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Introduction

In the press there is a flood of articles on problems with the current procurement practise. Contracting authorities lack direction in the collaboration process with third parties. The predominant focus in the procurement practise is control and risk aversion. Trust plays no part in a tender procedure. This is fuelled by the instruments which are provided in the directive 2004/18/EC (European procurement directive). These instruments stem from the building and construction industry. Here measuring (engineering) is the dominant logic.

The dominant public procurement logic

Public procurement is managed through tender procedures. The public procurement practice is governed by European tender guidelines which have been adapted in national law. The trust in market competition and the lack of trust in suppliers is remarkable. Recent research by the Twente University¹ shows that price is favoured in stead of the economic most beneficial purchase. The reasoning is that prices are 'comparable'.

In our own procurement practise we often hear from public procurement professionals that they work according to 2 distinct guidelines;

1. 'Save' money for the organisation
2. Prevent bad press in case of an escalation (and pay off angry suppliers).

In this article we focus on the strategic goods and services. We argue that *trust* and *common sense* are essential for long term relationships (i.e. partnerships). The tools provided in the directive 2004/18/EC are not applicable. The current tools in the toolbox provide a false sense of control. They only look back. None of the tools give an indication about current and future performance. One could argue that the European procurement directive should be dismissed for bottleneck and strategic goods and services.

The trust dilemma

The Merriam Webster online dictionary describes a dilemma² as a problem involving a difficult choice. In the words of professor Michael Power³, we live in an audit society with constant checks and tests. Our society doesn't have any faith in the ordinary, every day, spontaneous trust that people can have in each other. Our only weapon against the looming trust crises, which characterises our audit society, is to challenge us with all kinds of techniques to discover the truth about us. This is especially true for business relations in tenders.

¹ Drs. Ing. J. Boes and Prof. dr. ir. ing. A. G. Dorée, 2007 Sourcing and tendering policies in the north of the Netherlands, research conducted for Stadwerk Noord

² <http://www.merriam-webster.com/dictionary/dilemma>

³ Ten Bos, prof. dr. René, *Merkwaardige moraal (curious moral)*, Publisher Schouten en Nelissen, 2006, ISBN 9789070512811

Government needs smarter tender procedures

A long term relationship between customer and supplier can result in creative business models. A public procurement practise who assumes to be all knowing and who only feels safe with docile companies kills innovations and entrepreneurship. Qualified suppliers stop offering their business.

Source: Newspaper Het Financiële dagblad, 5 March 2007 by Trude Maas

In our daily routine: A flood of rules and tools. The pathology of an audit society can be described as a dilemma. The more we try to make people trustworthy, the more techniques we develop which reflect our distrust. This is the dilemma the public principal faces everyday in the procurement practise. In the public procurement practise, the business relationship always starts out with a tender.

Experience from the past does not guarantee success in the future

The first party who is often involved in a business relationship is finance department. The whole practise is geared towards financial control. The dominant logic is risk aversion by application of financial metrics, like ratio's, cashflow statements and annual financial reports. In recent years a lot of scandals have proven that this way of working provides a false sense of control. Parties like Parmalat (dairy products), Ahold (retail) and KPN (telco) all have great annual financial reports, but in reality two of them almost went bankrupt due to fraud and the third had major losses and depreciations due to a bad acquisition. None of which could be found in the annual financial reports beforehand. Nevertheless, financial metrics are still part of the tools in the tender templates and time and again suppliers are harassed with these useless tools, resulting not only in expensive procedures, but also discouragement. Smaller parties often don't even bother to enter anymore, which is killing for innovation.

The legal practise starts to take over the procurement practise

The second party involved in a business relationship is the legal department. Just like the finance department, the primary focus is risk aversion and damage control. This results in distrust which is best illustrated by the number of lawsuits regarding tenders. In the Netherlands 176 cases⁴ were tried in court in 2007. This is just a fraction of the real number of tenders gone bad. A lot of disputes are settled outside of court. We can only speculate on the motives.

Legal battle cripples Provincial Government

The failed tender procedure for public transport in the province of Brabant (the Netherlands) requires profound reconsideration. This is one of the recommendations from the committee who investigated the failed tender procedure for bus transport to the Provincial Government.

Source: Newspaper Brabants dagblad, 24 March 2007

In our practise we often hear that public principals are instructed by senior management to avoid bad press. This could also be the explanation why there is almost no case material available on tender problems. This is remarkable and unfortunate, given that the rules and regulations are all about transparency (and the possibility to learn from previous mistakes).

⁴ <http://www.rechtspraak.nl>

In Belgium the Kafka.be initiative started in 2004. They fight unnecessary bureaucracy and propagate administrative simplification. The successful approach, with more than 200 simplifications in the last 4 years is now being followed in France and the Netherlands. Inspired by this practise, two Dutch big consultancy firms reacted in 2007 to the tender terror by introducing their own tender test. They argue that the current procedures are inefficient, expensive and have a low hit rate for success. Therefore they assess beforehand potential change for success and discard the rest of the tenders. The loop of mutual distrust is established. In the end, the market potential decreases, which is counter-productive for the goal to achieve one European market by lowering entry barriers and gaining perfect competition?



Understanding the current state of affairs

Traders and guardians

In order to understand why things are going the way they're going, we use the moral syndromes of Jane Jacobs. In her book, the systems of survival, she describes the moral syndrome of commerce (with traders) and politics (with guardians). These two syndromes are mutually exclusive and collectively exhaustive (a zero sum game). By default, the tender practise operates according to the moral syndrome of politics. However, the current tender practise shifted. Public principals have started to trade, which is not permitted by the moral syndrome of politics.

MORAL SYNDROME A: Traders	MORAL SYNDROME B: Guardians
Shun force	Shun trading
Come to voluntary agreements	Exert prowess
Be honest	Be obedient and disciplined
Collaborate easily with strangers and aliens	Adhere to tradition
Compete	Respect hierarchy
Respect contracts	Be loyal
Use initiative and enterprise	Take vengeance
Be open to inventiveness and novelty	Deceive for the sake of the task
Be efficient	Make rich use of leisure
Promote comfort and convenience	Be ostentatious
Dissent for the sake of the task	Dispense largesse
Invest for productive purposes	Be exclusive
Be industrious	Show fortitude
Be thrifty	Be fatalistic
Be optimistic	Treasure honor

Table 1: The moral syndromes (from the book, Systems of Survival by Jane Jacobs)

Guardians shun trading. This is the best protection against deceit and betrayal. The principle of independence is applied by statesmen throughout the centuries. Guardians have the exclusive right (monopoly) to enforce the law by using violence. When police or army become dependant on suppliers for goods or people, they risk of extortion becomes manifest. Secrets for the enemy suddenly become merchandise (f.i. think about espionage). E.g. Supervision on local building projects by inspectors from a municipality. A dishonest contractor mixes too much cheap sand in the concrete. If the inspector is bribed by the dishonest contractor, we view this as a breach of trust. However, between the two parties a mutual beneficial deal is being cut. Fishy business!! That is why we need guardians to inspect other guardians, but also vigilant citizens and an active press and why guardians should stay away from trading. The dominant logic in many procurement departments to 'save money' is flawed. Efficiency and making a profit are by products, never the goal.

Thoughts on resolving the problem

The basis of the business relationship.

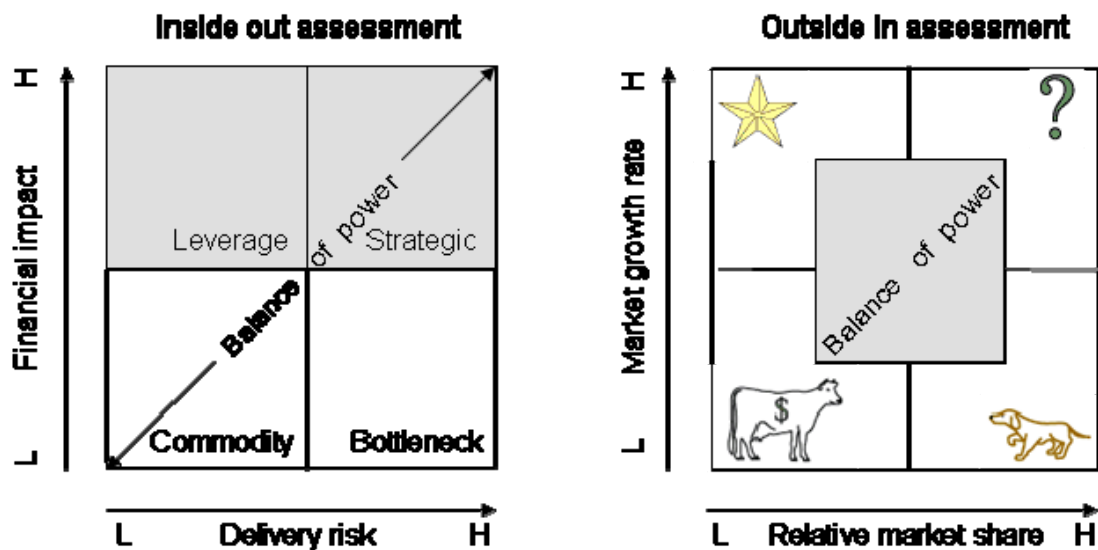
Every relationship starts out with a mutual interest. This is also true in a business relationship. In order for a business relationship to last over a longer period in time, there has to be equality (balance of power), potential for benefits (profit, market share, publicity, etc.) for both parties. In order to find out if these conditions can be met, a lot of time and effort need to be invested in procurement intelligence.

Procurement intelligence

The first step in every tender procedure is to determine the financial impact and the delivery risk of the products or services which are being tendered. This is done in a Kraljic matrix. Many procurement departments make this assessment when they are compiling their purchasing portfolio product groups. In this article we focus on the product and service in the strategic quadrant (i.e. high financial impact and a high delivery risk).

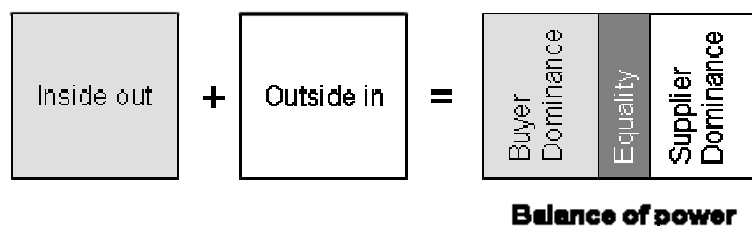
The second step is to identify the suppliers in the market place. This provides a short list for the procurement department.

The third step is to make an analysis (from the supplier's point of view) how your market (as a public procurement professional) is viewed. We use the Boston Consulting Group (BCG) matrix to plot the market place from the supplier's point of view.



Finally, the two matrices are confronted to establish the balance of power between the customer (procurer) and the supplier(s). This can result in three possible outcomes;

1. Buyer dominance
2. Equality
3. Supplier dominance



Design of the relationship

Before writing a tender it's important to get in touch with the potential suppliers. Which of the suppliers have a strategy which matches ours? How do the suppliers and the market develop in the future? This will help the procurement professional to fit/optimize his tender with the market in which he is tendering.

Monitoring and evaluation

It's important to invest (frequently) in consulting potential suppliers. Not only just before sending out a tender, but during the complete product/service lifecycle. These market consult moments gives the procurement professional information with which he can monitor and control the state of the balance of power. It gives the procurement professional input for adjusting his supplier-/procurement management.

Thoughts on breaking the dominant logic and focussing on trust

Strategic

- Rethink the role of public procurement (ask yourself what a guardian would do).
- Develop a procurement strategy in alignment with the business strategy.
- Design the procurement function.
- Align the procurement function with the business processes.
- Implement supporting systems for the procurement function.

Tactical

- Design procurement portfolio's and product groups (i.e. Kraljic matrices)
- Procurement intelligence: Attractiveness of your organization for the market
 1. Research the market(s) for the products or services you wish to procure.
 2. Organize chemistry meeting: derived from marketing and communications
 3. Future sourcing: establish a long list of potential suppliers (continuous)
- Design of the relationship(s) with suppliers
- Monitoring and evaluation of contracts and professional relationships

Operational

- Ask yourself why you want to use a tool from the 2004/18/EC toolbox
- Resist the urge to focus on 'pricing'. EmB appeals more to guardian syndrome

Discussion

Procurement is not a static process. Markets, products and suppliers constantly shift. The market economy is also constantly changing. It is important to remember (especially in partnerships) that trust is earned when procurers resist the urge to lower prices in an economic low tide. *Trust is a two way street*. If one of the parties breaches trust, there is no basis for collaboration. Constant communication between customer and supplier are crucial.