

Open IT Procurement in Europe

Why is Open IT procurement necessary?

Public procurement is the process whereby public authorities - including all levels of government and public agencies - buy goods and services or commission work. These contracts make up for a significant share of the EU market, accounting for about 16% of its gross domestic product (GDP), of which around 5% is spent on ICT a market value of € 660 billion annually.

OFE's annual public procurement monitoring of notices for computer software published on Tenders Electronic Daily show that non-discrimination on public procurement processes has barely improved year on year 21.6 percent, against 25 percent, mentioned trademarks in procurement documents. In 22 cases (12.8 percent), tender notices mentioned Microsoft or one of Microsoft's products.

Procurement is a key tool to ensure:

- Accountable and transparent use of public funds
- Maximise competition
- Drive innovation
- Deliver best value
- Minimise regulatory compliance liabilities
- Avoid discriminatory terms and conditions
- Lower barrier to entry for SMEs

What is Open IT procurement?

Published and transparent – objectives and restrictions clearly open for public inspection and compliant with EU legislation.

Open Standards and technology neutral – neither brands nor vendor-based specifications; future proofing through interoperability opening the opportunity for innovation.

Business or Development Model Neutral - equally open to business, not-for-profit and community approaches. Leverage new entrepreneurial approaches to deliver savings.

Open Projects - separating out the design, build and run stages with appropriate granularity to increase number of potential respondents, creates SME friendly tenders.

Why is open IT procurement not happening in the ICT arena?

Culture - each IT group works independently, believing their requirements are unique, looking for bespoke services not commodity. Rapid scaling and innovation investment are not shared between departments.

Legacy contracts - framework agreements make status quo the easy option. Licensing usually over-specified based on needs of few not majority.

Financial targets - existing suppliers will make cuts and meet spending review target but this will not deliver transformation of public services.

Perceived risks and myths - Users see adopting Open Source as non-mainstream and high risk owing to a lack of vendor funded marketing. There is a perception that existing ICT infrastructure based on conventionally licensed technology will interoperate better with technology from the same supplier, which tends to favour pre-selection of conventionally licensed solutions. Few public sector case studies on open source as opposed to conventionally licensed technology make assessment difficult. Many believe that if an issue arises in relation to interoperating components, a single supplier is better placed to resolve than multiple suppliers, favouring monolithic project tenders. Concerns exist

about user resistance to Open Source solutions which are perceived as unfamiliar when they impact the desktop. Managers assume that support skills not available. Legal issues are little understood (indemnities, warranties) with potential patent infringements seen as barrier

Network effects - (e.g. training, mutual support between IT departments, legacy technology skill sets of contractors, knowledge of end-users) favour incumbent solutions, which are typically proprietary. The benefit of open source dynamic and network effects not clearly understood (improves sharing of knowledge, support, and even code between ICT departments with similar requirements). These effects are not specified as part of the procurement process nor recognised in TCO valuations.

Inertia - No comeback if procurement legislation/guidelines are not followed. The only way to challenge the status quo is for a supplier to sue the government: this is not going to happen. It's easier to prepare and manage a tender for a monolithic project, as opposed to a number of smaller interoperable projects with the same overall functionality. Suppliers including confidentiality clauses within contracts hide details of response limiting comparisons.

Audit – Internal/Government audits challenge costs but seem ill equipped to challenge compliance with open policies or judge the potential of over-specification, network effects or neutrality.

Impact of not adopting an Open IT procurement approach

Current legacy suppliers may be able to deliver 10%-20% to meet savings targets but in some cases at the risk of further lock in costs. This will be expressed in ongoing licence charges, bespoke integration and modifications. In short an ever greater proportion of funds will be devoted to business as usual and not transformation.

Advantages of Open IT procurement

Open IT procurement should extend savings well beyond single figure targets enabling a wider range of suppliers to compete for tenders, increasing competition (and benefiting SMEs).

Project success will be less ultimately dependent on one supplier, increased granularity, clearer breakpoints in staged contracts and the use of open standards will increase flexibility, both during the implementation phase of the project, and during its operational phase and will improve the ability to upgrade the project in the future in phased stages, rather than a big bang.

Open procurements will deliver immediate licensing reductions, with additional set up and support costs. However the key savings are longer term – reduction in ongoing costs freeing up more project funds, greater flexibility and reduction in total cost of ownership. In particular far lower barriers to exit and early termination of under performing projects and to scaling up successful projects.

What needs to change to make Open IT procurement happen

- 1) Much that is proposed for Open procurement is already a legal requirement rather than an option - reiterate the expectation of Open Procurement savings, flexibility.
- 2) Ensure risk is appropriately and fairly proportioned to achieve the overall best value for public expenditure. In particular for open solutions unlimited liability, warranties and guarantees should be properly assessed and mitigated to ensure they are not barriers to small companies and innovative projects.
- 3) Staged procurement rather than modular procurement - separating out the design, build and run stages. Tenders should be appropriately granular, and all interfaces should be open standards.
- 4) Publish all IT tenders and responses – enabling external oversight allowing benchmarking of projects and monitoring the use of brands and proprietary technology in public tenders.
- 5) More Audits? – No. Establish a process for external challenge to compliance - external audit or competition bodies should be empowered to challenge openness of tenders independently of the supplier community.
- 6) Educate the people responsible for preparing tenders – Open standards, interoperability, structuring open tenders, managing open projects develop a Practical Guide to IT Procurement for Public Authorities

