

THE REGULATION OF TENDERS: THE POSSIBLE COSTS OF DISCRETION

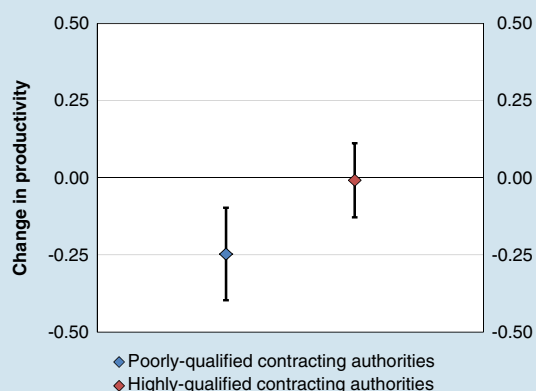
Negotiated procedures give contracting authorities greater discretion in awarding a contract, enabling them to consult with one or more economic operators and negotiate the terms of the tenders with them. We analyse the effects of this greater flexibility by comparing the characteristics of successful bidders before and after the change in legislation in 2011,¹ which made it easier to use negotiated procedures for the execution of public works.²

Using data on calls for tenders by Italian municipalities in the period 2009-13, the analysis shows that greater discretion was associated with a reduction in the average productivity of successful bidders (measured in the year prior to the awarding of the contract).

This has negative effects on allocative efficiency as it directs public funds to firms that are structurally weaker. The worst allocations are all observed among the 'least qualified' contracting authorities (see the figure),³ for which greater discretion was also accompanied by an increase in tenders awarded to firms with a local politician among its shareholders or directors.

More broadly, the analysis shows that the increase in discretion was associated with a decrease in the transparency of the procurement system: there was a reduction in the share of tenders for which firms complied with the reporting obligations relating to the execution phase of the contract (e.g. the final costs of the project).

The effect of greater discretion on the productivity of successful bidders (1) (index)



Sources: Based on data from Telemat, Cerved Group and the Ministry of the Interior.

(1) The figure shows the point estimates of the effect of the greater discretion introduced in 2011 (see footnote 1 of the box) and the corresponding confidence interval (90 per cent). These are shown separately for contracting authorities with a qualification index (see footnote 3 of the box) below and above the median (left- and right-hand side respectively). Productivity is measured as the ratio of value added to labour costs in the year prior to the awarding of the contract.

¹ Article 4 of Decree Law 70/2011, converted by Law 106/2011.

² A. Baltrunaite, C. Giorgiantonio, S. Mocetti and T. Orlando, 'Discretion and supplier selection in public procurement', Banca d'Italia, Temi di Discussione (Working Papers), 1178, 2018.

³ Qualification levels were measured by aggregating the following indicators: educational attainment of the local officials and staff; degree of specialization of the offices in charge of procurement, approximated by the size of the municipality; transparency of information reporting, defined as the share of tenders awarded prior to the reform for which the information relating to the execution of the contract was sent to the competent authority; and corruption risk, estimated by combining measures of the frequency of offences against the public administration, of perceived corruption, and of trust in local government institutions.