

# THE ANALYSIS OF THE STAGES OF PROCUREMENT PROCESSES IN ROMANIA

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**Abstract:** *Transparent and efficient spending of public funds represents a goal for all governments, the public opinion pressure increasing more and more so that procurement systems to become more simple, efficient, fast, accessible, easy to use for purchasers who carry out the procurement procedures and as a mark of respect for every taxpayer's effort, private citizens or economic operators. The analysis of the stages of procurement processes is a necessity because the identification of the possible improvement measures of the stages of the procurement processes may result in greater transparency of the procurements, increased competition and obtaining lower prices. The article presents the specialised literature regarding the stages of procurement processes from different countries, including Romania and two proposals for improving the stages of procurement processes in Romania.*

**Key words:** public procurement, procurement processes, stages, direct procurements, centralised procurements.

**JEL Classification:** H57, H83

## 1. Introduction

Public procurement systems in the world differ as regards the stages of procurement processes. The identification of these differences can lead to the implementation of some improvement measures of procurement processes from which may result important budgetary savings.

The market economy puts economic operators in competition. Transposing this competition into procurement procedures has always been an important challenge for government authorities around the world which regulate the field of public procurement.

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Taking into consideration that in the year 2017 in Romania procurement contracts totalling 57,500,149 thousand lei (ANAP, 2017), or approximately 12.7 billion euro have been awarded public, it follows that any improvement of the stages of procurement processes can be transformed into significant savings. For example, the implementation of measures regarding modification of the procurement processes stages leading to the receipt of a better response from the market resulting in a reduction of awarded prices of only 5% may lead to obtaining annual savings of approximately 600 million euro.

## 2. Literature review

According to Harink, J. H. A. (1999), public procurement implies more than only the procurement process and it should support major components such as policy of the organization and strategy, procedures and methods, information, organization and personnel.

In the traditional way, public procurement always has been perceived like a part of the implementation phase within budgetary process. This means that procurers are responsible for budget implementation. This role is a very narrow one, because, in reality, especially for some public procurement types (mostly road construction and building projects), the procurers can be important sources of information for managerial decisions (Thai, K. V. et al, 2009).

Public procurement has an increasing strategic role for achieving governmental goals (NASPO, 1997).

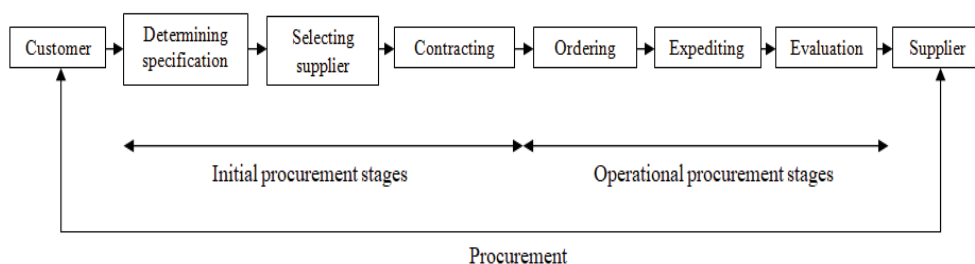
In Romania and in other countries there are well known situations in which the performance of governments has to suffer due to public procurements which are not carried out on time or at competitive prices (the most relevant example in Romania is public procurement for road infrastructure).

UNEP (2014) considers that the procurement process comprises four stages:

- preparatory stage, in which the problem appears based on demand of the stakeholders, resulting in a first concept of the further procurement (product or service);
- specification stage, where the first concept is analysed in detail resulting clear specifications of the services or products;

- sourcing stage or the tender process, in which specifications are communicated to potential suppliers, supplier is selected and contract is signed;
- utilisation stage, where product is delivered and service is provided (UNEP, 2014).

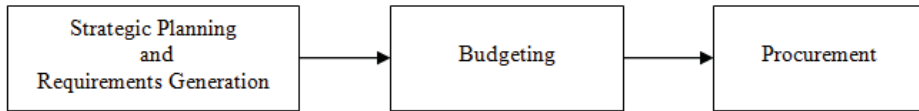
The procurement process is described by a wide variety of academic descriptions. The most common approach divides procurement process in a number of separate stages. The approach of Van Weele A. J., (2005) divides procurement process in six separate stages: determination of the specifications, selection of the supplier, contracting, ordering, the delivery and follow-up / evaluation (Figure 1).



*Figure 1: The stages of the procurement process in the conception of Van Weele, A. J. (2005)*  
 Source: Van Weele, A. J. (2005)

In reality, the six stages are combined (with different names) or may become blurred. For instance, in the UK the "contract cycle" incorporate four stages: project scoping and preparation of the contract (specification phase), contract letting (selection of supplier and contracting), contract management (ordering and delivering) and review of the contract (follow-up and evaluation) (Thai, K. V. et al, 2009).

The stages of procurement processes in the Unites States are analysed by Drabkin, D. & Thai, K. V. (2003). According to the authors, in the year 1997, Office of Management and Budget (OMB) issued a guide (called Capital Programming Guide) in which the procurement process is divided in three parts: strategic planning and generation of the requirements, funding process (budgeting) and procurement (Figure 2).



*Figure 2: The stages of the procurement process in the United States (OMB, 1997)*  
 Source: Drabkin, D. & Thai, K. V., (2003)

Drabkin, D. & Thai, K. V., (2003) have analyzed and divided the process of procurement in four steps: planning, contracting, contract formulation, awarding the contract and / or auditing / controlling.

Thai, K. V. et al. (2009) analysed the phases that compose procurement processes in the United States. In the opinion of the mentioned authors, these are:

- authorization of procurement and appropriations, in which interest groups and the legislative debate the amounts to be allocated for each procurement;
- procurement planning, in which the research and strategic planning takes place, short-term and long-term costs are calculated (life cycle costs);
- selection of the procurement procedure and contract formulation. The US agencies employ sole-sourcing or competitive procedures. Sole-sourcing implies the designation of a single economic operator as a sole-supplier and competitive procedures implies that agencies request multiple bids. For example, in the war against Iraq, many defense contracts have been negotiated (Embry-Riddler, 2006);
- contract administration which includes ordering, delivering and the reception. This phase can be very costly and time-consuming;
- evaluation and feedback. Evaluation ensures accountability and feedback prevents future possible complications of the procurement process (Thai, K. V. et al., 2009).

In Germany, the procurement process is composed of four sub-processes (Bundesverband Materialwirtschaft, 2000):

- demand management which is composed of development of demand, demand analysis and demand identification;
- market research which is composed of market analysis, observation and forecast;
- awarding contracts which is composed of selection of the procedure, carrying out the procedure and awarding the contract;
- execution which is composed of conclusion of the contract and organising logistics.

The scheme of the procurement process in Germany is presented in Figure 3.

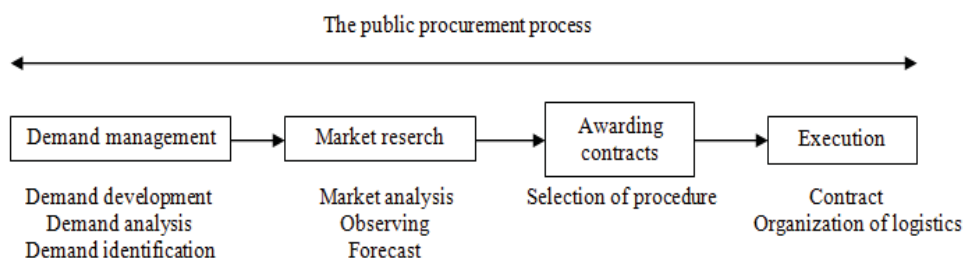


Figure 3: The stages of the procurement process in Germany

Source: Bundesverband Materialwirtschaft, (2000)

In Romania, the three stages of the procurement process are regulated by paragraph (2) of Article 8, from GD no. 395/2016. These steps are the following:

- preparation or planning, which can comprise a market consultation;
- carrying out the procedure followed by awarding the contract;
- implementing the contract and its performance monitoring (the post-award stage).

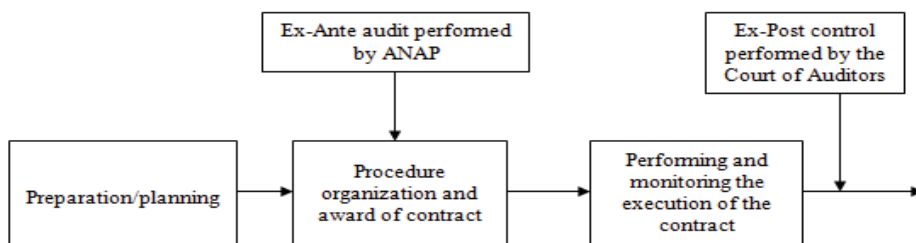


Figure 4: The stages of the procurement process in Romania

Source: GD no. 395/2016

The stages of the public procurement process in Romania are shown in Figure 4. In this figure the Ex-ante controls are carried out by the ANAP – Romanian National Agency for Public Procurement and the Ex-post controls are carried out by the Romanian Court of Auditors.

### 3. Proposals for improving the stages of the procurement processes in Romania

#### 3.1. Introduction of the reverse auction system in the direct procurements carried out through the Electronic Public Procurement System (SEAP) in Romania

Currently, direct procurements from the Romanian Electronic Public Procurement System (SEAP) take place like this: a contracting authority that wishes to purchase a product examine the Electronic Catalogue of Products and Services from SEAP, identifies the offers and transmits an invitation to the tenderer who presents the lowest price and fulfils established technical specifications.

The logical scheme of the current direct procurement is presented in Figure 5.

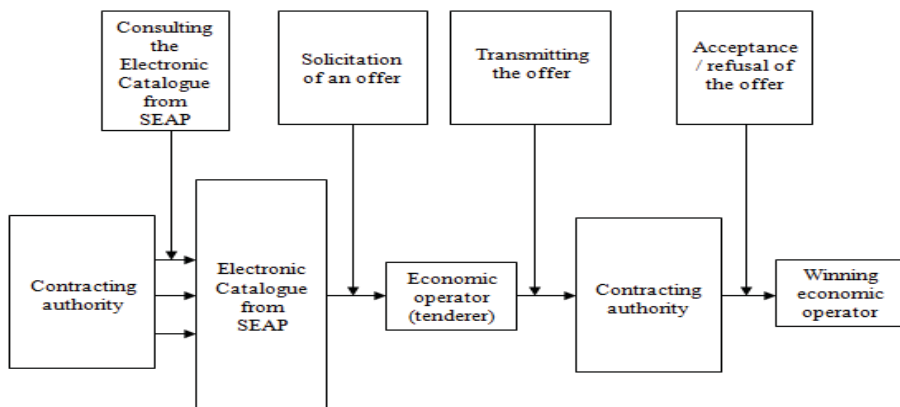


Figure 5: The logical scheme of the current direct procurement

The manner of procurement that eliminates all these disadvantages is the direct procurement. But this may be carried out by a contracting authority.

ty that intend to purchase product types whose estimated value is lower than 135,060 lei, without VAT (/ type of product / contracting authority)

The direct procurement, which according to the Romanian Law no. 98/2016 is not considered an award procedure presents the following advantages:

- the contracting authority can purchase quality products having one or more offers that it can identify from the Electronic Catalogue from SEAP;
- the direct procurement is a quick procurement which is carried out by the electronic means provided by SEAP, in a short period of time. Unfortunately, very often prices from the catalogue are not updated, technical specifications are insufficiently described and tenderers are unaware that an interested buyer exists and are not able to join the competition and reduce the price. Evidently, the price that an economic operator offers depends on the quantity which will be acquired. The current system does not place the tenderers in real competition, thing that does not result in competitive prices.

A solution implemented in other countries like the United States, the United Kingdom and Austria is the transmission at the same time of calls for tenders to several companies, these being able to reduce the price by a certain deadline established by the purchaser to complete the direct procurement. The tenderers are placed in real and direct competition, thereby reducing the price.

The system is called “reverse auction” because in the case of classical auctions for the sale of products, buyers offer increasing prices in order to adjudicate the product in question, whereas at the “reverse auction” sellers reduce the price and purchaser buys the product from the economic operator which offers the lowest price.

In the United States, during the period 2005 – 2009, several federal agencies have successfully performed reverse auctions in order to procure computers and electronic parts (Thai, K. V. et al, 2009).

The logical scheme of the reverse auction in the direct procurements is shown in Figure 6.

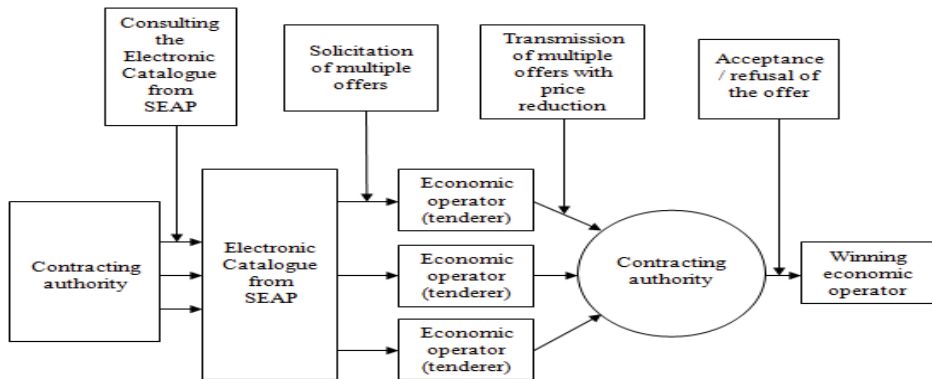


Figure 6: The logical scheme of the reverse auction in the direct procurements

In Romania, a system like this exists and it works only in the cases of electronic auctions which are carried out as a final phase of the procurement procedure.

Taking into account that the amounts spent through direct procurements are important it results that the savings which might be obtained are also significant.

### 3.2. The application of centralised direct procurements

This method is a “hybrid” direct procurement which can be applied in the case of contracting authorities that belong to a central institution (for example, a central government agency which has regional or county directions) that want to purchase on a centralised basis products whose technical characteristics / evaluation factors are very difficult to establish / assess in order to ensure the acquisition of quality products.

In the case of “classical” centralised procurements, the central agency carries out the centralised procurement procedure for the total quantity of products (aggregate demand), contracts the products, makes payment and delivers the products to all beneficiary agencies which have requested those goods. This version has the advantage of obtaining lower prices, but also presents some disadvantages such as:

- the purchase of inferior quality products;
- higher transport costs of the products to the beneficiary agencies;



- increased duration for carrying out the procedure;
- the likelihood of dissatisfied bidders which may submit appeals that lead to blocking the award procedure and therefore to delays regarding delivery of products to the beneficiary agencies.

If the estimated value of goods exceeds the amount of 135,060 lei, without VAT, the central agency is required under the law to apply a procurement procedure like simplified procedure or open bid, with all the disadvantages and rikstime;

- the purchaser can request delivery of the products at the purchaser's headquarters, transportation costs being included in the purchase price;
- the direct procurement cannot be contested. A dissatisfied tenderer cannot contest a measure taken by the contracting authority in a direct procurement because this is not considered a awarding procedure, Romanian Law no. 101/2016 having as object the contestation of some measures taken by contracting authority within the procurement procedures and not in the case of direct procurements.

The proposed solution is that the central agency and each beneficiary agency to carry out a direct procurement with the value below legal threshold, but at lower prices due to larger quantities (aggregate demand).

The logical scheme of the actual centralised procurement is shown in Figure 7.

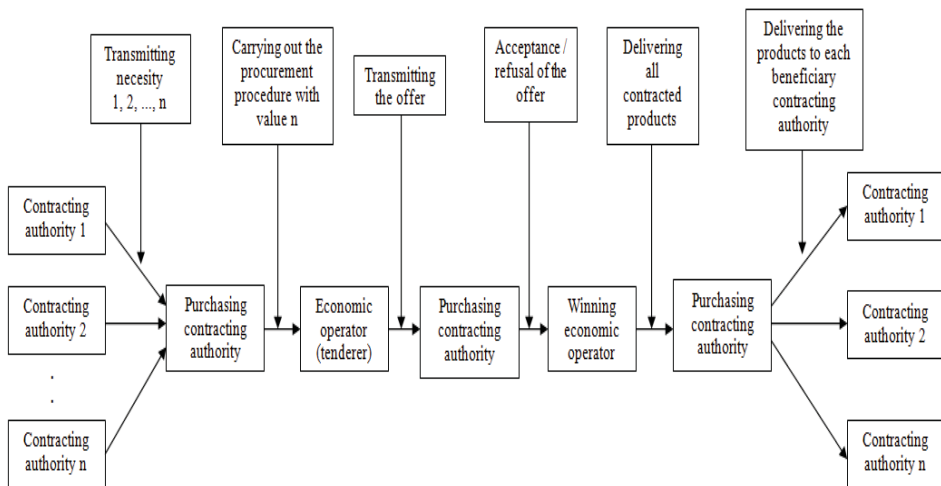


Figure 7. The logical scheme of the current centralised procurement

The logical scheme of the centralised direct procurement is shown in Figure 8.

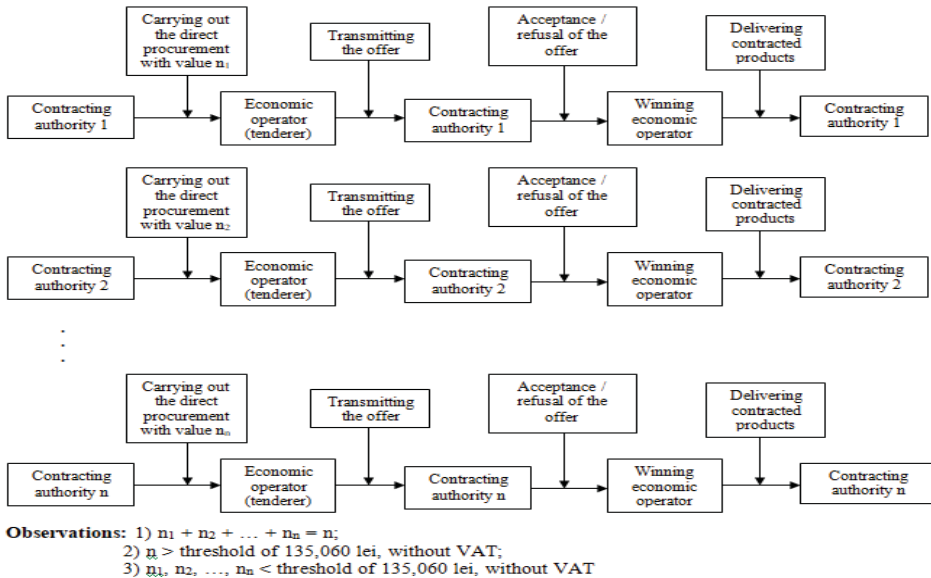


Figure 8. The logical scheme of the centralised direct procurements

For a clearer explanation of this solution, we shall illustrate the application of the centralised direct procurement in the case of a central agency which has in its subordination a number of 20 regional agencies that want to acquire car tires.

The tires are products whose technical characteristics are very difficult to define so that the contracting authority to purchase quality tires. All the tires have a dimension type, load index, speed index, category of use, production date, European type-approval, certificate of conformity etc. But tyre's reliability (indicator of the quality), meaning the distance covered safely, is very difficult to characterised through technical specifications which may be included in a product specification because in most cases the tyre chemical composition constitutes a industrial secret and the distance covered can be established only after the tire had been worn. Moreover, two

other variables of the tyre's reliability (distance covered) are road type and traffic intensity in which the vehicle is running.

For example it is very difficult to identify a minimal technical characteristic which ensures purchaser that the tire will last in normal operating conditions over a distance of 40,000 km. Therefore, in the case of applying a procurement procedure which uses as awarding criterion "the best quality – price ratio", tyre's reliability cannot be ensured by a specific evaluation factor or by a minimal technical specification. In consequence, the contracting authority will have to apply "the lowest price" award criterion, with the risk of acquiring tires of inferior quality.

Let's assume that the central agency wishes to acquire every year for its needs a number of 600 car tires of the same type at a price of 200 lei, without VAT / piece and each of the 20 regional agencies need annually 150 identical car tires. The situation is presented in Table 1.

*Table 1*  
*Annual demand for tires for the central agency and the regional agencies*

| No.                                  | Contracting authority | Number of agencies | Number of necessary tires / agency (pieces) | Total annual demand for tires (pieces) | Unit price of the tyre (lei, without VAT) | Value of the acquisition (lei, without VAT) |
|--------------------------------------|-----------------------|--------------------|---|--|---|---|
| 1                                    | Central agency        | 1                  | 600   | 600                                    | 200                                       | 120,000                                     |
| 2                                    | Regional agency       | 20                 | 150   | 3,000                                  | 200                                       | 600,000                                     |
| <b>CENTRALISED PROCUREMENT VALUE</b> |                       |                    |   |  |   | <b>720,000</b>                              |

If the central agency would perform the procurement procedure for all 3,600 tires, it should conduct an open bid because value of the procurement is 720,000 lei, without VAT, which is above the threshold of 648,288 lei, without VAT, open bid in which should be used "the lowest price" award criterion, with the risk of acquiring tires of inferior quality or that delivery will be delayed for all the agencies as a result of an appeal.

A representative of the central agency can make a market consultation and may request potential bidders for a specific type and brand of quality

tyre (which he can choose) to offer a lower price for the entire quantity of 3,600 tires (including delivery at the addresses of the beneficiary agencies), quantity that will be purchased through 21 direct procurements carried out by each agency.

If every agency would conduct one direct procurement, but at a reduced price with 15% by getting from supplier a additional discount for the procurement of larger quantities, then the above situation would become like the one described in Table 2.

*Table 2*

*The centralised direct procurement of tires*

| No.                             | Contracting authority | Number of agencies | Number of necessary tires / agency (pieces) | Total annual demand for tires (pieces) | Unit price of the tyre (lei, without VAT) | Value of the direct procurement (lei, without VAT) |
|---------------------------------|-----------------------|--------------------|---|--|---|--|
| 1                               | Central agency        | 1                  | 600   | 600                                    | 170                                       | 102,000  |
| 2                               | Regional agency       | 1                  | 150   | 150                                    | 170                                       | 25,500   |
| 3                               | Regional agency       | 1                  | 150   | 150                                    | 170                                       | 25,500   |
| ...                             |                       |                    |   |  |   |  |
| 21                              | Regional agency       | 1                  | 150   | 150                                    | 170                                       | 25,500   |
| <b>DIRECT PROCUREMENT VALUE</b> |                       |                    |   |  |   | <b>612,000</b>                                     |

It can be observed that each agency may carry out one direct procurement because each value does not exceed the threshold of 135,060 lei, without VAT.

The achieved savings between the two variants is a very important one, respectively in the amount of 108,000 lei, without VAT, meaning 128,520 lei, with VAT. Furthermore, purchaser retains control of brand of the purchased tire, eliminates the possibility of an appeal, reduces time for carrying out the procurement and takes advantage of the direct procurement flexibility.

But this method brings with it a disadvantage: it must be carried out a number of 21 direct procurements, instead of a single centralised procurement procedure.

This method, which can be applied in some specific cases, combine the advantages of achieving bigger savings as a result of lower prices and risk reduction with the disadvantage of conducting a higher number of direct procurements with smaller values.

#### **4. Conclusions**

The majority of specialised studies divided the procurement process in four to six stages: planning, establishing specifications, carrying out the procurement procedure (including signing of the contract) and implementing the contract (ordering, delivery and evaluation). In Romania, the structure of procurement process is simplified at only three stages: preparation or planning, carrying out the procedure (followed by awarding the contract) and implementation of the contract and its performance monitoring.

The introduction of reverse auction in the direct procurements would allow the contracting authority to transmit at the same time demands for offers to several economic operators, these being able to decrease the price until a certain deadline set by the purchaser for completing the direct procurement, the offerors being placed in real and direct competition.

Also, the implementation of some centralised direct procurements would enable authorities to obtain lower prices due to larger quantities and to diminish the disadvantages such as purchasing products of inferior quality, increasing time for conducting the procurement procedure, submission of appeals and blocking the award procedure. This version of direct procurement could combine the advantages of achieving savings due to lower prices and reducing risks with the disadvantage of conducting a higher number of direct procurements with smaller values.

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