

An Examination of How Regulatory Frameworks Used to Control Procurement in the Public Sector Are, and Could Be, Applied to Control Procurement of Infrastructure for Major Sporting Events

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Aim

To map the extent to which, and manner in which, the regulatory frameworks and other tools used to control procurement in the public sector are applied to control procurement of infrastructure for major sporting events. Research questions:

- By which types of entities and processes is procurement for the infrastructure of major sporting events carried out?
- To what extent do such processes operate in accordance with the key features of international standards for procurement in the public sector or sound procurement in the private sector, in relation to the whole procurement cycle, covering:
 - The planning of procurement;
 - The conduct of the procurement process; and
 - The execution of procurement contracts

Theoretical Background and Literature Review

Procurement in the public sector is generally conducted in accordance with formal (and often enforceable) set regulatory rules, based on the principle of transparency, to ensure that various goals of the public procurement process (notably value for money, integrity and social or environmental goals) are achieved. Certain frameworks and associated tools developed with wide stakeholder input are widely recognised as providing appropriate standards for control (for example, see the UNCITRAL Model Law on Public Procurement (2011)). These frameworks have been extensively classified and analysed in terms of their objectives, contents and legal effects and enforcement (hard law and soft law dimensions) by legal scholars, and in terms of their theoretical and practical impact by scholars from various disciplines. For various reasons the same kinds of frameworks and tools are not used in the private sector, where different mechanisms operate to protect stakeholder and public interests in the procurement process.

Procurement and bidding in the sporting sector has often been characterised by problems, such as waste and corruption, that damage stakeholder interests. This procurement often shares certain characteristics with public procurement that means that all or some aspects of the frameworks and tools used in public sector procurement might be suitable for achieving the objectives of the procurement process, either because it is carried out by the kind of bodies that are traditionally subject to public procurement frameworks (although possibly set up specifically for particular sporting events) or because the entities that carry it out (including international sporting federations) share key characteristics with public bodies, such as absence of sufficient stakeholder control through other mechanisms.

It is therefore pertinent to consider how far the control systems developed for public procurement in general are actually applied to procurement in the sporting sector, both in theory and in practice, and, to the extent that this is not the case, how far this is desirable and (to the extent that this is the case) might be achieved. This has not been examined as such, although some work has been conducted on processes (See Geeraert, 2017).

The project presented for this conference focuses on the specific issue of procurement of infrastructure for major projects and, in relation to that, on mapping the current procurement practices, as a first step to considering the further questions of how far further recourse to public sector frameworks and tools might be appropriate.

Research Design and Data Analysis

Document analysis in relation to a sample of projects for international sporting events in the last ten years, covering all parts of the world and various different types of infrastructure (both sporting venues and event-related infrastructure). Mapping of the findings against the key features of international standards for procurement processes as ascertained from the texts of legal frameworks and other instruments (such as the UNCITRAL Model Law on Public Procurement, 2011) and other tools (such as the open contracting standard), based on existing literature analysis on these matters.

Results and Discussion

Currently in the analysis phase but have already noted some important points, such as the tendency to avoid applying public procurement rules by various devices, and limited availability of information to allow for monitoring by stakeholders.

References

- Geeraert, A. (2017). *National sports governance observer. Indicators for good governance in national federations*. Copenhagen: Play the Game / Danish Institute for Sports Studies.
- UNCITRAL (2011). *Model Law on Public Procurement*. Vienna.