

Q&A from Amsterdam legal counsel on European tender process

Question 1 - What makes this type of procurement special?

Ayse Er: "The entire process has been dismantled; within the same legal frameworks we have sought room to implement the request differently, making the entire process more innovative. And because of this new way of requesting, we can also purchase more easily. It is special because it focuses on collaboration, jointly developing solutions, being a launching customer and really helping a company."

Question 2 - What is it like to convince procurement lawyers of this way of tendering?

Anita Poort: "As a legal counsel at the municipality's directorate of Legal Affairs working on our purchasing and contracting practice, I've experienced that people become tense when they have to organise a procurement. They seem to think that they have to go through a highly formulaic and bureaucratic process, they can hardly influence the outcome and they lose grip on time and planning. But in fact, rather than hindering projects, procurement can greatly support project development, provided that it is organised strategically. The Startup in Residence programme offers a concrete example: rather than seeing pilots come to a premature end because of lack of juridical and organisational strategy, the procurement is organised early in the process and issues of feasibility and scalability are discussed prior to collaboration between municipality and third parties so that durable solutions can be developed."

Ayse Er: "Purchasers want to see before they believe. The idea prevails that the legal frameworks are so strict that there is no room to innovate. But as soon as we explain how we comply with all the rules, they are keen to apply it themselves. Purchasers are also often afraid that the selection criteria exclude too many parties, but if you look at selection criteria in other tenders, sometimes such strict requirements are imposed that there may only be a few eligible parties in the Netherlands or Europe, while in our approach every startup from anywhere in the world can participate. But the challenge lies not just with procurement officers; many of our colleagues at the municipality are used to ask for ready-made solutions instead of engaging in co-creation. As a result, they are often unaware of options for innovation in procurement."

Question 3 - How do purchasers deal with it in practice?

Ayse Er: "Selecting the right tendering procedure can be challenging. In Amsterdam, we chose the European tender, but each governmental organisation can select its own. While some have opted for subsidies or a contest, we believe it is not at all necessary to choose such a 'safe' option. What we see is that purchasers foresee a lot of roadblocks, which holds them back initially. But from experience we know this is mostly due to a shortage of information."

At first, purchasers can be very reticent, as they may be afraid that they have to do a lot of research and writing themselves. But when they find out that they can use our working method as a guide, they discover much of the work has already been done and has been tested without any problems occurring. We are, of course, more than willing to share our documents and insights. During the actual tender, purchasers themselves also see that the differences to regular tendering are actually quite small. After overcoming these initial concerns, and getting to know the startups, purchasers are generally enthusiastic and motivated to participate in subsequent editions as well."