

STUDY ON THE AWARD OF SERVICE CONTRACTS USING THE FRAMEWORK AGREEMENT

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Abstract:

For the award of a public procurement contract for the purchase of a product, work or service, the contracting authority must follow a sequence of stages, which represents a public procurement process. As a stage of the public procurement process, planning represents the set of activities carried out in public institutions that determine their main objectives, how they are achieved and what resources will be used during the process. Planning the procurement process is crucial. Failure to implement it correctly leads to errors and problems during the process of awarding and implementing the contract. The general objective of the work is to identify and solve the problems that arise during the planning process of public procurement in Romania, by identifying and anticipating directions that lead to the improvement of the entire public procurement system.

Keywords: acquisition, process, public, stage, needs, products, services, work, framework agreement.

1. Introduction

Over the years, both public administration, public sector institutions and enterprises, as well as private property owners, have considered spending "public money" a rather delicate issue, given that it requires strict compliance with certain requirements and principles, such as: discrimination, proportionality, equal transparency.

This expenditure of state money is carried out through the so-called "public procurement", defined as "the procedure that a contracting authority must undertake under the law to conclude a contract with one or more economic operators for the supply of products, the provision of services or the execution of works for a fee", Law no. 98/2016 regulates the way in which public procurement is carried out and the entire award process, addressing aspects such as: general procurement rules, economic operators, contracting entities, areas of application, award procedures and the conduct of the entire process.

2. Literature Review

The notion of service originates from the Latin *servitium*. According to the explanatory dictionary of the Romanian language, it is defined as "action, service; form of work performed for someone's benefit or interest "respectively" subdivision in the internal administration of an institution, enterprise, etc." (Explanatory dictionary of the Romanian language, 1998, p.797).

The term public service has been defined over time from different perspectives, being used both by public management and by administrative law, the concept of public service being developed and expanded in the context of the general needs of human society. Above, it was said that the definition of the concept of public service was subject to the historical evolution that society went through over time.

Thus, at the end of the 19th century, at the European level, political and social changes led to profound mutations in the way the state referred to social problems (the fight against inequalities), economic (it was the era of industrial revolutions) or political (imposing the republican model).

The second tendency was the need, on the one hand, to give a wider field to the so-called administrative judges and, on the other hand, to ensure independence from the administration in the exercise of their activity, according to Morand-Deville J Dambu A. believes that the expansion of administrative law and the jurisdiction of administrative judges generated, according to the literature, fierce disputes that ended with the adoption of several decisions, the most famous being: the Blanco decision (1873), the Terrierul judecăți (1903), Feutry (1908), Therand (1910).

Consequently, the term public service appeared for the first time in French legal doctrine in the first edition of the Treatise on Administrative Law, edited by Professor Maurice Hauriou in 1892, a fundamental work in public law that is at the origin of the controversy regarding the notion of public service between the Bordeaux school (represented by Duguit or Jèze to remain the most important) and the Toulouse school (represented by Hauriou), through the dialectical public service -Public Power.

According to Plumb I., Androniceanu A (Plumb I., Andorniceanu A., Abaluta, 2003), in the Western doctrine, until now three definitions have been formulated, which coexist and have been adopted in the Community legislation.

The first definition is the so-called classical definition of the beginning of the 20th century, when Leon Duguit and the Bordeaux School laid the foundations of an authentic state doctrine around the notion of public service (Duguit L, 1923).

Duguit L. in his constitutional treatise said that, according to this definition, public service is that activity of general interest performed by a single public person.

The term "public service" is closely related to the name of Leon Duguit, professor at Bordeaux University, who was among the first jurists interested in the jurisprudence of this new jurisdiction, which at the time was the Council of State. With this expression, Duguit justified a type of state intervention (Duguit L, 1923). For him, the term "public service" means any activity whose provision must be regulated, ensured and controlled by the governors, because it is indispensable to the realization and development of interdependence, by its nature, the public service being totally secured only through the intervention of the state.

According to Duguit L. (Duguit L, 1923, p.59), until now, what is relevant for public service is the fact that it is an activity that governors must carry out in the interest of the governed. Until the 1930s, administrative law tended to use the plural term (public services) to refer to activities that should have been relevant by the legal nature of the body exercising them in the general interest, which must necessarily be a public person, that is, the state, local authority or other public institution, so the organic dimension - the presence of a public figure - is of major importance.

This organic dimension will be greatly reduced when the state (as well as other public persons) delegates to individuals the provision of certain activities that they fail to carry out alone, activities that the legislator considers to be of general interest, the legislator uses.

According to Iorgovan A. the notion of public service is the activity organized or authorized by a public administration authority to satisfy the needs of public interest or, in another conception, the social bodies notified to satisfy the requirements of the members of a human community (Iorgovan A., 1993, pp 85- 86).

In the opinion of another author, Apostol Tofan D., public service denotes the continuous and regular activity organized or authorized by a public administration authority to satisfy the needs of public interest (Apostol Tofan D, 2008, p 69.).

According to Negulescu P., a public service is defined as "an administrative body created by the state, county or commune, with given competence and powers, with financial means procured from the general patrimony of the creative administration, made available to the public to satisfy in a regular and continuous way, a general need to which private initiative could only give an incomplete and intermediate satisfaction (Negulescu P, 1934, p.132.)

Alexandru I., states that "public services in a broad sense represent gatherings of people and things created to respond to a public need by a public body subject to its authority and control" and "public service can be defined as that organization state or local authority, established by the competent authorities to satisfy the requirements of the members of society under administrative or civil law in the process of law enforcement" (Alexandru I., 1996, p 34.).

According to Puie O. (2012), the notion of public service acquired constitutional values through the express use of this notion in the texts of the Romanian Constitution, thus, public services, lato sensu, are part of the corollary of the state's obligations towards the fundamental rights of citizens.

First of all, the notion of public service is fulfilled in the text of Article 120 paragraph (1) of the Constitution, which enshrines the basic principles on which local public administration is based and states that "public administration in administrative-territorial units is based on the principles of decentralization, local autonomy and deconcentration of public services"; Article 122 paragraph (1) of the Constitution provides that: "the county council is the authority of the public administration for coordinating the activity of the communal and city councils in order to provide public services of county interest"; article 123 paragraph (2) of the Constitution states that "the prefect is the representative of the Government at the local level and manages the decentralized public services of the ministries and other central bodies of the public administration in the territorial administrative units" (Puie O, 2012, p 19).

Romanian specialized literature from the period between the two world wars substantiated the notion of public service starting from the social needs that the

state satisfied, public service being "the means through which the administration carried out its activity" (Iorgovan A., 1993,p.61), supporting the idea of the service public as ground for public actions.

Thus, Anibal Teodorescu states that "the executive function of the state is exercised through public services (), which are established and organized by the state or its administrative subdivisions to achieve its executive prerogatives" (Teodorescu A., 1935, p.175).

In Romanian literature from the period between the two wars, the term "public service" was defined in many ways as an "activity of public authorities to satisfy the needs of general interest, which is so important that it must function regularly and continuously" (Tarangul E.D, 1944, p. 124.) , or as an "administrative body, created by the state, county or commune, with well-defined competences and powers, with financial means acquired from the general property of the public administration that created it, at the disposal of the public for the regularity and continuous satisfaction of a need of a general nature , which can only be addressed incompletely and interrupted by private initiative" (Negulescu P, 1934, p.196).

Therefore, these theories are consistent with the French classical school, emphasizing the idea of public service as an activity and body, created by public power in the name of the general interest.

Two categories of public services are distinguished. "The meaning of the notion of public service is that of activity organized by communal, city, municipal and county authorities, intended to satisfy the general interest on a permanent basis, under the legal regime of public law. "The theoretical approach does not include in its scope public services of national interest.

A first category of services is the one entrusted by the local administrative authorities, elected under the law, in the administrative-territorial units, respectively by the communal, town and municipal councils. This category of public services is subdivided into mandatory public services and optional public services, according to the criterion of the obligation or lack of obligation of their establishment.

They are mandatory services, those necessary for the smooth running of the activity of the public administration, in the administrative-territorial units. This is the case, for example, of civil status services and guardianship authority. To support the previous statements, the provisions of art. 43 of Law 215/2001¹, which stipulates that the mayor has the obligation to ensure the functioning of civil status and guardianship authority services in his capacity as a representative of the state.

Unlike other services - communal household, local transport and municipal networks - which can operate under the control of autonomous governments or commercial companies, civil status and guardianship authority services are the only ones whose importance, not only for the respective locality or administrative unit- territorial, but also for the state, impose the obligation to establish them within the municipality's own apparatus².

¹ Local public administration law no. 215/2001, republished in the Official Gazette of Romania, Part I, no. 123 of February 20, 2007, with subsequent amendments and additions, except for art. 30 - 34, 55, 55¹, art. 79 para. (1), 88, 89, 90, 99, 99¹, 101 and art. 102 which is repealed on the date of the elections for the election of the local public administration authorities that will be organized starting in 2020;

² Regarding communal household services, local transport and municipal networks, see art. 21 para. 1 lit. I) from Law no. 215/2001

They are optional public services, those whose establishment is not mandatory and which aim to ensure the needs of citizens depending on the financial means available to the administrative-territorial unit. The headquarters of this matter is constituted by art. 54-55 of the Local Public Administration Law. According to art. 54: "The public services of the commune, the city and the administrative-territorial subdivisions of the municipality of Bucharest are organized by the local council, in the main fields of activity, according to the specifics and local needs, in compliance with the legal provisions and within the limits of the financial means at their disposal. Public services are endowed with material and financial means, in order to satisfy the common interests of the community. They are staffed with specialized personnel who exercise their duties, according to the legal powers."³

The organization, functioning and competence of optional public services are established at the regulatory level, by decisions of the communal, city and municipal councils, under the conditions of art. 173 of Law 215/2001.

The second category of public services is the decentralized public services, entrusted, under the law, by autonomous kings and commercial companies and which are known in the science of administrative law under the generic name of public establishments.

The legal consecration of the autonomous regencies and commercial companies preceded the current Constitution and the Local Public Administration Law, falling within the first economic restructuring measures taken in our country after 1989.

The existence of autonomous governments and commercial companies marks some particularities in our country, with important consequences on the specificity of the public services that these organizational structures provide.

The obligation to reorganize state economic units such as autonomous governments or commercial companies was introduced by Law no. 15 of August 17, 1990.

The reorganization of state units into autonomous kingdoms or commercial companies was not based on the notion of public service, nor on that of the decentralization of such services, but on the need for efficiency-based organization of the entire economic activity.

At the moment, there can be autonomous kings and commercial companies, established under the rule of Law no. 15/1990 that provide public services, or that, through the diversity of the activity they carry out, exceed the scope of the public service, in the sense that they also carry out a commercial or industrial activity.

The difference between the decentralized public services run by autonomous governments or commercial companies and the public services established by the communal, city, municipal and county councils pursuant to Law 215/2001 in the organizational and functional structure of the town hall, is that the latter have the character of exclusive public services, in the sense that they have exclusively in mind the satisfaction of needs of general interest and do not carry out activities with industrial or commercial content in addition to the object of activity.

The second difference consists in the different degree of autonomy of public services: in the case of those entrusted by the communal, city, municipal and

³ As the text introduced by Emergency Ordinance no. 22/1997, public services belong to the administrative-territorial unit.

county public administration authorities, the degree of autonomy is relatively reduced compared to that of autonomous governments and commercial companies, considering the fact that they do not acquire legal personality.

However, there is also a third category of public services, namely that performed by public institutions. Thus, the communal, city and municipal councils can establish "institutions and merchants of local interest" (art. 20 (2) letter h) of the Local Public Administration Law), "establish and ensure the operation of charitable institutions of local interest" (art. 20 (2) letter s) of the Local Public Administration Law), and the county councils "decide in accordance with the law on the establishment of institutions and commercial companies" (art. 63 (1) letter n) of Law 215/2001) and "participation with goods and capital in commercial companies, for the realization of works and services of county interest" (art. 63 (1) letter n) of Law 215/2001).

LAW no. 208 of December 15, 1997⁴ on social aid canteens, on social aid canteens. According to art. 1 of the normative act specified: "Social aid canteens are social assistance institutions of local interest, which are organized and carry out their activity according to the law under the subordination of local public authorities. Social aid canteens provide social assistance by providing free or paid services to people in special economic, social or medical situations."

The financing of these activities is carried out from the local budgets that provide the material base of the social aid canteens. The normative act does not give these institutions legal personality, even if they have their own leadership and an organizational and functional structure distinct from that of the mayor's office.

3. Research objectives

3.1. Methodology of research

The impact of political changes on the public sector of many countries is considerable, thus, public service consists of the legal obligation of those in government to ensure the constant development of certain activities.

In the organic sense, public service means a type of organization, a management structure, finally - a set of agents and material means, assigned to fulfill a specific interest or specific objectives. In a material sense, the public service ensures an activity of general interest, a mission of public utility, carried out through two component elements: a goal and a means.

Management is also an important area for ensuring excellence in any type of organization, however, determining precisely what managerial aspects need to be emphasized and how public organizations can take concrete steps to ensure positive leadership within them is a difficult task today.

Regardless of the form of organization, public services are based on certain rules, some with the value of the principles that underpin the activity of the body that carries out public service activities and, therefore, must be respected equally by the organizing public administration and by the economic agents. or private non-profit bodies, to whom these activities of public interest have been entrusted.

The role of the client in the public service approach is a specific one, because the realization of some services involves a partnership between the service

⁴ Published in M.Of. no. 363/17 Dec. 1997

provider and its user. A superficial treatment of the service delivery system concept can lead to the perception that the user is a passive part of the system.

If, in the life of a state, structural and political changes occur, that is, when the political regime changes or when a state fundamentally renews its economic, political and legal foundations and social-political system, new fundamental laws must be adopted.

The above-mentioned changes have led to the adoption in Romania of a new Constitution in 1991. Based on the constitutional principles, Local Administration Law 215 of April 23, 2001 republished, The public administration authorities through which local self-government is carried out in communes and cities are the local councils, such as the deliberative authorities and mayors, as executive authorities. Local councils and mayors are elected under the conditions provided by law.

A county council is elected in each county, which coordinates the activity of the local councils in order to provide the public services of the county concerned. The county council elects, from among its members, the president and permanent delegation.

The relations between the county administration and the local administration are based on the principles of self-governance, legality and cooperation in solving common problems. There is no subordination in the relations between the local administration and the county administration.

The local council has the initiative and decides, in compliance with the law, on issues of local interest, except for those assigned by law to other public authorities.

Also, the law makes references to administrative-territorial unit assets: constitute the property of the administrative-territorial unit: movable and immovable property belonging to the public and private property of the territorial-administrative unit, as well as the rights and obligations of a patrimonial nature.

According to art. 76, local and county councils decide on the licensing, leasing and renting of assets belonging to public or private property. Also, local and county councils can decide to establish, in accordance with the law, companies, associations and agencies and can organize other activities, with the aim of executing works of public interest, with a common stock constituted by the contribution of the councils and other natural products and legal entities (art. 82).

The references in Law 69/1991 on local administration to local public services were supplemented by the privatization provisions Act no. 58/1991 and Law no. 66/1993.

The development of local public services was stimulated by the adoption of legislation in the field of local public finances. Thus, considering that the rules that ensure the autonomy of local authorities from different fields of activity (culture, social institutions, medical assistance, agriculture, etc.) cannot have the desired effect and can become formal if they are not supported by other appropriate normative acts that ensure the conditions for the development of self-government and in the financial field. Starting from this finding, the Local Public Finance Law no. 273/2006 was promulgated.

Law no. 273/2006 was intended to ensure broad autonomy in the field of local public finances, with the aim of contributing to solving the following shortcomings:

- Insufficient financial resources, related to expenditure requests;

- Lack of a system to stimulate the local administration authorities to find new resources to increase their incomes, on the one hand, and rationalize expenses, on the other;
- Defects in the management of local budgets, caused in particular by the delayed approval of new resources to increase revenues and implicitly transfers and amounts deducted from income tax to local budgets;
- Inadequate criteria and means for achieving quality, efficient and operative management in the public services sector;
- The lack of specialized personnel (in the fiscal, technical, etc.) field with whose assistance the public administration should fulfill its tasks (Gabriel Manu, 2021, p.153).

The law aimed to develop the role of local authorities in accordance with the principles of local autonomy and the market economy and to establish the financial resources of local administration in Romania in accordance with management obligations.

In 2001, starting from the observation that Law no. 69 of the local administration adopted in 1991 no longer corresponds to the evolution of the Romanian public administration, a new law was adopted to regulate the organization and operation of local administration and public services at this implicit level.

Section 2 of Chapter IV of the Local Administration Law no. 215/2001 is entitled: "Public services of the commune, the city and the specialists of the local authorities" and the articles in this section use the expression "Public services of the commune or city".

The reference in the title of the document section makes us believe that there are actually two categories of Local Public Services:

- public services organized by local authorities;
- public services subordinated to local authorities (Ulariu C.C., 2020, p.152).

As a result of the decentralization trends of public services, starting in 2000, local authorities were assigned new responsibilities in the following fields:

- collection of local taxes;
- supporting the human rights protection system;
- supporting the system for the protection of persons with disabilities;
- social security;
- state primary, secondary and high school education;
- municipal / city administration services;
- community emergency systems;
- registration services;
- community police services (D. Apostol Tofan 2020, p.145)

In 2003, through the revision of the Constitution, some clarifications were made, especially regarding the transfer of public services, with the following mentions:

(1) Public administration in administrative-territorial units is based on the principles of decentralization, self-government and decentralization of public services (2) In administrative-territorial units where citizens belonging to a national minority have a significant weight, the use of the mother tongue of that minority is provided in written and oral form in relations with local authorities and decentralized public services, under the conditions established by the organic law.

In 2004, starting from the Public Administration Reform Strategy adopted in 2001 and the revision of the Constitution, the Public Administration Strategy for accelerating the reform was developed, which is still in formal force. Unfortunately, it can be seen that the ambitious objectives of this strategy, including those aimed at public services, have only been partially achieved.

Both central and local authorities have considered the request for a strategy to modernize and develop public services, which is based on the following fundamental objectives:

- a. decentralization of public services and increasing the responsibility of local authorities regarding the quality of services provided to the population;
- b. expanding the systems for basic services (water supply, sewage, sanitation) and increasing the population's access to these services;
- c. the restructuring of the social security mechanisms for the disadvantaged population segments and the reconsideration of the price / quality relationship;
- d. promoting the principles of the market economy and reducing the degree of monopolization;
- e. attracting private capital to finance investments in local infrastructure;
- f. the institutionalization of local credit and the expansion of its contribution to financing of communal services;
- g. promoting sustainable development measures (Negruț V, 2020, p.164).

According to some specialists, the interest of managers in public institutions must be manifested in the direction of knowing the client. But public services have several distinct characteristics that considerably influence the process of realization and provision, as well as their quality:

- are intangible;
- cannot be easily stored, tested or measured using standard techniques;
- production and consumption of services are not separated in time, because services are consumed as they are produced;
- assume most of the times the transformation of the client into a co-producer, respectively his attraction in the process of realization and / or distribution of the service;
- involves the development of a system of client-supplier relations known as marketing relations;
- the public service can have immediate solutions for the citizen, such as the case of social insurance;
- the service can be performed and provided partially or fully through its support from public funds rather than through direct payment by the beneficiary. members of society through the tax system provide financial support to service organizations but may not use these services. when they do, they are not required to make a direct payment as the cost is covered by the established fund. this is the case of public health services;
- attracting customers with different degrees of information in relation to the public service offered by public institutions;
- normally, any public institution should be concerned with attracting undecided customers through promotional campaigns;
- lack of alternatives for some categories of public services, especially for administrative ones (Duguit L, 1923, p.194).

Public service management tools fall into three interrelated categories: completion tools, control tools, and training tools. It should be noted that a single category of tools does not provide comprehensive solutions to all problems encountered in a local public institution, such problems can be overcome and solved by ensuring a balance between the three categories of tools.

Along with the tools focused on the organization, there are also tools that have in mind the promotion of the quality of services of public organizations, the quality circle has been defined as a framework for the collective formulation of proposals for improving the quality of the services provided.

On the other hand, the evolution of approaches regarding the management of public services in Romania is distinguished by the identification of new requirements:

- efficiency research - which is measured by the combination of service quality, social efficiency and economic efficiency;
- recognition of individual responsibilities and their decentralization both in exercising the mission of civil servants and in career management;
- the introduction of modern management techniques, such as: participatory management, project management, quality assurance techniques, crisis management or public marketing (Puie O, 2012, p 19).

Considering the above, increasing the performance of a public organization requires establishing the possibilities of applying new methods and their effects on the effectiveness of public organizations (Puie O, 2012). Therefore, the application of these modern management methods can contribute substantially to increasing the ability to solve problems, to increasing the quality of services and the economic and social performance of public organizations.

"Acquisition or public procurement represents, in essence, the acquisition of works, products or services by means of a public procurement contract by one or more contracting authorities from the economic operators designated by them, regardless of whether the works, products or services are intended or not for achieving a public interest"⁵.

In order to obtain a product, work or service after the award of a public procurement contract, the contracting authority must go through a sequence of stages, which represents a public procurement process.

Procurement activities are logically structured, which means that each activity included in the process adds value to the output of the previous activity to obtain reasonable assurance that the defined objectives will be achieved at the completion of the process. During the budget exercise, any contracting authority purchases products, services and/or works in a certain quantity and with a certain monetary value.

Small or very small purchases are often unplanned, while for more complex types of purchases contracting authorities plan their purchases in advance. For each of the two approaches, contracting authorities carry out public procurement processes.

⁵ Article 1 of Law no. 98/2016 on public procurement.

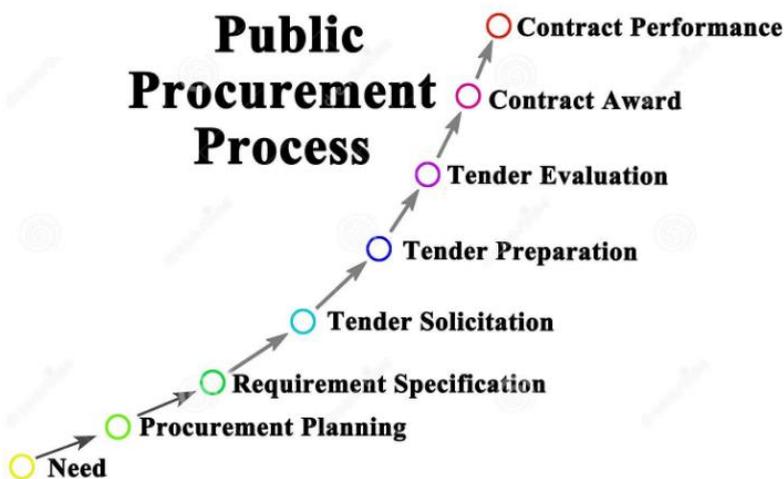


Figure 1. The public procurement process

Source: <https://www.dreamstime.com/eight-stages-public-procurement-process-image176031786>

During the planning stage, the contracting authority must first identify its own needs, which are concretized by each of its specialist departments in requirements reports. The stage ends with the approval by the head of the contracting authority of the documentation together with the document models made available to economic operators through the Electronic Public Procurement System (SEAP).

3.2 Research question

a) Assessment of the needs of the contracting authority.

It is necessary to initiate a procurement process and involves completing a needs report and submitting it to the national public procurement department. The report, which includes the needs of the contracting authority, "is an internal document issued by each department within the contracting authority in the last quarter of the current year for the following year, which covers the identified needs of products, services and works and unitary.

Table 1. Example assessing the needs of the contracting authority

| Nr.. | The products name, service/work and technical requirements | Budgetary chapter | Budget position | CPV | Unit | Amount Low | Unit price Estimate, VAT free in lei |
|---------------------------------|--|-------------------|-----------------|------------|------|------------|--------------------------------------|
| 1 | Passenger minibus | 65.10.06.01 | 20.01.06 | 34114400-3 | Pcs | 1 | 168.000 |
| TOTAL VALUE without VAT 168.000 | | | | | | | |

Source: own calculations

b) Annual procurement strategy (S.A.A.P)

As an explanatory document, S.A.A.P. substantiates the budgetary needs, outlines how the contracting authority identified the needs and considers the public procurement that meets these needs for the following year, in relation to the budgetary execution. Officially assumed by the institution, S.A.A.P. it can also constitute a guarantee for public procurement officers who will be able to present arguments to the Court of Accounts at any time in the case of ex-post controls regarding the purpose, logic and appropriateness of the procurements made. P.A.A.P. is part of this S.A.A.P. and is a "management tool used to plan and monitor the portfolio of procurement processes at the level of the contracting authority to plan the resources needed to carry out the processes and to check how the local objectives. Upon receipt of the approved budget, the contracting authority rearranges its priorities according to the approved funds and updates the P.A.A.P.

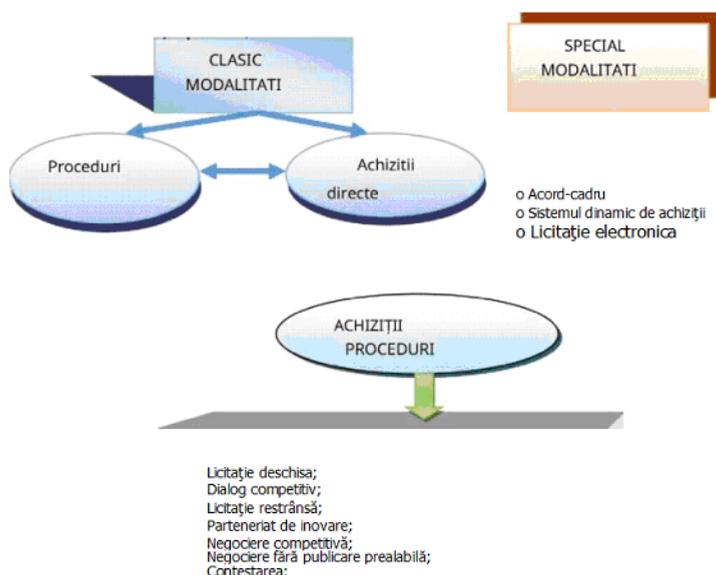


Figure 2. The relationship between the method of award and the procedures

Source: Serban Dumitru-Daniel, op. cit. 193

c) Contracting strategy

The "Contracting Strategy" document reflects the type of approach to the public procurement process that the contracting authority intends to approach. Each type of procurement initiated by the contracting authority with a value greater than 135,060 lei, excluding VAT, for products or services, respectively works, if the estimated value of the acquisition, without VAT, is greater than 450,200 lei, it will be accompanied by a contracting strategy.

d) The award documentation

It accompanies every public procurement process launched, being in fact a clear and detailed description of what the contracting authority wishes to procure and the procedure by which this procurement will be carried out. It is designed to

ensure "full, fair and explicit information" to potential tenderers about the needs of the contracting authority, the rules it has chosen for the contract award process.

1. The technical procurement sheet contains: o "standard general information, together with the formalities that must be completed in relation to the award procedure in question, adapted to the context in which the procurement falls; o aspects/requirements that may be covered by the EUA (Commission Implementing Regulation (EU) 2016/7 of 5 January 2016); o qualification and selection criteria, if any; o information about the participation guarantee; o how the technical and financial proposals must be developed and structured; o the award criterion to be applied; o judicial remedies that can be used⁶.

2. The Single European Procurement Document (SEP) is provided in electronic format using the standard format established by the European Commission, consisting of the economic operator's self-responsible declaration regarding the fulfillment of the qualification and selection criteria. DUAЕ was designed by the European Commission as a facilitation tool that standardizes the participation of EU companies in procedures in all member states, as a tool to reduce the administrative burden on economic operators and to reduce the burden of managing and evaluating qualification documents by contracting authorities. Subsequently, only the winner of the procedure must present the supporting documents and certificates that effectively prove the fulfillment of the requirements.

3. The specification (or descriptive document) contains technical specifications that represent requirements, prescriptions, technical characteristics that allow each product, service or work to be described objectively so as to meet the needs of the contracting authority, the description of the procurement item must be clear, coherent and as objective as possible.

4. The draft contract refers to the obligation of the contracting authority to include in the contract specific clauses that allow the contracting authority to pursue any claim for damages that the contractor may have against the suspected third party for non-compliance with the obligations assumed by the contractor firm commitment.

4. Results and discussion

Planning the procurement process is crucial. Failure to implement it correctly leads to errors and problems in the contract award process and its implementation. Weak and unrealistic planning produces effects such as (but not limited to):

- Generation of situations that could lead to the cancellation of the procedure following questions/clarification requests from economic operators - in the stage of preparation of offers, after the initiation of the procedure;
- Obtaining an insufficient number of bids to be able to ensure real competition or to obtain bids of low quality - in the bid evaluation stage;
- Establishing evaluation factors that, although correctly formulated, do not help to achieve the objectives of the contracting authorities - in the stage of application of the award criterion.

⁶ Article 20 para. (1) of GD 395/2016 of June 2, 2016, for the approval of the Methodological Norms for the application of the provisions regarding the awarding of the public procurement contract/framework agreement from Law no. 98/2016 on public procurement.

In public procurement, the "seeing and doing" approach does NOT work, as the contracting authority has the obligation to make purchases as it proposed itself through the award documentation.

Although it requires analysis and organization, when done right, purchasing process planning brings at least the following benefits:

- Reduces uncertainty - planning allows the identification and determination of the necessary steps in order to obtain an appropriate result;
- Increases understanding - by "visualizing" the process and the outcome of the contract and by obtaining a global picture that supports the decision-making process throughout the procurement process;
- Increases efficiency - by determining the necessary resources and by defining the way in which the activities should be carried out;
- Facilitate improvements and reduce the likelihood of breaching procurement legislation and reduce the number of mistakes;
- Reduces the risk of errors during the contract procedure and implementation.

5. Conclusions

The public service is known to represent that entity of the state with legal personality, which performs an activity of general interest, ultimately satisfying the needs of the citizen. In order to achieve this goal, Romania chose to organize its services on two levels, namely public services of national interest (examples: services within the Government, ministries) and of local interest (services at the level of territorial administrative units). All these services are subject to specific cumulative conditions (Matei, 2004), such as: satisfying the general interest; their creation on the basis of a law or the establishment of specific powers to fulfil the purpose for which they were created, conditions by fulfilling which the respective services contribute to the establishment of a modern administration. In order to carry out their activities, public services at the central level have been assigned organizational and operational regulations, and the fields of competence are established by normative acts. The leadership role of the public administration in Romania has been assigned to the Government, a role it fulfils through the intermediary of ministries and subordinate special bodies. The latter provide public services in various fields, such as: agriculture, health, education or justice. At the territorial level, the activity is carried out through branches of these services, which in this way ensure the implementation of government policies in the entire county, with a good degree of uniformity. As for public services established at the local level (Alexandru, 2007), their role is to satisfy the needs of local communities, even through the involvement of the private sector. In this sense, the Romanian legislature considered it appropriate to create a structure called - the County Council - which has powers in the provision of services such as: education, social services, public order or culture. It is equally important that, for certain public services, Romania has considered it appropriate for them to be provided by private economic operators, through their concession, based on certain contracts.

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