementation of the code, controls and evaluates situations where conflicts of interest may arise. The body is part of the company, but depends only on the director general.

*How is the Adjudicating Commission elected?*

Members are selected through a complex drawing system. The rules adopted by CONSIP to this end aim at guaranteeing transparency and impartiality.

*Can the auctions be followed online?*

Yes, they can be followed by the Commission and by the bidders, and by everyone external (private citizens and other enterprises not involved in the auction). Obviously some information needs to be secret, thus it cannot be shown online (for example the names of the bidders).

*Are there rules that discipline communication among bidders during the tender?*

Bidders are not allowed to communicate during the auction; during the tender the names of bidders are kept secret.

*What are the criteria for the adjudication?*

We usually adopt the most economically advantageous criterion (which balances quality and price). Technical performance is evaluated using formulas, so that the procurement platform can compute automatically the technical and economic score of every bid.

*Do you debrief unsuccessful bidders?*

The reasons for not being selected during an auction are evident to the bidders, as the evaluation criteria are established and illustrated before the bid. Any other subjective evaluation is internal of the enterprises themselves.

*As far as quality is concerned, how do you sanction underperformance of the contract?*

Underperformance of the contract is prevented by establishing minimum quality requirements contained in the call and by severe penalties. Moreover, both in the call and in evaluating the offer we take into account the specific methodology used by the suppliers to measure the quality of their products.

*What about delays in payments?*

Delays in payment are managed in contracts as prescribed by law.

*Why, in your opinion, do e-procurement tools favour transparency?*

The e-procurement platform not only guides users in the carrying out of the sole actions which are explicitly allowed in the selection procedure of the supplier, but also automatically carries out technical and economic assessments of the offers, keeps track of all actions undertaken to date, archives the relevant documentation and allows access to current operations to third parties. In addition to other publicity and communication methods/instruments, the digitally-signed tender documents, together with the relevant information, are also published on institutional Internet portals, enabling anyone to download authentic and integral copies.

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