

e-Procurement in Romania

Legislation

Main legislation - Government Emergency Ordinance no. 34/2006 regarding the award of the public procurement contracts, public works concession contracts and service concession contracts, approved by Law no. 337/2006, and modified by Law no. 279/2011 and Law no. 193/2013.

Secondary legislation - Government Decision no. 925/2006 regarding the application norms concerning the awarding of public procurement contracts using electronic means.

Bodies

- ANRMAP – National Authority for Procurement Monitoring and Regulation – public entity subordinated directly to the Prime Minister, with strategic role in Procurement. Elaborates the policy, strategy, legislation and methodology for procurement.
- AADR – Romanian Agency for Digital Agenda - a public agency under the Ministry for Informational Society, being the operator of the national IT systems for electronic governance (SEN-electronic form filling and submission, SNEP – electronic tax payments, SAET – issuance of international cargo permits, and SEAP – e-tendering, and other governmental systems).
- SEAP – Electronic Procurement System – Operated by AADR, the system addresses the electronic tendering process, covering 40% of the total procurement.

Platform

<http://www.e-licitatie.ro/> – SEAP platform, operational since october 2006

Description

The current legislation specifies that any public entity may use the electronic tendering process on SEAP platform, and if doing so the entity must follow the enrolment procedure for operators, as well as the e-tendering procedure published on the site.

The public operators as well as the suppliers must register with SEAP every two years, pay a fee and receive digital certificates for authentication in the system and for document signing. The system:

- facilitates publication of announcements in JOUE
- initiates tender procedures for offline/on-line awarding
- publishes announcements and invitations to participate to public tenders
- allows for documents submission by the suppliers
- runs the tender and the awarding procedures

There is no post-award electronic procedure implemented. Once the awarding procedure is finalized, the signing of the contracts as well as the performance of the contract (including invoicing) is paper based.

Upcoming legislative changes

Following publication in JO EU on March 28, 2014 of three new directives which substantially modify the legislation on procurement (Directive 2014/23/EU on the award of concession contracts, Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC, and Directive 2014/25/EU on

procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC), Romania, as Member State, is expected to implement in 24 months the new EU directives into the national legislation. Each of the three new directives is expected to be transposed in a separate law. The changes envisaged are: establishment of common standards on the award of concession contracts, revisiting the rules of public procurement at European level by introducing new criteria for awarding (accent on innovation, environment and social aspects) and facilitating SMEs participation, as well as more strict rules on subcontracting works.

The expected new Directive on e-invoicing in public procurement will also need to be factored in the planned changes envisaged by the Romanian Agency for Digital Agenda for the next 3-4 years.

Key implementation challenges of e-invoicing in public procurement:

- It may be seen by the government as a compliance factor and not primarily as a cost-reducing factor, and therefore it may be implemented as a centralized ample project;
- Usually when implementing country-wide IT projects, the first step is to develop and implement the changes at the central government level, and then to implement it at regional and local levels. Between the first step and the second and third there are significant time-lags as the resources for the implementation are less available at local level than at central level. If not planned and financed adequately from the start, there is a risk to spread the implementation over many years and lose both the cost reduction advantages as well as the momentum;
- Due to the major costs involved in such a project and the many requirements already needed to be taken into account, there is a risk that the government may not consider it a priority to make sure that the system should be designed to allow for easy interfacing with systems operated by the private sector in order to fully automate the process;
- It must be kept in mind that, from public entities point of view, the automation process should cover not only the issuance of invoices and the processing of received invoices, but also the payment authorization process, which is a two-step process: budgetary authorization and payment authorization of invoice, in order to fully exploit the cost-reduction potential of the process automation;
- In such context, an apparent turn-key solution developed at European level would have a strong appeal to a government that wants to implement a proved solution, interoperable with other governments, in a short time and with less money spent. To be included here any standards developed by European bodies, infrastructure like CEF and initiatives like OpenPEPPOL;
- The fiscal authorities may be tempted to implement at the same time solutions, similar to the ones implemented by Portugal in 2013, to make mandatory the electronic reporting of invoice data in order to reduce tax evasion, especially on VAT.