

RESPONSIBLE PUBLIC PROCUREMENT: AN INSUFFICIENTLY EXPLOITED LEVER

Public procurement represents some 200 billion euros, 10% of our GDP. It is therefore a major economic lever for accompaniment of the ecological and social transitions and improvement of the efficiency of public expenditure. It is also a way of promoting companies that make voluntary commitments on environmental and social issues.

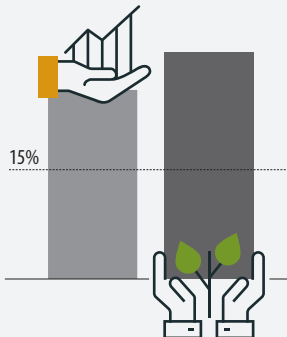
In 2014, public procurement was the subject of far-reaching reform at European level, whose transposition into French law in 2015 provided an opportunity to simplify and modernise procedures for award of public contracts.

In addition to taking account of sustainable development in definition of needs, a number of other innovations were

At national level

The PNAAPD covering the 2014-2020 period has set the goal of:

25%
of contracts incorporating
a **social disposition**



30%
of contracts incorporating
an **environmental provision**

introduced: extension of markets reserved for economic operators employing disabled workers or individuals furthest away from the labour market, and for SSE structures; recognition of sourcing; recourse to allotment; possible use of labelling; etc. As regards performance conditions and award criteria, via social and environmental clauses, they enable selection of the bidder that presented the most economically advantageous offer.

The obligation to adopt a schéma de promotion des achats publics socialement et écologiquement responsables (SPASER – Scheme for promotion of socially and ecologically responsible public procurement) concerns local authorities spending more than 100 million euros a year on public procurement. At national level, two plans nationaux d'action pour les achats publics durables (PNAAPDs – National Sustainable Public Procurement Action Plans) have been adopted; the most recent, which covers the 2014-2020 period, aims to ensure that 30% of contracts finally include an environmental provision and 25% a social provision.

There is still a long way to go before these ambitious goals are achieved. The study shows that very slow progress is being made overall with regard to social and environmental clauses, along with low percentages of adoption of SPASERs.

If, due to its innovative responsible character, public procurement's new architecture impacts public purchasers' practices (whether they are authorising officers or managers), only the most seasoned among them have adapted their purchasing strategies in consequence.



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Other findings: despite the principle of allotment, VSEs/SMEs' share in the overall volume of purchases remains low, while social clauses mainly focus on the lever of integration of the disabled and individuals furthest from the labour market.

Similarly, incorporation of environmental and short-supply-chain clauses produce contrasting effects, as such innovations as consideration of products' and services' lifespans turn out to be somewhat complex in practice.

Finally, whether it is a matter of a purchaser innovating while avoiding unproductive calls for offers or of a company promoting offers with environmental and/or social advantages, meetings between parties to a public procurement contract are not always straightforward.

PUBLIC PROCUREMENT: A LEVER IN SUPPORT OF

REPARTITION



50%

Les collectivités territoriales



15%

L'Etat



35%

Les hopitaux, les bailleurs sociaux, etc

La commande

10%

Marchés public réservés

Reconnaissance du sourcing

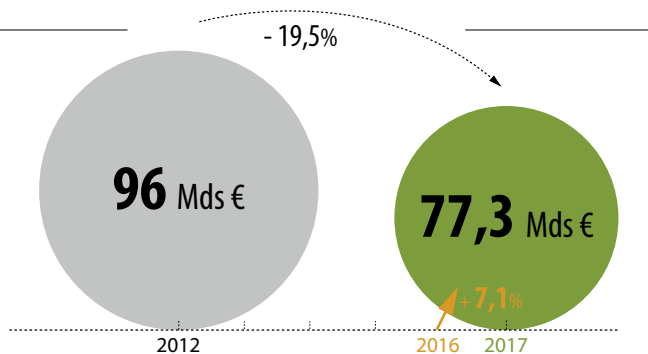
Prise en compte de l'innovation

Possibilité de labels

Pour atteindre
LES OBJECTIFS DE DÉVELOPPEMENT DURABLE
la commande publique devient responsable

Offrir la plus avancée économique

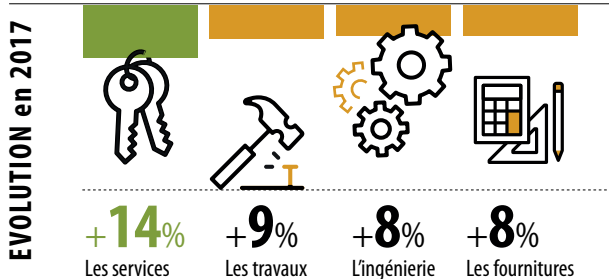
VOLUME FINANCIER



OF SUSTAINABLE DEVELOPMENT

de publique
= **du PIB**

Les marchés tirant la commande publique à la hausse en 2017 (en valeur)



reindre
**OBJECTIFS DE
PEMENT
ABLE**
e publique
onsable

Clauses sociales et environnementales

SPASER

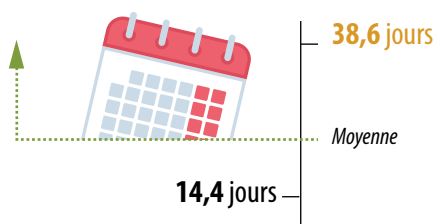
Allègement des procédures

Principe d'allotissement

re
ntageuse
quement

DELAIS de PAIEMENT

24,5 jours
Le délais moyen de paiement en 2016 de la commande publique de l'Etat



eter (2017) and the 2016 Annual Report of the Observatoire des délais de paiement (ODP – Payment Periods Observatory).

THE ESEC'S AVENUES OF THOUGHT

I - FULLY IMPLEMENTING THE POSSIBILITIES OPENED UP BY THE 2015 REFORM, IN ORDER TO:

- **1. Speed up training programmes and exchanges of virtuous practices between purchasers, by:**
 - deploying harmonised training modules;
 - supporting facilitation of their networks (sharing of innovative solutions and “best practices”).
- **2. Develop the practice of sourcing by encouraging stakeholders to use it more in order to reconcile:**
 - technical requirements and sustainable performances;
 - equality of treatment between bidders.
- **3. Examine all contract award criteria and performance conditions, in order to:**
 - a. Expand the notion of social clauses by taking account of:**
 - apprenticeship, continuing training and professional equality;
 - territorial anchoring of jobs and activities.
 - b. Better measure the overall impact on the environment, by incorporating:**
 - bases for assessment and comparison of overall cost;
 - costs incurred by negative and positive externalities.
 - c. Take account of CSR initiatives by encouraging:**
 - labelling;
 - professional frames of reference.
 - d. Facilitating VSEs/SMEs' access by creating a favourable context able to:**
 - eliminate abnormally low and “over-performing” offers;
 - avoid bulk purchasing and universalise allotment;
 - support development of Groupements momentanés d'entreprises (GMEs – short-term joint ventures) and universalise the Marché public simplifié (MPS – Simplified Public Procurement) programme;
 - adapt award criteria to the size and core activity of potential bidders;
 - facilitate access to the various consultations;
 - improve payment conditions.
- **4. Align various SPASER goals with the following aims:**
 - a target for volume and value of contracts awarded to VSEs/SMEs and SSE structures;
 - assessment of deployment of sourcing practices;
 - monitoring of the percentage of social and environmental clauses implemented;
 - consideration of “non-price” criteria and their weighting;
 - involvement of stakeholders in definition and achievement of goals.
- **5. Mobilise professional associations in order to:**
 - acculturate their members to public procurement processes and help them on their way to certification, qualification and labelling;
 - facilitate composition of groups of VSEs/SMEs providing a grouped response to calls for offers.
- **6. Implement effective annual measurement and progress tools, in order to:**
 - make full data available and monitor each category of purchasers' practices;
 - assess the evolution of social and environmental clauses;
 - analyse factual and cyclical factors influencing virtuous practices;
 - encourage local authorities to publish “reports”.

II - EVENTUALLY REVISING VARIOUS PRINCIPLES IN ORDER TO PRODUCE MORE STRUCTURING EFFECTS

- **1. At French level**
 - In the face of difficulties connected with the sharing of responsibilities in the context of a solidary Groupement Momentané d'Entreprises (GME – short-term joint venture), duration of solidarity might be adjusted depending on the contract's subject and services to be rendered.
- **2. At European level**
 - Recognition of certain properties and qualities would come about through the possibility of indicating product origin in order to facilitate local purchases and procurement.
 - France's political leaders are requested to promote negotiation of similar exemptions at European level, to the benefit of European and national SMEs, with a view to directing maximum volumes of public procurement to them.