

# **MEMORANDUM**

## **Costs of Public Procurement in Belgian Architecture POLICY RECOMMENDATIONS**

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## **POLICY RECOMMENDATIONS**

Policy paper commissioned by G30 – Association of architects in Belgium

Compiled by Ecorys Brussels NV

Brussels, 16<sup>th</sup> April 2015



## **Introduction**

The G30 Association of Architects was created in 2007 by a group of Leading Belgian Architectural Firms (currently about 40 members) with e.g. the following aims:

- To promote good practices in the field of architecture and urbanism towards achieving sustainable quality (see in particular the Charter of Excellence of the G30 at: <http://g30.be/en/communication/charter-of-excellence>)
- To contribute to improving the conditions of practice of the profession in Belgium and in Europe
- To formulate policy recommendations for the attention of relevant Authorities and Clients

Public Procurement in the construction sector has been one of the priority policy areas of the G30 since its inception. Actions in this area so far include among others a major European Conference held in 2011 as well as specific recommendations issued in connection with the legislative debate for the adoption of the new EU Directive on Public Procurement (2014/24/UE).

In 2014 the G30 launched an economic survey amongst its membership in order to collect facts and figures in respect of the actual cost of participation by architectural firms in Public Procurement calls for tenders in Belgium while choosing the year 2013 as a reference.

In view of the telling results of the survey the G30 has decided to formulate policy recommendations for the attention of the Belgian Authorities at all levels of governance. This action is considered timely in connection with the forthcoming transposition of the new EU Directive in Belgian law.

In formulating the following recommendations the G30 has also sought the support and collaboration of representative organisations of architects and other design consultants in Belgium who share similar goals.

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## **Executive Summary**

### **The Problem Explained**

In public procurement competitions, there will always be winners and losers. Each competition will necessarily require an investment of time and resources from those who decide to participate. This is the reality we cannot change and we do not wish to do so. However, what we aim is to make the public procurement process in Belgium as efficient and effective as possible, choosing excellence while saving time and money invested by both architects and public authorities. In order to live up to this ambition, major architectural firms gathered in the G30 initiated a research project to study how such improvements can be achieved. The research identified four main problems related to public procurement in Belgian architecture.

#### **Problem 1: The One-stage Procedure and Neglect of the Design Contest**

The prevailing procedure used in architecture is the one-stage open procedure. In the last years, 70% of all calls were open, requiring the participating firms to submit long and elaborated proposals, while public authorities must invest significant resources into their evaluations. For architectural competitions, so-called design contests have been developed as procurement form. However such contests are applied only rarely (in 1 to 4% of all procurements). (Details pages 12-13)

#### **Problem 2: Public Procurement is for Architects Riskier than it should be**

In 2013, the winning hit-rate was 19% which is similar to that observed across the last few years. In addition, almost 10% of competitions attended by G30 members were suspended by public authorities after the proposals were submitted. This means a lot of time invested in vain – time that is often not remunerated. Only in 30% of cases, architects were paid for the creation of elaborated proposals and such remuneration was substantial in only 16% of cases (= at least 75% of the real time spent). This implies that a large amount of sunk hours must be recuperated in other ways, with potential losses to the creative economy and society in Belgium as a consequence. In addition, the time needed for evaluation has been steadily increasing in last years, reaching more than 180 days in 2012. This makes the public procurement market even more unpredictable. (Details page 13-15)

#### **Problem 3: Public procurement costs are higher than needed**

We estimated the sums of money wasted by both the architectural firms and public authorities. On average in 2013, each member of the G30 sample invested 23 627 EUR in personnel costs in every single public procurement competition while all these members together spent 4.3 million EUR on such tenders. Public authorities, however, spent money too. Given the long time needed for evaluation, our estimate is around 47 142 EUR for one bid assessment in personnel costs alone. Given the fact that there are 6 participants per competition on average in the sample considered, it means that one public procurement entry means about 142 000 EUR invested by architects for proposals and an additional 47 142 spent by public authorities for their evaluation (excluding tender preparation and external advice). Altogether, this would amount to 189 000 EUR in total personnel costs per competition – almost half the average of the tender value itself (in 2012 reaching around 400 000 EUR for the above-threshold procurement. (Details pages 15-16)

**Problem 4:****A too narrow view on selection criteria**

Anecdotal evidence suggests that a narrow view to the evaluation of bids is often applied – with a strong focus on the costs for the architectural services themselves, rather than costs of the whole building and throughout its life cycle. This practice provides few incentives to high-quality designs promoting longer term and sustainable use hence clear benefits for society. (Details pages 17-18)

Elements of good practices can be learned from other EU countries. For example in Germany, the negotiated procedure prevails, where participants are evaluated on the basis of a simple and not costly design concept and gradually eliminated in the competition process. In France, the two-stage procedure is much more common, while all participants must be remunerated for their proposals. However the systematic limited number of participants offers little room for newcomers. The UK and France also offer an example of independent bodies that benchmark best practices in public procurement and that monitor the efficiency of the process. The EU can show a way forward too. The revised Public Procurement Directive 2014/24/EU offers wide use of life cycle costing and the new partnership procedure promotes innovative solutions in the course of the procurement process in the search for more quality and sustainability. Also, it encourages eTendering, saving time for both architects and public bodies. (Details pages 19-22).

**With the need to transpose the Directive soon, it is time to act right now.**

## **Recommendations**

The Belgian public procurement process is in several respects ill-fitting, unnecessarily risky and costly, not only for architects but for society as a whole and most often it does not ensure a fair remuneration of the services provided, which are not considered for their real value. The existing practice provides few incentives to high-quality designs promoting longer term and sustainable use. The G30 Association of Architects wishes to contribute to improving the process. The following, specific recommendations are submitted in connection with the implementation of the new EU Directive on Public Procurement (2014/24/UE) that must be transposed by April 2016.

### **Recommendation I      Increased clarity and stability of the procurement process**

The procurement process should be as clear as possible. If a two-stage process is chosen, conditions for advancement must be clear and competitors not qualified for the next stage must know the reasons why. Each public decision must be supported by facts and documentation. Also, the procurement process must have clear deadlines for both the authority and architects and calls should not be suspended without clear reasons. Means to increase stability and clarity include use of e-procurement tools and detailed requirements described in tendering documents.

### **Recommendation II      Detailed design plans should be either remunerated or not required**

The quality of a proposed design can be easily evaluated on the basis of a simple concept design (sketch). If an authority wishes to have detailed documentation, this should be required from the part of a limited number of architectural firms only and once remunerated. If this is not the case, both public authorities and architects and other design consultants record unnecessary costs associated with creating long proposals free of charge and their evaluation. Furthermore cherry picking must be banned and intellectual property rights preserved.

### **Recommendation III      Bring back design contest to allow for high quality design**

Since the design contest is barely used by Belgian public authorities, the quality of the building stock in Belgium is endangered. Only a highly qualified, competent and independent jury can bring a range of opinions and the experience needed in order to evaluate a tender in such a complex field as architecture and urban design. Moreover, the decision of the jury must be binding and hence the mission awarded to the winner.

### **Recommendation IV      Use of procedures that allow for efficiency and fast evaluation**

If the evaluation process of tenders lasts for too long, both public authorities and architects lose out. The combination of open procedure with requirements for detailed plans causes both high costs invested into the evaluation process by public authorities, and an impossibility to plan the work for architects and other design consultants. The two-stage procedure or various types of negotiated procedures allows for gradual elimination of contestants and thus time and money saved for everyone while guaranteeing a fair process.

**Recommendation V      Clear and stable terms and criteria defined at the beginning of each tender**

A tendering package issued by a public authority beyond a clear definition of the actual needs must state clearly what type of documentation is required in order to take part in the tender, including the level of detail of designs. The tender package also needs to lay-down at the very beginning the criteria and respective weighing according to which the winner will be selected. The authority should be fully aware of its own expectations and state these in the project specification.

**Recommendation VI      Life cycle costing as a benchmark for sustainability and innovativeness**

Costs of each building to be constructed should be assessed on the basis of its whole life-cycle. The same goes for urban design. If only costs of construction are taken into consideration, together with a frequent push for a price as low as possible, long-term losses for society will be high. They would adversely affect sustainability, while low quality materials and inappropriate global energy efficiency conception would increase the need for long term renovation. Omitting life-cycle costing also discourages innovativeness.

**Recommendation VII      Fair remuneration on the basis of agreed benchmarks**

In order to improve the quality of designs and hence the sustainability of the resulting built environment the actual value of the services provided by architects and other design consultants must be fully appreciated in economic terms. Alike existing recognised systems for public contracts in place in countries such as for instance Luxembourg, Germany or Canada it is desirable to establish in Belgium a reference benchmark system for the fees applicable to specific services in the selection and awarding processes according to the degree of technical detail. While effectively laying more emphasis on sustainability issues such a move would contribute to take duly account of the public interest.

**Recommendation VIII      Monitoring of quality and excellence via an independent body**

An independent body should be set up by the Belgian public administration, in charge of monitoring the efficiency and quality of public procurement in the construction sector. As its mission it will benchmark best practices and initiate reflections and relevant recommendations with regard to those that could be improved.

## Why this paper matters

### Concerns about the efficiency of public procurement in Belgium

Concerns about the efficiency of the public procurement in Belgian architecture are coming from different directions, including the EU. For example, the European Commission promotes sustainable construction and design in the context of the Construction 2020 initiative, based on the Strategy for the sustainable competitiveness of the construction sector and its enterprises.<sup>1</sup>

The Belgian architecture community itself feels difficulties in several areas. As the most important issue to tackle is seen the **clarity of terms** in calls for tenders **and selection criteria**. Often, calls for tenders, for both under and above-threshold procurement, do not specify the level of detail of the proposal to be submitted by architectural firms. As a result, architects are 'asked without words' to submit full project documentation at the very early stages of the selection process – what means a lot of sunk costs. This problem however negatively impacts also the public authorities who then need to spend resources on evaluation of numerous very detailed proposals.

Also, the procurement environment is seen as not transparent and stable enough. Many **tenders are suspended** after proposals are submitted without further clarification. The way how the winner is picked is not always made sufficiently clear. Also, the **procedures appropriate** for architecture competitions, namely the design contest are being used less and less. On top of that, the time needed for evaluation is rather long and **means of electronic tendering are rarely taking place**. All this brings enormous direct costs on both the side of architectural firms and public authorities. The architecture community in Belgium also feels that the outcome of the selection process tends to be biased towards "**low-cost" solutions**". Losses for society in terms of long-term sustainability, innovativeness and quality of the building stock are a consequence.

Two recent, **specific examples** will illustrate the situation at the market the best while pointing to economic incoherence.

*In mid 2014, an architectural firm, one of the members of G30, entered a competition for a project to design a complex of 29 apartments for a city in Flanders. The effort invested into the detailed project documentation paid off and the firm was awarded the highest number of points from the jury in appropriate design contest. However, despite the best ranking, the project was not awarded to this firm without further clarification. This example illustrates direct costs wasted in the procurement process.*

*In early 2015 a 'commune' of Wallonia published a call for tenders to design a local Provincial Centre for Agriculture and Rural Development. After a close assessment by a G30 member firm, the budget proposed by authority to complete the building was far below the real costs that such a construction would require in reality. This strong push on the costs is an example of indirect costs, due to a competition leading likely to low-quality building paid by public money. In addition, the payment scheme for the architects contains numerous cases of conditionality of payments and requires architects to fund most of the design work in advance of payments. This creates an unstable environment not conducive for creativity and innovativeness.*

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<sup>1</sup> COM(2012)433

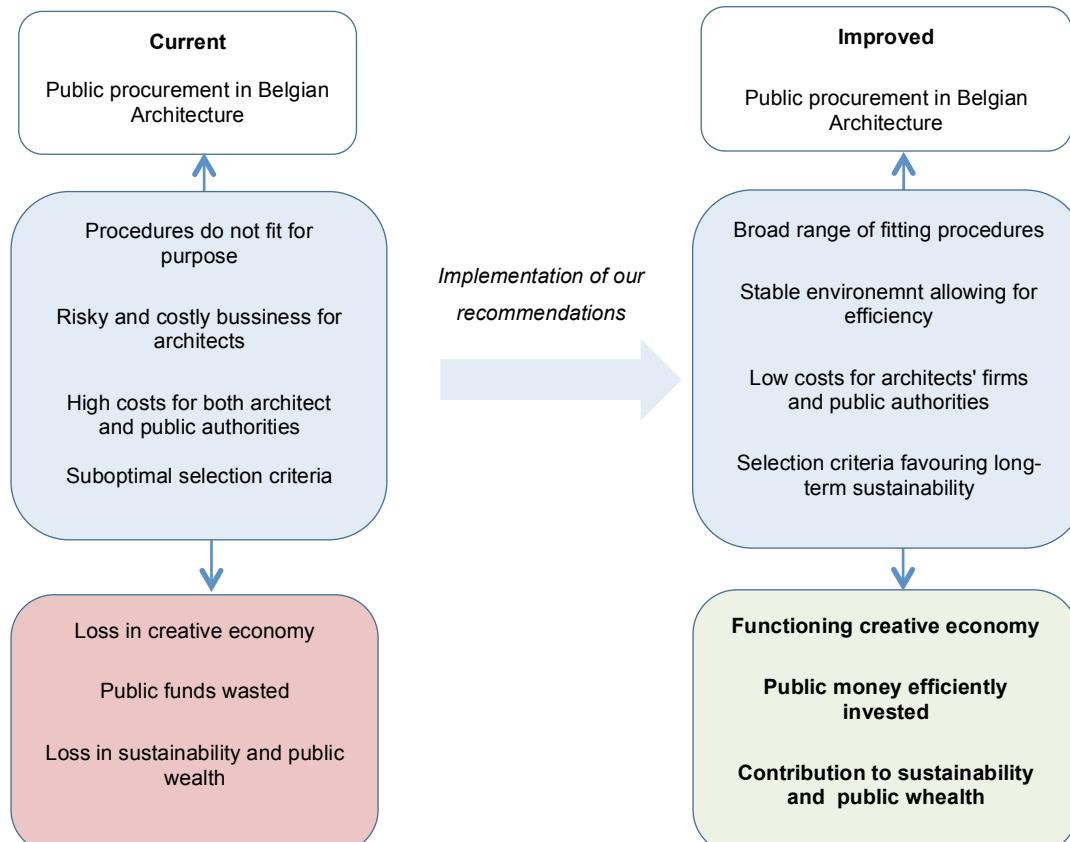
## We wanted to know more

At first sight, the Belgian system of public procurement (PP) in architecture seems to be performing well. It appears open, with numerous bidding competitors and preference for economically advantageous solutions. However, when looking closer, there are **several reasons to doubt** as to whether **the current system brings value** in practice – and whether it contributes to high quality and sustainable buildings in an efficient manner.

To get to know more about the issues in architecture public procurement in Belgium, the G30 Association of Architects **launched a survey amongst its members** to assess the costs related to tendering. The data were reported by 19 major Belgian architectural firms that have participated in 277 public procurement competitions in 2013 from which 246 had their results known till the end of the reporting year. The data report mostly on the results of competitions and costs associated with participation.

The results of the survey have been combined together with **data on above-threshold procurement**, extracted from the **Tenders Electronic Daily (TED)** – an official journal of the EU where all call for tenders for projects surpassing the EU thresholds must be published. We analysed data from 2010, 2011 and 2012 coming not only from Belgium but also from France and Germany. The data were selected for architecture services following the relevant Common Procurement Vocabulary (CPV) codes of the category 71. By the same means we extracted also **under-threshold data** on Belgian public procurement in architecture from [www.publicprocurement.be](http://www.publicprocurement.be) using the same reference years.

**Figure A:** Public procurement in Belgian Architecture – The problems and the solutions



Put all together, and adding findings from relevant literature, we present in the next sections the complex state-of-play on the Belgian public procurement market and compare these with the best practices from the EU and its

Member States, **providing a factual basis for the recommendations formulated at the introduction of this paper.**

### **Small adjustments, great results**

After examining the Belgian public procurement procedures, as detailed in the next sections, **we prove that** in fact **the costs of public procurement** in Belgium and in Belgian architecture in particular **are seen to be too high** in terms of human resources as well as direct and indirect costs and long-term sustainability.

The aim of this paper is thus to raise awareness amongst all governance levels about the high public procurement costs in Belgian architecture, and to inform the Belgian revision of PP rules following the new EU procurement directive. Our reasoning is based upon the conceptual diagram below. We argue that improved public procurement procedures and criteria can bring overall benefits in terms of public good and provide a boost to the Belgian creative economy. By implementing our seven recommendations as outlined above, positive results could be achieved.

We argue that with regard to the costs of sub-optimal public procurement in Belgian architecture, a distinction can be made between direct and indirect costs. Direct costs in our reasoning are those caused mostly by inefficient procedures. They are direct, because they can be easily captured and measured in numbers, using public and privately collected data. On the other hand, indirect costs represent losses in sustainability and quality of building stock that cannot be directly measured but cause long-term losses for the Belgian society. Both of these types of costs could be tackled by simple improvements in terms of procedures and criteria used for the selection.

### **Policy and legal background**

#### **Back to the basics**

Before approaching any type of assessment, we have to define the main terms and distinguish between **the types of procedures** applied to choose the best provider of the services or works in the public procurement process.

The crucial aspect to be taken into consideration is the existence of the **EU Public Procurement (PP) Directive**, Directive 2014/24/EU (replacing Dir. 2004/18/EC). Under this directive, any type of project with a value **above certain threshold** (=above-threshold procurement) is **treated according to the EU rules** that define in detail types of procedures that can be used, selection mechanisms and timeline. Different thresholds exist for different types of projects and thus before finding out whether the EU or Belgian law applies, we have to correctly determine the type of project. The scheme illustrating types of project and procedures can be found in Annex I.

In February 2014 the European Parliament (EP) and the European Council have adopted **a revision of the Directive on Public Procurement**, which was published in the Official Journal of the European Community (OJEC) on 28th March 2014. While the basic classification of procedures follows the 2004 Directive, new principles decreasing administrative burden and supporting innovation, transparency and more sustainable public procurement in general have been implemented. The changes must be transposed by the EU Member States (MS) mostly<sup>2</sup> by April 2016.

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<sup>2</sup> With regard to e-procurement the deadline is September 2018

With regard to the EU thresholds for **design-only types of projects**, where architects are asked to deliver simply for design, visualisation or consulting services are classified as services and a threshold of **200 000 EUR** applies. Our analysis and data refer mostly to the design-only type of projects because these involve uniquely the architectural services. Other types of projects that combine design with construction or even with financing and maintenance are classified as works and the EU threshold is 5 000 000 EUR.<sup>3</sup> When the project is under the threshold, Belgian rules apply, that define slightly different types of procedures and selection criteria. However, the main classification and principles remain the same (as outlined in Annex II).

### A broad range of procedures

Currently the procedures defined by the EU (in the previous Directive of 2004) and Belgian law are to a large extent the same or very similar. In a nutshell, the most basic distinction is between the **one-stage** (open) and **two-stage** (restricted) procedure. In a one-stage procedure, any interested economic operator may submit a tender. A two-stage procedure as the name suggests, is broken down into two steps. First, a pre-selection of candidates is made; and after this, the selected candidates are then invited to submit an offer. In precisely defined cases, other procedures called negotiated procedure and competitive dialogue exist.

Other types of procedures namely **negotiated procedures** with or without competition and **competitive dialogue**, include more interaction between economic operators, in our case the architectural firms, and the public authority.

A very special category is the **design contest** that is used in the fields of town and country planning, architecture and engineering or data processing. Here a plan or design is selected by a jury after being put out to competition with or without the award of prizes. Design contests in principle may be used combined with different types of procedures. All the procedures are described in detail in Annex II.

Direct costs arise from the fact that relevant public authorities tend to not use those types of procedures that are appropriate for architects. Thus, the intellectually challenging work with creative inputs they perform is lost. The **fitting procedures are omitted even if they exist in both the EU and Belgian jurisdictions** as proved in Annex II.

### How to pick the winner

Below-threshold procurements follow Belgian public procurement law, where selection criteria are dependent on the type of procedure. For one-stage or two-stage tenders a subtle difference is made between **tenders** (*adjudication/aanbesteding*) **or invitation to tenders** (*appel d'offre/offerteaanvraag*) (Art. 23). However there is a crucial difference in the application of selection criteria. For **works** these are *adjudication/ aanbesteding*. Selection takes place on the **basis of the lowest price** as well as other information, which will for sure have an impact on government expenses (Art. 24).

For **services**, the selection criteria refer to invitations to tender (*appel d'offre/offerte-aanvraag*). The principle is here to select the **most economically advantageous tender**. In theory, this leaves more room for selection criteria related to quality to be weighed (Art. 25). However, these criteria must allow for objective comparison and can relate to quality, price, technical value, aesthetic and functional characteristics, environmental features, social considerations, user costs, profitability of operations, maintenance and technical support, delivery dates, guarantees and securing of stocks. Clearly, such criteria are much valued and appreciated.

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<sup>3</sup> The PP Directive also defines the category of Supplies. However, this is not relevant for architecture.

In the case of **design competitions** (as part of the rules for negotiated procedures), the winner or one of the winners must be awarded with the contract. In case of multiple winners, all need to be invited to take part in the negotiations. No specific selection criteria are determined in the case of design competitions.

### The case of Belgium: facts and figures

The problems outlined above could be demonstrated by real numbers and a review of literature and project documentations. In order to move from feelings to facts, we identified 4 main problems related to public procurement in Belgian architecture and provided clear fact-based arguments to prove their existence.

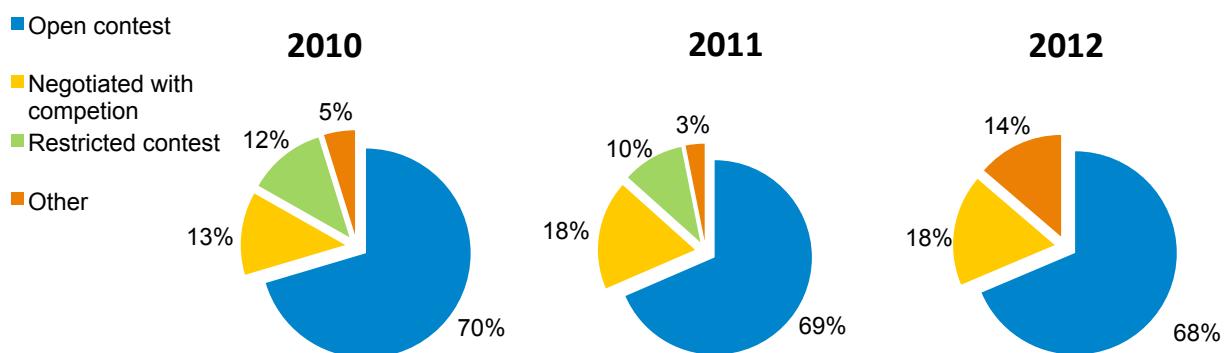
#### Problem 1: The One-stage Procedure and Neglect of the Design Contest

In 2012, 153 calls for above-threshold tenders in the field of architecture were published by Belgian authorities. In addition, in **68% of cases** the procedure applied was the **open procedure** – in other words the procedure that is the **most time consuming** and where participants are expected to submit elaborated proposal in order to compete for a project. This means a lot of efforts in vain.

This high proportion of open tenders appears to be structural, and not only applies to 2012, but also to earlier years: in 2011, 128 calls in total of which 69% open contests and 2010, 127 calls in total of which 70% open contests. The figure proves that the proportion of the procedures used is stable in the course of years. In all the years, the **open procedure largely prevails**, followed by the negotiated procedure with competition and two-stage contest.

**Figure B: Procedures in above limit EU procurement in Belgian architecture**

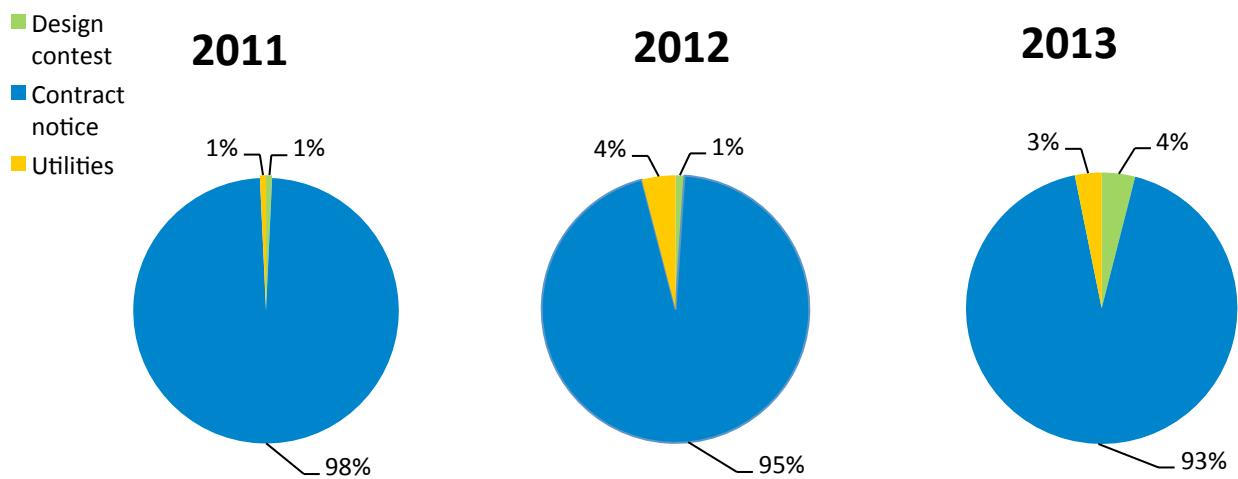
Which types of procedures were used in Belgium in above-threshold procurement between 2010 and 2012.



Source: TED Database (processed by Ecorys)

Also, the selection process fitting the best architecture-type of projects is barely used in Belgium. The figures below demonstrate that the **design contest has been applied in only 4% of cases** in under-threshold procurement. This number from 2013 is even optimistic compared to previous years, when this option was chosen solely in 1% of cases. The quality of the selection process may be thus questioned.

**Figure C:** **Very marginal use of design contests in Belgian public procurement**  
In how many cases design contest had been used between 2011 and 2013?



Source: [www.publicprocurement.be](http://www.publicprocurement.be) (processed by Ecorys)

In general, the variety of procedures used in Belgium is rather limited and public authorities rarely engage in the procurement process with a contestant in order to negotiate the best solution. The winners are picked in a tedious and often cumbersome process with limited room for innovation, where both architects and public authorities have to invest significant amounts of time to submit and analyse detailed proposals created according to rigid criteria.

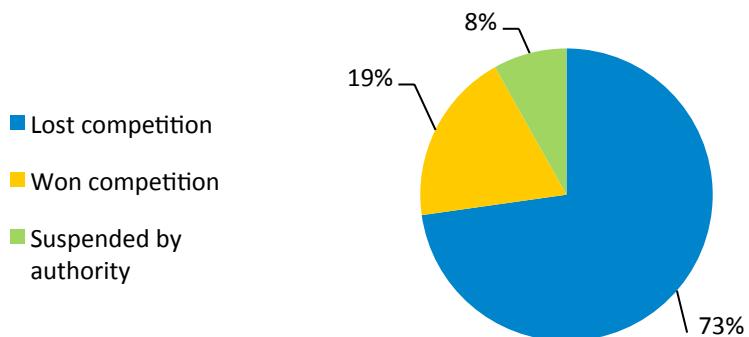
*Recommendations to specifically address this problem:*

- *Recommendation I: Increased clarity and stability of the procurement process*
- *Recommendation III: Bring back design contests to allow for high quality design*

**Problem 2: Public Procurement is for Architects Riskier than it should be**

Looking at some more data from the TED database, we discern some more interesting patterns. The **average number of participants** has been the same in all three analysed years – **this number is 6**. Seeing the prevailing appearance of open procedure combined with this rather high average number of participants, one can conclude that in all cases, about five different studios put major efforts into the creation of an elaborated proposal that must be dismissed afterwards. This means high direct losses for the architectural studios involved. The above argumentation is important as it confirms that tendering is costly for both parties involved.

**Figure D: Public tenders in Belgian architecture per result in absolute numbers**  
How many competitions were lost in 2013 amongst G30 members' sample?

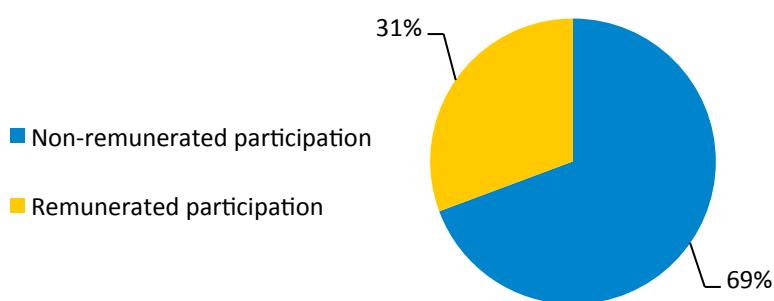


Source: G30 survey (2013)

The data extracted from the TED database can be compared with those collected by the G30 survey. We can see a **striking resemblance between the winning rates in both samples**. The average number of 6 competitors implies a winning rate of just 17% - that is close to the G30 survey data showing a hit-rate of 19%. This means that the winning rate for the under-threshold procurement is similar to that for above-threshold public procurement. Furthermore, the survey points to the fact that energy and resources are not only wasted through a high number of lost bids, but also by **procedures which are suspended**: 1 out of 12 tenders are interrupted without coming to a conclusion. As seen in Figure D, almost the same amount of hours is invested into suspended competitions as into the won ones. The pink pile represents the amount of sunk hours for lost competitions.

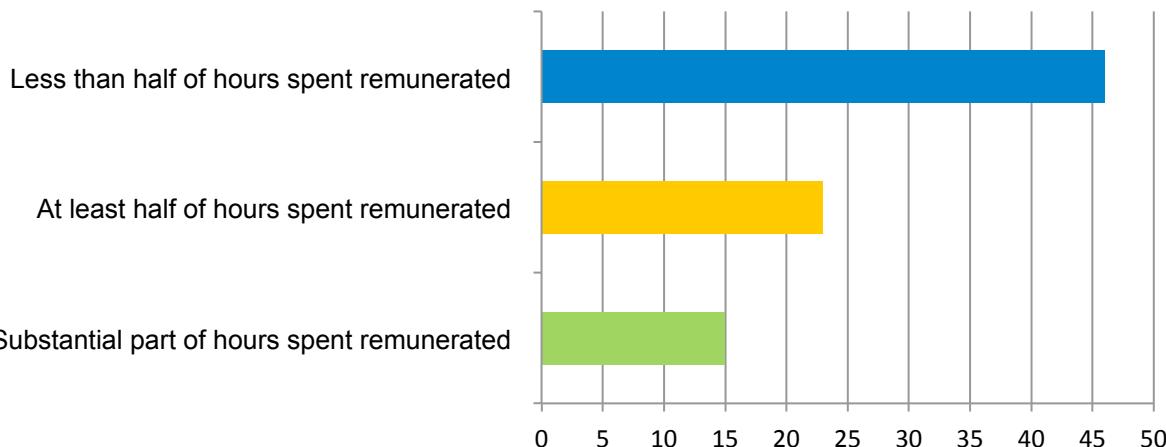
On top of this, the analysis of data coming from the G30 survey confirms that in most public procurements (**69%**) **architectural firms are not remunerated for their work**. Figure E shows the result of competitions and in how many cases architect received at least partial remuneration for their efforts.

**Figure E: Public tenders in Belgian architecture by remuneration for participation**  
In how many cases architects were remunerated for public procurement competition?



Source: G30 survey (2013)

**Figure F: Extent of remuneration if participation in case of remuneration**  
 If architects are remunerated for their participation in a public competition, in how many cases is this remuneration substantial? (i.e. at least 75% of the real time spent)



Source: G30 survey (2013)

In more than 2 out of 3 cases, architects are not remunerated for participation in competitions. If remuneration takes place, the amount provided is rather symbolic and does not really cover the work invested. Architectural firms receive a significant amount of remuneration to cover their costs of participation in only 15% of cases.

To sum up, to participate in public procurement in Belgian architecture means a lot of costs to be invested from the part of the studios, while the results are unsure. One can assume that in order to avoid risk, some studios, especially those who are competent, innovative and able to compete at the open market may re-direct their activities towards the private sector and **give up on risky and expensive public competitions**. Possible losses represented by the absence of excellent players at the public procurement market in Belgium are invaluable and this is expected to hamper the development of the Belgian creative economy.

*Recommendation to specifically address this problem:*

- *Recommendation II: Detailed design plans should be either remunerated or not required*

### Problem 3: Public procurement costs are higher than needed

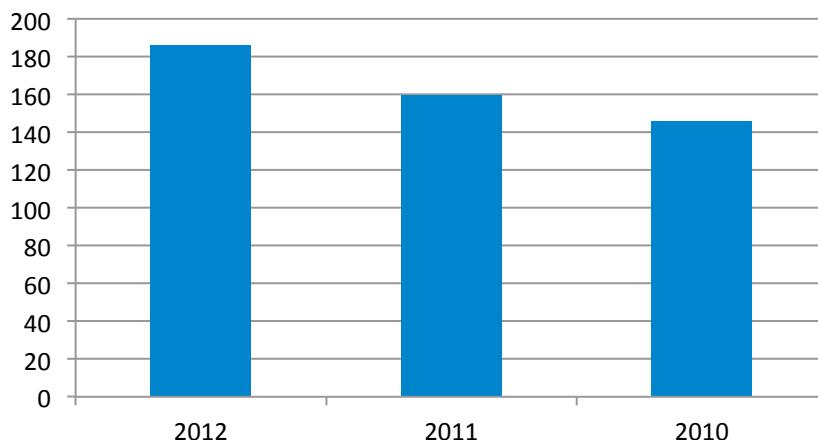
On average, **each G30 member from the sample has invested 23 627 EUR in personnel costs** in every single public procurement competition, with low percentage of remuneration. Given the fact that there are 6 participants per competition on average, it means that **one public procurement entry means about 142 000 EUR invested by architects for proposals**. The 19 architectural firms participating in the G30 survey alone lost in 2013 **4.3 million Euro in public procurement competitions** in architecture. These included also below-threshold procurement and service part of DBF and DBFO projects. This being only a fraction of the architecture scene in Belgium, we may assume that public procurement competitions costs spent by private sector are counted in millions Euro that could have been invested in a better way.

On top of that, the **average time elapsed between submission and announcement of the winner is more than half a year** and steadily growing longer. This is a major investment in terms of sunk costs, as the average value of

the service contracts in architecture vary between 0.5 to 1 million Euros. Thus, besides the direct costs expressed mostly in investment into human resources needed to prepare a proposal, **architectural firms are held in uncertainty** for about half a year and cannot plan well their work for upcoming months, awaiting large scale projects, on average valuing around one million Euro for above the threshold procurement, to come or not.

**Figure G: Average number of days for tender evaluation**

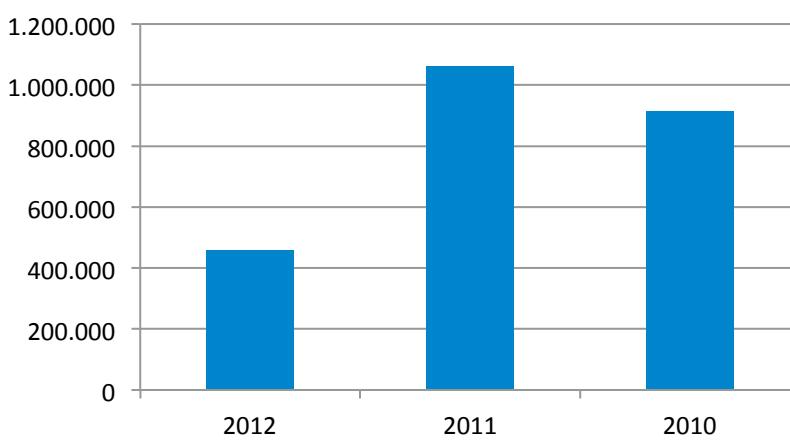
How much time did it take on average to evaluate one above the threshold bid between 2010 and 2012?



Source: TED Database (processed by Ecorys)

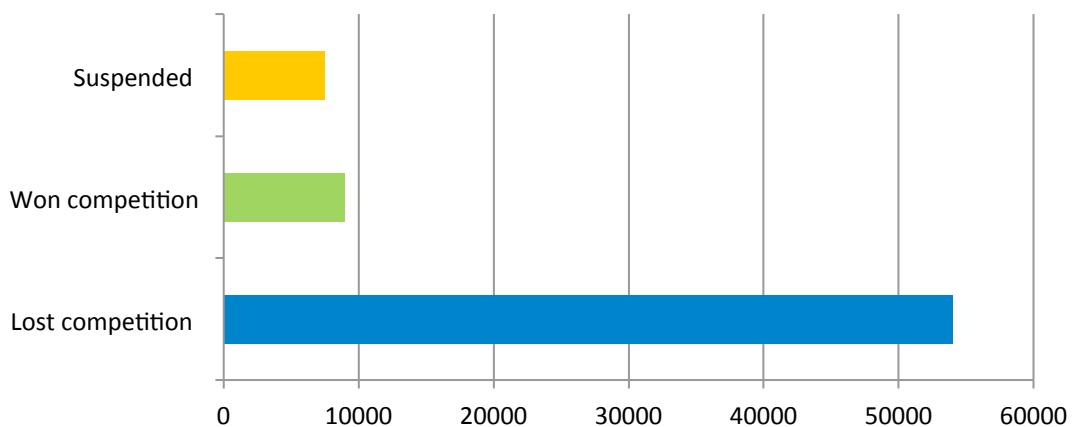
**Figure H: Average value of contracts for above the limit procurement**

What were the average values of contracts in above the threshold procurement between 2010 and 2012?



Source: TED Database (processed by Ecorys)

**Figure I: Number of hours spent for competitions in architecture per results**  
How many **hours** were sunk by preparing unsuccessful proposals?



Source: G30 survey (2013)

But efforts, time and resources are not only spent on the tenderer's side. We can assume that **costs for public authorities can be high as well**. Especially smaller (local) governments can be overwhelmed by preparing such tenders and by assessing numerous detailed proposals. This puts much pressure on the staff of public authorities, and some of them need to take recourse to external advisors and contractors to support or implement the bidding process – with **high additional costs**. Of course, each bid is assessed by multiple public servants or experts and various administrative tasks must be performed. However, for simplicity, if we assume that one public official is devoted to the assessment of tenders, this would imply an estimated average 114 working days (in a timeframe of 160 calendar days). Against a remuneration of about 55 Euro per hour (benchmark retained in the G30 survey), this would lead to a total cost of **47 142 EUR for one tender** in personnel costs only. In total and only for managing the above-the limit projects, this amounts to **1.1 million EUR per year** spent just for evaluation of above-threshold bids in architecture services by the public administrations involved. This would however only be the tip of the iceberg as it excludes the costs related to the preparation of tenders, any outside costs for advice or support and not include below-threshold tenders.

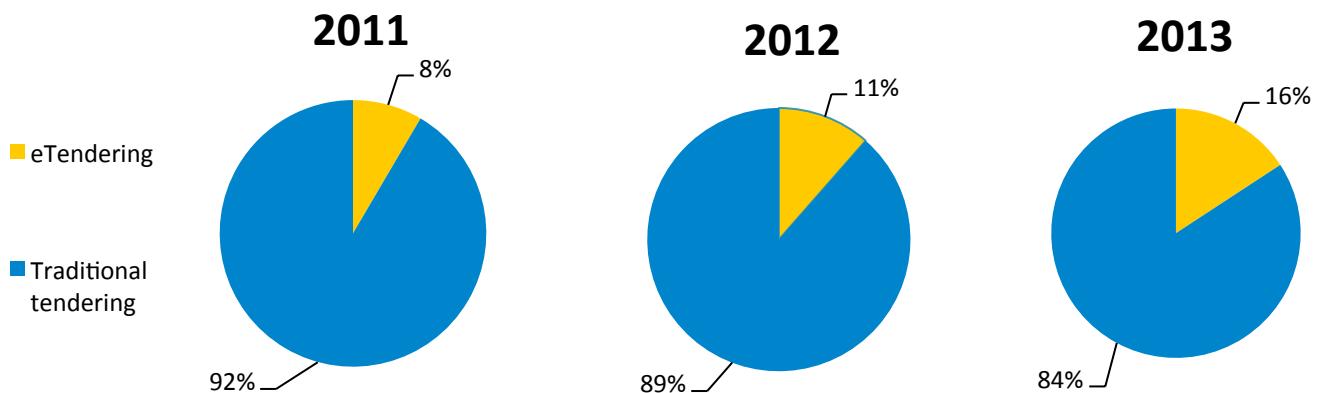
Taken together, the total personnel costs per competition would amount to 189 000 Euro – of which 142 000 for the architects and 47 000 direct personnel costs for the public administration involved. This amounts to **almost half the average of the tender value itself** (in 2012 reaching around 400 000 EUR for the above-threshold procurement).

The costs of evaluation could be decreased by various means, for example by limiting the number of tenders to be submitted or bringing down the level of detail required down the level of detail needed in proposal submitted by the studios. Another way is to use procedures including negotiations that allow for gradual elimination of participants and more natural evolution of proposal with mutual feedback. Another way is to take advantage of the existence of eTendering that allows for smooth, fast and efficient exchange between architects and public authorities while minimising the administrative burden. However, regardless its efficiency, eTendering is barely used in Belgian architecture public procurement as clearly proven in Figure H.

**Figure J:**

**Use of eTendering in Belgian architecture public procurement**

How often the Belgian authorities took advantage of eTendering in under the threshold procurement between 2011 and 2013?



Source: [www.publicprocurement.be](http://www.publicprocurement.be) (processed by Ecorys)

To summarize, we see high costs at both the sides of architectural firms and public authorities. Means how to eliminate these costs exist, however they are rarely applied. The room for improvement is more than noticeable.

*Recommendations to specifically address this problem:*

- *Recommendation IV: Use of procedures that allow for efficiency and fast evaluation*

**Problem 4: Selection criteria do not do their job**

Selection criteria are crucial for arriving at high-quality and sustainable buildings, which last long, which are energy efficient, which provide health and comfort and which are efficient to use. Some issues emerge when analysing the selection criteria in more detail. Firstly, we cannot see if the projects are assessed as the most economically advantageous in terms of costs for the architectural services, the building costs or life cycle costing of the building overall. Anecdotal evidence suggests that **a narrow view (focusing on the costs for the architectural services)** is quite common. This could lead to perverse outcomes, as it could well lead to higher building costs – not to speak of longer term life cycle costs. The British have a term for this: ‘Penny wise, Pound foolish’.

It is exactly this element which has been subject of discussion in the revision of EU public procurement law, as it forces tenderers to take part in a ‘race to the bottom’ – which puts pressures on (measurable and immeasurable) quality criteria. Furthermore, longer term costing based on **life cycle costing is not taken into account**, as only the most certain elements related to the exploitation are part of the calculations. Thus, any non-quantified aspects related to quality (including longer life time, increased comfort, aesthetics, energy performance, etc.) are not or only partially taken into account. However, they tend to be difficult to operationalise into an objective comparison and therefore not as widely used in practice. Therefore, the price criterion still remains the most common and powerful selection criterion – again providing few incentives to high-quality designs promoting longer term and sustainable use.

*Recommendations to specifically address this problem:*

- *Recommendation V: Clear and stable terms and criteria defined at the beginning of each tender*
- *Recommendation VI: Life cycle costing as a benchmark for sustainability and innovativeness*

## Best practices from across Europe

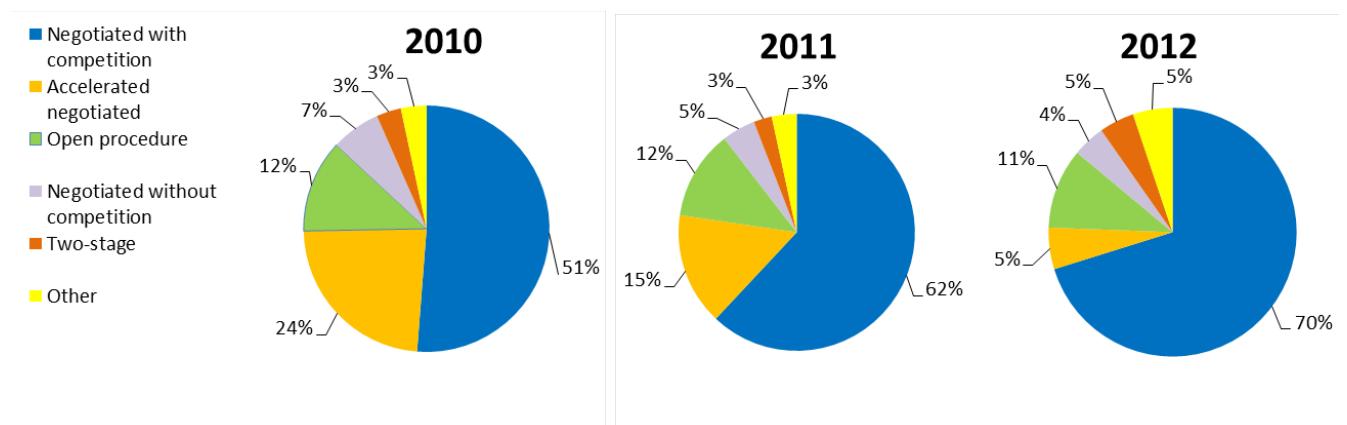
As outlined in the previous chapter, the Belgian system of public procurement in architecture allows for quite some improvement. For inspiration on how to do so, we may look closely at public procurement systems in architecture in European countries with a long tradition and functioning and efficient processes. These are France and Germany that use quite different but in both cases a well-performing mix of procedures. But there is some learning possible within Belgium as well.

### Learning from abroad: the case of Germany

In Germany, the basis of any competition is clearly defined and simple **design concept** that is needed in order to enter the architectural competition. Later in the process, negotiations take place in order to gradually eliminate contestants and find the winner. The German system is known for its clear conditions, well defined criteria and **strict procedural rules**. On top of that, the hourly price of remuneration of the winner who will accomplish the project is fixed and often also number of hours needed to the commission and set up by the authority. Thus a danger of the price 'run to the bottom' is largely eliminated and the idea and concept matter in the competition.

**Figure K: Public procurement in Architecture – Procedures in Germany**

Which types of procedures were used in Germany above the threshold procurement between 2010 and 2012?



Source: TED Database (processed by Ecorys)

As seen in Figure K, **different types of negotiated procedures**, with competition or accelerated, **prevail**. Compared to Belgium, the variety of the mix of procedures is much higher and the fully open procedure, so popular in Belgium, is rarely used in the case of Germany. In general, negotiated procedures allow for innovation and do not

require a detailed proposal from participants in the early stages of contest. As a result, costs recorded by both architectural firms and public authorities are low, while the process brings satisfactory results in terms of quality. As would be expected in a large country as Germany, the average number of participants entering the competition is higher than in Belgium and amounts to 9 on average. This is however not seen as problematic as the initial participation in a design concept is simple and does not require high costs to be invested by studios. Also, since participants are eliminated gradually, public authorities do not have to invest enormous costs to evaluation. Furthermore, the whole process is in general clear and transparent.

*Recommendations that are inspired by the German practice:*

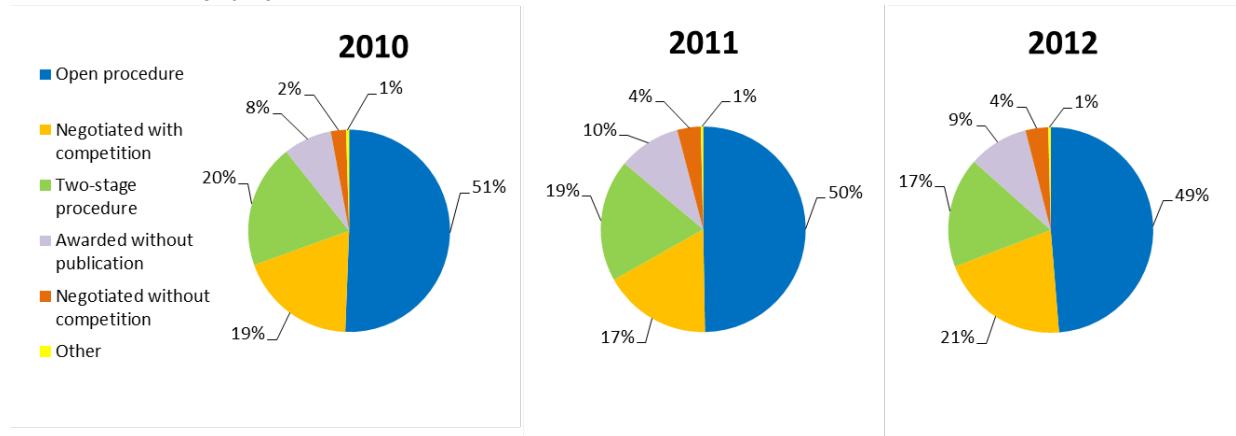
- *Recommendation I: Increased clarity and stability of the procurement process*
- *Recommendation IV: Use of procedures that allow for efficiency and fast evaluation*
- *Recommendation V: Clear and stable terms and criteria defined at the beginning of each tender*

#### Learning from abroad: the case of France

A slightly different strategy is applied in France. Firstly, it should be noted that **design contests have been mandatory** for all new public buildings above a defined threshold since 1980. A second decree approved in 1988, obliges the French competition organisers to **compensate the candidates for a minimum of 80% of the value of the assignment carried out** for the service provided. Because of this decree the competitions organised in France are often restricted and invite 3 to 5 teams generally accepted. The frequent use of two-stage procedure as well as negotiated procedure is captured in Figure K. Even if the procedure described as open, anecdotal evidence shows that often some type of pre-selection in order to select a limited number of those who will be eventually almost fully remunerated for participation.

**Figure L: Public procurement in Architecture – Procedures in France**

Which types of procedures were used in France above the threshold procurement between 2010 and 2012?



Source: TED Database (processed by Ecorys)

Some criticism has been recorded within the French system as well, notably that the pre-selection phase where references of similar projects usually matter, close different market segments only to a limited number in incumbents. This problem has been however tackled in recent years thanks to efforts of public authorities to include young architectural firms in the final sample of remunerated participants to bring more diversity and give a chance

to talented new architects. In any case, the French system is also known for its clarity and well defined criteria of both stages of the selection process.

*Recommendations that are inspired by the French practice:*

- *Recommendation II: Detailed design plans should be either remunerated or not required*
- *Recommendation III: Bring back design contest to allow for high quality design Increased clarity and stability of the procurement process*
- *Recommendation IV: Use of procedures that allow for efficiently and fast evaluation*

### **Learning from the UK and France: Monitoring quality and excellence**

In order to help improve the quality and efficiency of the procurement process, independent bodies or special functions designated to screen and evaluate the procurement process exist in different European countries. Their goal of such bodies or functions is to assess the "quality" of calls and procedures therein against rules of good practice and sustainability objectives.

In France, for example, the Mission Interministerielle pour la Qualité des Constructions Publiques exists since 1977. Its task is to process different practices in France and abroad related to public constructions, initiate reflection and participate in elaboration of relevant texts (codes of public markets, partnership contracts). It assists and advises the procurement process by publishing recommendations or helping to ensure qualified juries in design competitions.

In the UK, a Procurement and Commercial Services Department has been formed under the office of The Crown Prosecution Services. As a part of its mission it provides a centre of excellence and source of information about procurement & commercial issues, publish strategic & operational guidance and best practice and to develop appropriate operational/information systems and procedures.

To create a designated body or a function is demonstrably a solid part of public procurement practices in western European countries with a long-standing tradition in construction. It has proven to be an efficient way how to keep an eye on the quality of the procurement process and constantly work on its improvement. We may assume that a similar type of independent body could do a good job also in Belgium.

*Recommendations that are inspired by the quality and excellence bodies in France and the UK:*

- *Recommendation VII: Monitoring of quality and excellence via an independent body*

### **The EU offers a better way too**

The EU recently introduced concepts that make public procurement efficient and that have a positive impact on the sustainability of the built environment and that promote innovation. **Green public procurement rules**, as a part of the Public Procurement reform, include a horizontal clause relating inter alia to environmental requirements,

provisions on the use of environmental labels, and the option to take account of environmental factors in the whole production process and a life-cycle costing approach.

The important feature is the **focus on life-cycle costing**. This notion of life-cycle costing includes all costs over the life cycle of a works, supplies or services contract. This means internal costs as well as costs related to environmental factors. The internal costs include costs for research and development, production, transport,

consumption of energy, maintenance and end-of-life disposal. On the other hand, the cost of environmental factors mean externalities that may include for example the emission of greenhouse gases, pollution caused by the extraction of raw materials used in the product or caused by the product itself or its manufacturing.

Life cycle costing has a **positive impact also on innovation**. Since all procedures may take account of the total life cycle cost of purchases when tenders are being evaluated, thus innovative bids may be awarded more points in the light of their long-term financial benefits. The value of innovation lies in the improved results it achieves. An innovative solution will be more attractive because of its higher quality and/or more competitive price. It will optimise

public service operation by integrating new processes, technologies or materials. By taking into consideration the newest concepts of public procurement, both architects and public authorities will benefit. This is thus a '**win-win' game**. Life cycle costing will enable architect to focus on high-quality projects and innovative solutions, while the Belgian public will benefit from sustainable buildings and costs saved in the long run.

*Recommendations that are inspired by EU policy:*

- *Recommendation V: Clear and stable terms and criteria defined at the beginning of each tender*
- *Recommendation VI: Life cycle costing as a benchmark for sustainability and innovativeness*

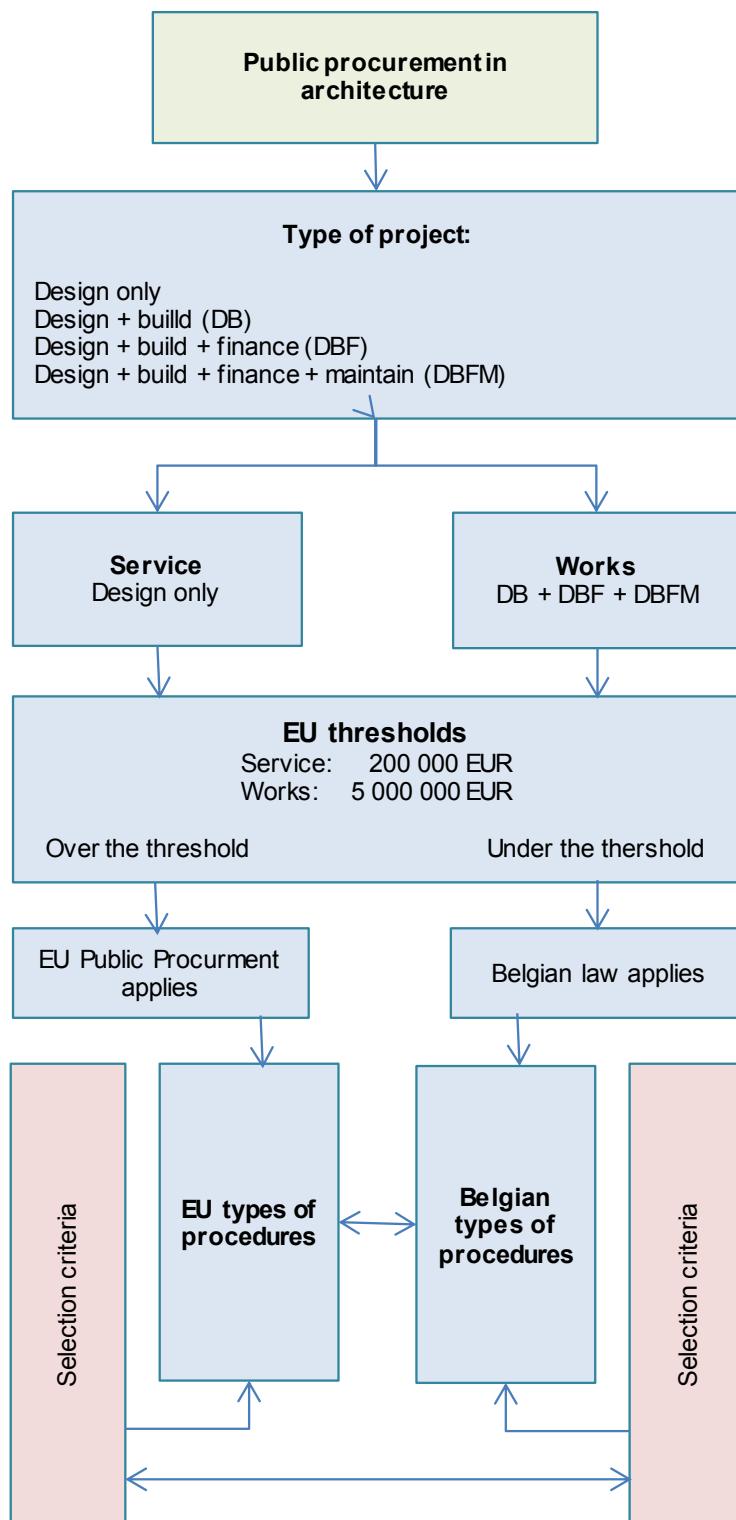
#### **Now is the moment to act**

It should be noted that the current revision of the EU Public Procurement Directive, as mentioned in the first chapter, gives Belgium new tools how to decrease administrative burden, support innovation and increase sustainability of the public buildings stock. Thus, at this very moment, Belgian authorities have a chance to implement a support to numerous new elements increasing the efficiency of its procurement system in architecture.

The new EU rules encourage authorities to use more negotiated procedures that are now simplified and allow for an active dialogue between the contracting entity and contender. Newly, public authorities will be able to base their decision **solely on the best life cycle cost** of the goods offered or used in the project. Here, the CO2 footprint of products used could be used a decisive factor. A brand **new procedure called “Innovation partnership”** is created in order to purchase of innovative services. In this procedure public purchasers select partners on a competitive basis and have them develop an innovative solution tailored to their requirements. Both of these options **should be fully exploited by the Belgian public authorities**. As the last point it should be noted that eTendering, currently barely used in Belgium, is becoming gradually mandatory towards September 2018. It could be made even more efficient by making use more frequently of E-Certis, a free, an on-line information system for companies and contracting authorities on certificates most frequently requested in procurement procedures across the EU.

To sum up, Belgian public authorities at all levels of governance, with full respect to their dedication to public procurement in architecture, can still learn from abroad and could in the future use more of the options offered by the EU in order to make the selection of the best designer for the Belgian public buildings stock as smooth and efficient as possible – and thus contribute to a high-quality and sustainable building environment.

## Annex I. Public procurement process



## Annex II: EU and Belgian Public Procurement procedures

EU law	Belgian law
<b>Open procedure</b>	<b>Open procedure</b>
Those procedures whereby any interested economic operator may submit a tender. The most basic and most used procedure.	<i>Procédure ouverte/open procedure</i> – where every interested entity may issue an offer and where opening sessions are public.
<b>Restricted procedure</b>	<b>Restricted procedure</b>
The procedure is broken down in two steps. First, a pre-selection of candidate tendering firms is made; After this, the selected candidates are then invited to submit an offer.	<i>Procédure restreinte/beperkte procedure</i> – where every interested entity may express interest and where only selected candidates may issue an offer and where opening sessions are restricted to those issuing a tender.
<b>Negotiated procedure (with or without prior notification)</b>	<b>Negotiated procedure (with or without prior notification)</b>
It means those procedures whereby the contracting authorities consult the economic operators of their choice and negotiate the terms of contract with one or more of these. Negotiated procedures may only be used in certain specific situations described in the Directive	<i>Procédure négociée/onderhandlingsprocedure</i> – where the contracting authority consults with one or more selected candidates about the conditions of a tender or where every interested entity may express interest and where only selected candidates are consulted about the conditions of a tender.
<b>Competitive dialogue</b>	<b>Competitive dialogue</b>
A procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements.	<i>Dialogue compétitif/concurrentiedialoog</i> - Where every interested entity may express interest to take part and where selected candidates have a dialogue with the contracting authority about one or more solutions and where these candidates are then invited to issue an offer.
<b>Design contest:</b>	<b>Design competition</b>
It means those procedures which enable the contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes.	<i>Concours de projets/ontwerpwedstrijd</i> - A procedure which aims to provide a plan or design for the contracting authority and which is selected by a jury
<b>Promotion contract of works</b>	<b>Promotion contract of works</b>
Defined in the Utilities Directive. Mostly used for DBF procedures where all design, build and finance phase are included.	<i>Marché public de promotion de travaux, promotieopdracht van werken</i> – where financing and implementation of works as well as ancillary services are procured (e.g. DBF)
<b>Concession for public works</b>	<b>Concession for public works</b>
Defined in the Utilities Directive. Mostly used for DBFM procedures where all design, build and finance phase are included and the contractor is later also managing the building or construction for agreed period of time.	<i>Concession de travaux publics/concessie voor openbare werken</i> . As promotion contract of works however compensation consisting in whole or in part of the right to operate (e.g. DBFM)