

Rethinking Customs' procurement practices to deliver improved business outcomes

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Abstract

This paper draws attention to the need to rethink the traditional procurement practices used in the public sector and, in particular, by customs agencies. It poses three questions: Are customs agencies today getting optimal value in procuring goods and services from the private sector? Can collaboration be improved between the private sector and the customs agencies and amongst customs agencies themselves with respect to procurement? What can be learned from the private sector – what fundamental innovations exist and how can they be applied to the way Customs approaches procurement? After examining current procurement practices and identifying their inadequacy, the paper proposes that a comprehensive review be carried out to evaluate the efficacy of current Customs' procurement practices, with a view to developing best practice recommendations and designing a new practice for consideration by the World Customs Organization (WCO) and its Members as operating guidelines.

Purpose

The purpose of this paper is to challenge the way that customs agencies currently carry out procurement practices within the constraints of general public procurement rules and regulations with a view to creating a basis for dialogue on the specific nature of the challenge and need for change with customs agencies taking the lead in a wider public sector debate. It is suggested that the World Customs Organization (WC) is best placed to create the forum and opportunity for this dialogue which should also include the private sector suppliers of systems and services as we move forward towards new levels of operational efficiency, trust and collaboration.

Why should customs agencies examine current procurement practices?

In today's difficult fiscal environment, where customs agencies must balance financial constraints with effective operations, Customs needs to ensure that maximum value is derived from purchases it makes. It has been suggested that the global customs community is spending significantly more time, effort and cost on procurements, especially information technology (IT) procurements, than it needs to as a result of outmoded and rigid procurement practices.¹ In this respect, some serious questions need to be asked:

- Are customs agencies today getting optimal value in procuring goods and services from the private sector?
- Can collaboration be improved between the private sector and the customs agencies and amongst customs agencies themselves with respect to procurement?
- What can be learned from the private sector – what fundamental innovations exist and how can they be applied to the way Customs approaches procurement?

The historical approach to public sector procurement, which has more to do with transparency of spend rather than effective competition or return on investment (RoI), should be examined to establish whether it remains a valid approach for current and future spending within Customs. While many private sector organisations embrace a similar set of procurement fundamentals as the public sector, there is generally one fundamental difference: their purchasing is more focused on maximising the RoI. Shareholders have little patience for failed programs and poorly spent resources and those responsible (corporate leadership and vendors) normally pay the price. These ‘market controls’ are not nearly as robust in the public sector, leading to the first major challenge with public procurement – it is normally more focused on the control process rather than the outcome achieved. What may be even more worrying is the very distinct prospect that although almost all customs agencies will know the amount of money they spend on procurement, few may actually be in a position to know how much of that spend relates to programs and projects directly attributable to the achievement of specific business outcomes.

In general, customs agencies strive to design and deliver solutions to address the challenges posed by the ever-changing global regulatory environment. Today, this invariably leads to IT which is simply not the core competency of the public sector. Thus, Customs look to procurement in order to obtain that which is required in support of the agencies’ mandate. Common objectives of IT-related procurement initiatives include:

- improved service speed and quality
- access to new skill sets, tools and methods
- cost reduction and revenue enhancement
- organisational change/business transformation
- compensation for the inability to hire specialist staff directly
- improved management discipline, measurement and transparency
- capital investment rather than expense spending.

Despite complicated and bureaucratic public procurement rules and related tenders, competitive bidding by vendors, multi-dimensional scoring methodologies and countless other procurement practices, today’s procurements rarely live up to expectations. Lengthy procurement processes, cost overruns, implementation delays and dissatisfied customers and vendors is all too often the result. Perhaps it is time to address ‘how’ customs agencies go about securing the goods and services required from the international vendor community with a focus on measurable results. After all, at the end of the day, Customs must determine if spending on procurements has delivered results in the operational environment and to its multiple stakeholder groups, including government, the trading community and society at large.

By focusing the procurement on outcomes, and contracting the private sector to achieve outcomes, the customs agencies are able to (a) share the risk of achieving the outcomes with the private sector, (b) align the incentives with its private sector provider, (c) improve its business outcomes based on private sector experience, and (d) optimise the incentive of the private sector to ‘put its skin in the game’.

How do customs agencies take advantage of their collaborative environment?

The customs environment is, on the one hand, highly collaborative with institutions such as the WCO and agreements, instruments, policies and procedures designed to harmonise that environment. One need only look as far as the shared instruments that underpin modern customs operations (for example, ACV, HS, Kyoto) to find countless examples. On the other hand, in the area of procurement this collaboration is limited if existent at all. Customs agencies do not share their procurement practices, there is no pooling

of the collective learning to improve the overall approach to procurement, and rarely do customs agencies share systems, despite the fact that they are based upon enforcing essentially the same rules and policies. Consequently, the standards and approaches to procurement taken by individual customs agencies vary as greatly as the respective results achieved by each. This hampers modernisation efforts and limits the ability to harmonise delivery and take advantage of market innovations such as emerging technologies and solutions.

A prime example of this dilemma is the functioning of the European Union (EU) Customs Union which has developed to a point where the cost of the IT spend centrally and nationally is now at questionably unsustainable levels. The EU's Minimum Common Core (MCC) implementation alone has been estimated to cost in excess of €1.5 billion, much of which will be IT spend. At the heart of the modernisation efforts in the MCC and individually within MS administrations is IT development; using smarter systems with more capabilities to help make EU Customs more effective. Nevertheless, the EU Customs Union continues to be burdened with the legacy of 27 different national and disparate systems with the European Commission's Customs Service (DGTAXUD) providing the central reference data facilities.

What are the current challenges and shortcomings of procurement in customs agencies?

Procurements tend to be lengthy, bureaucratically driven, focused upon detail and very difficult for purchasers and providers to navigate. The traditional contracting paradigm for a large-scale program involves the customs agency defining its requirements in significant detail over an extensive period (for example, 6-12 months); the private sector responding to the requirements in one or more stages (for example, 2-6 months); the customs agency evaluation of detailed responses (for example, 3-6 months) and formal contract negotiations (for example, 3-6 months). Hence the duration between the decision to buy and the contract award is rarely less than 14-24 months. In short, the traditional procurement paradigm allows Customs to purchase – but not yet implement – what was specified two years prior, not what it needs now.

This contracting paradigm is fraught with issues which include inbuilt obsolescence, insufficient flexibility, restriction of innovation, ambiguous communication and higher than necessary cost. Common shortcomings of today's procurements include:

- led by technical, not business experts
- clear on purchase intent but not on strategic intent
- often isolate the procurement from business and organisational strategy
- rely heavily on internal design and specification
- separate the design and build elements
- do not engage suppliers in effective upfront dialogue
- ineffectively apply cost-effectiveness
- initial purchases which rarely reflect what will eventually be delivered.

Unrealised business benefits. Technology itself normally does not disappoint. Rather it is how the technology is designed and configured to operate and interact with human resources that so often makes it unfit for purpose or simply fails. Design is often undertaken by technical teams within the organisation often with limited dialogue with other internal and external stakeholders. This is often done as Terms of Reference (TOR) that serve to define the procurement/tender. The public sector is not known for its expertise in the systems design space and should always seek outside assistance in this area. Without the right design expertise the risk is that the solution being sought may not reflect the business needs or

the delivery realities involved. If this is implemented as a final product, it may not be suited to the way frontline staff operate nor reflect the organisation's required business outcomes. All too often IT systems come to reflect and institutionalise outdated processes and approaches rather than be an enabler of process optimisation, performance improvement and fundamental change to the way Customs does business. Typically, the procurement process excludes commercial providers (that is, vendors) from constructive dialogue – they often get presented with a worked-up specification without sufficient involvement to help design the best solution to fit the business needs. Within the context of procurement TOR, vendors are reluctant to submit a 'non-compliant' bid and respond to the TOR as set out, despite any inherent design flaws. The effect is obvious – the customs agency does not gain access to market innovations.

Cost vs value. The approach to procuring the 'economically most advantageous solution', (usually meaning lowest-priced tender wins), is laudable but in reality leads to a 'race to the bottom' in which providers compete to offer the lowest price. The commercial reality of this is that the scope of vendors' offers is reduced, additional services are removed and the initiative is stripped down to the minimum quality level acceptable to meet the specifications. The process is also greatly affected by the fact that customs agencies tend to set out detailed specifications and direct suppliers to tender for delivering a defined product and not the business outcomes sought. Open-ended tenders specifying outcomes and not technical requirements would lead to a greater focus on the end product and not the price.

Systems vs capability. All too often, procurements are focused on purchasing a new system with the assumption that a new piece of software 'inserted' into the organisation will address all of the agency's problems, deliver efficiencies and be the answer to all that ails Customs. Customs should instead be focused on purchasing the capability, and procurements should merely be a mechanism to obtain those capabilities they do not possess internally or where they are deficient. This literally translates into skilled people that can, inter alia, develop strategy, conduct business analysis, document and redesign processes, provide training and effectively become the organisation's engine for future innovations. Vendors are world class in this area but the problem is when the project is over they leave and take this capability with them. Procurements should be structured so that these skills and knowledge are transferred to the customs agency.

Lack of innovation. Innovation is at best hampered and at worst lost in the current procurement paradigm. As noted previously, customs agencies operating and procuring in isolation from each other and from the eco-system of the suppliers' ring, fence innovations within individual projects. Lessons learned and innovations from one program are not transferred to others as each individual customs agency 'invents its own wheel'. This lack of collaboration inhibits the ability to influence the market to spark innovation as customs agencies acting in isolation have a markedly lower impact upon suppliers than the global or even regional customs community acting in concert. Were the customs community to rethink its approach to procurement and work more collaboratively, the commercial market would likely react more dynamically.

Implementation problems and delays. Often the initial purchase by customs agencies does not come close to reflecting the final implementation. This is a direct result of the rigidity of the initial tender and preconceived design elements. Actual detailed solution design should be a part of implementation not precede contract award. After the customs agency agrees a winning bid, the process of design and development begins again with a supplier who may have little influence on the design, and who is likely to cut their bid down to its bare bones to win the tender, now having to work to determine how to build a system that will meet its needs. This involves rework of design, the realisation in many cases that the design may not actually meet the business needs, and then development processes that are slowed due to the agreed bid having removed, for cost reasons, elements which soon turn out to be critical. In many cases significant problems occur when the first test elements are built and it becomes clear that the system does not work with frontline processes. The consequence of all of this is that implementation is repeatedly delayed, cost creeps up and the scope of the work expands.

Conclusions

It is time to take a hard look at the current procurement practices of customs agencies to examine the extent to which it is fit for purpose given the innovations that exist in the marketplace today. There is no definitive, one-size-fits-all solution to the challenges and shortcomings in the procurement environment, however it is time to begin focusing on more innovative and less costly possible solutions.

A comprehensive review is needed to evaluate the efficacy of current Customs' procurement practices with a view to developing best practice recommendations. This would involve examination of current practices in procurement and the design of a new practice for consideration by the WCO and its Members as operating guidelines. The study should also determine the constraints and limitations of the current practices, include an impact assessment and cost benefit analysis for each of the models proposed. This study should engage extensively with customs agencies, and product/service providers inside and outside of the customs community, to seek out, understand and evaluate best practices. Outcomes of this endeavour could include (a) a single coding standard for classifying Customs' spend, (b) a model for collaborative purchasing, (c) a tool for product/solution assessment and reporting, and (d) the creation of a collaboration portal where customs agencies can share design artefacts and other procurement-related assets. This would allow customs agencies to learn from each other's experience, standardise their procurement processes and ultimately take the lead in driving innovation collaboratively with suppliers in the industry. The WCO itself is best positioned to initiate this program and should seriously consider doing so.

Note

- 1 'Present approaches to procurement within the global Customs Community are outmoded, costly, time consuming and do not take into account innovations that already exist in the marketplace', *Border Management Modernization Handbook* 2011, World Bank, Washington, DC, Chapter 9.

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