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**CONSIGLIO NAZIONALE
DEGLI ARCHITETTI
PIANIFICATORI
PAESAGGISTI
E CONSERVATORI**

**Consiglio Nazionale degli Architetti,
Pianificatori, Paesaggisti e Conservatori
Italian National Board of Architects, Planners,
Landscape Architects and Building Restorers**

**ARCHITECTURAL AND
ENGINEERING SERVICES
GOALS ACHIEVED AND TO
ACHIEVE**



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Department of Public Procurement and Architectural Design Competitions

*Chair: Rino La Mendola
Secretary: Raffaele Greco*



Architectural and Engineering Services Awards

Ordinary Procedures

ART. 91 CODEX

**Estimated Amount
< 100.000 €**

Negotiated Procedure (*art. 57 Codex*)

- at least 5 invitations
- Institution of a trusted list or publication of a request of expression of interest

**Estimated Amount
=> 100.000 €**

Open procedure

- Public auction
- Publication on G.U.R.I. or on O.J.E.U. for amount <math>< o ></math> than treshold

**Particular architectural,
historical, artistic,
environmental interest**

Architectural design contest
(*articles. from 99 to 110, Codex*)

Economy Award Procedures

ART. 125 CODEX

**Estimated Amount
< 40.000 €**

Direct award

- Institution of a trusted list or publication of a request of expression of interest

**Estimated Amount
> 40.000 €
< community treshold**

Piecework award

- at least 5 invitations
- Approval of a rule book on economy award procedures and institution of a trusted list or publication of a request of expression of interest

A.N.A.C. Autorità Nazionale Anti Corruzione

Italian National Anti-Corruption Authority

Independent commission inspect to verify :
(also with the help of the Italian Finance Police Corp)

- **compliance with the principles of cost effectiveness, efficiency, timeliness, transparency and fairness of tendering;**
- **the economic and efficient execution of contracts and compliance with competition rules in individual tendering procedures.**

MAIN PROBLEMS RAISED TO ANAC (National Anti-Corruption Authority)

- ➔ Too much discretion of contracting authorities in calculating the amount of the budget to be placed in the tender**
- ➔ Excessive rebates, especially when the criterion of the “lowest price” is chosen**
- ➔ Market closed to young people by the policy of technical and economical requirements**
- ➔ Participation in competitions closed to professionals capable of producing quality but missing technical and organizational requirements**

Main problems raised to ANAC

(National Anti-Corruption Authority)

And dealt with the issue of

Resolution n. 4 of February 25, 2015

**Guidelines for the awarding of
architectural and engineering services**



ANAC

Autorità Nazionale Anticorruzione



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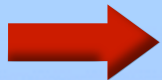


PROBLEM N. 1

Calculation of budget of tenders for Architecture and Engineering Services



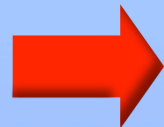
DL 223/2006, converted in L 248/2006 and **DL 1/2012**, converted in L 27/2012



Abolition of Professional Fees



No mandatory references in calculation of the budget to put in tenders of A.E.S.



CALLS WITH GRADUALLY INCREASING UNDERESTIMATED AMOUNTS OF BUDGET



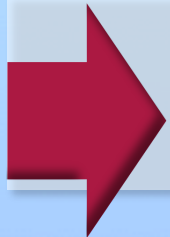
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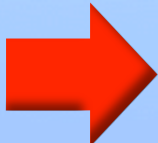
PROBLEM N. 1

Calculation of budget of tender for Architecture and Engineering Services

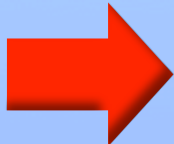
Confusion due to an overlap of rules



art. 5 of L 134/2012 overlaps with **art. 92, comma 2**, of the **Codex**:
The fees referred to in paragraph 3 (*inter-ministerial decree fees*) may be used by contracting authorities as a reference for determining the amount ...



**HUMILIATION OF THE DIGNITY OF THE PROFESSIONS AND
DECLINE OF THE QUALITY OF PROFESSIONAL SERVICES**



**RISK, FOR CONTRACTING AUTHORITIES, TO USE
INCORRECT PROCUREMENT PROCEDURES**





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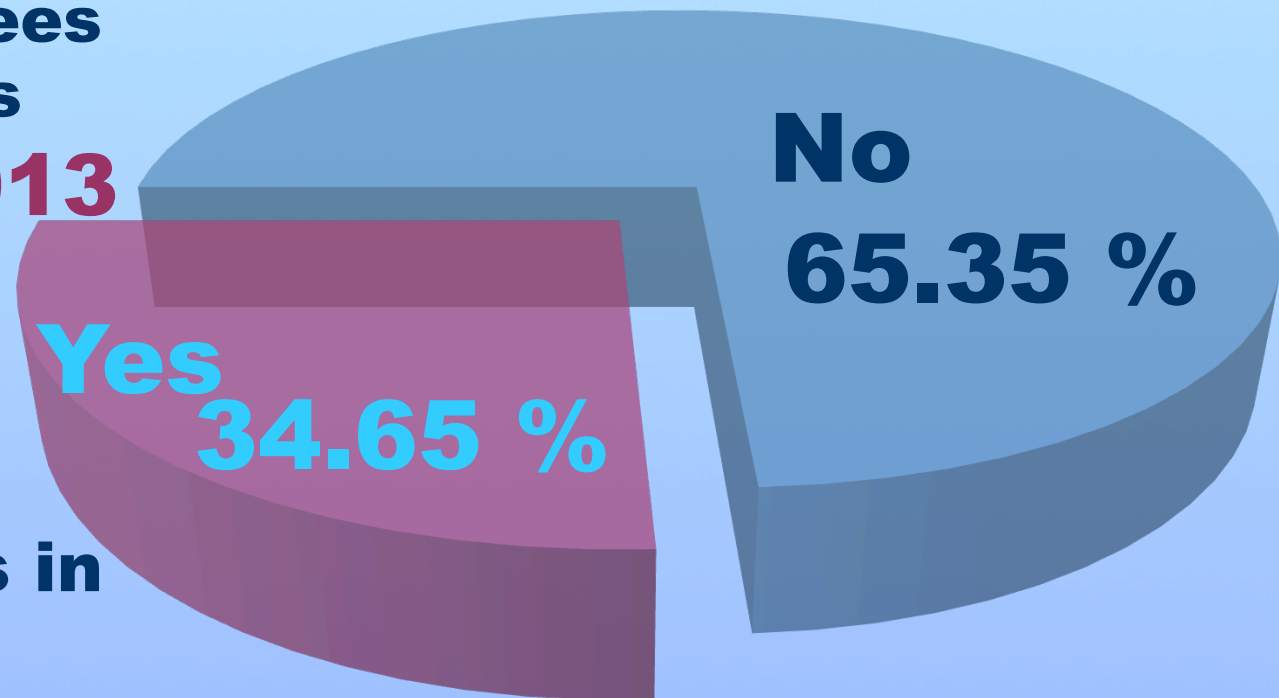


PROBLEM N. 1

Calculation of budget of tenders for Architecture and Engineering Services

Use of new fees parameters

DM 143/2013



total of calls in
2014



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PROBLEM N. 1

Calculation of budget of tender for A.E.S.

ANAC "Guidelines"

Obbligation for Contracting Authorities:

- to calculate the budget to be put out to tender by strictly applying DM 143/2013 fees in both A.E.S and Integrated Procurement
- to explicit in the contract documents or in the invitation letter the calculations carried out for the determination of the aforesaid compensation



Excessive Rebates in A.E.S. awards

LOWEST PRICE CRITERION

Excessive rebates

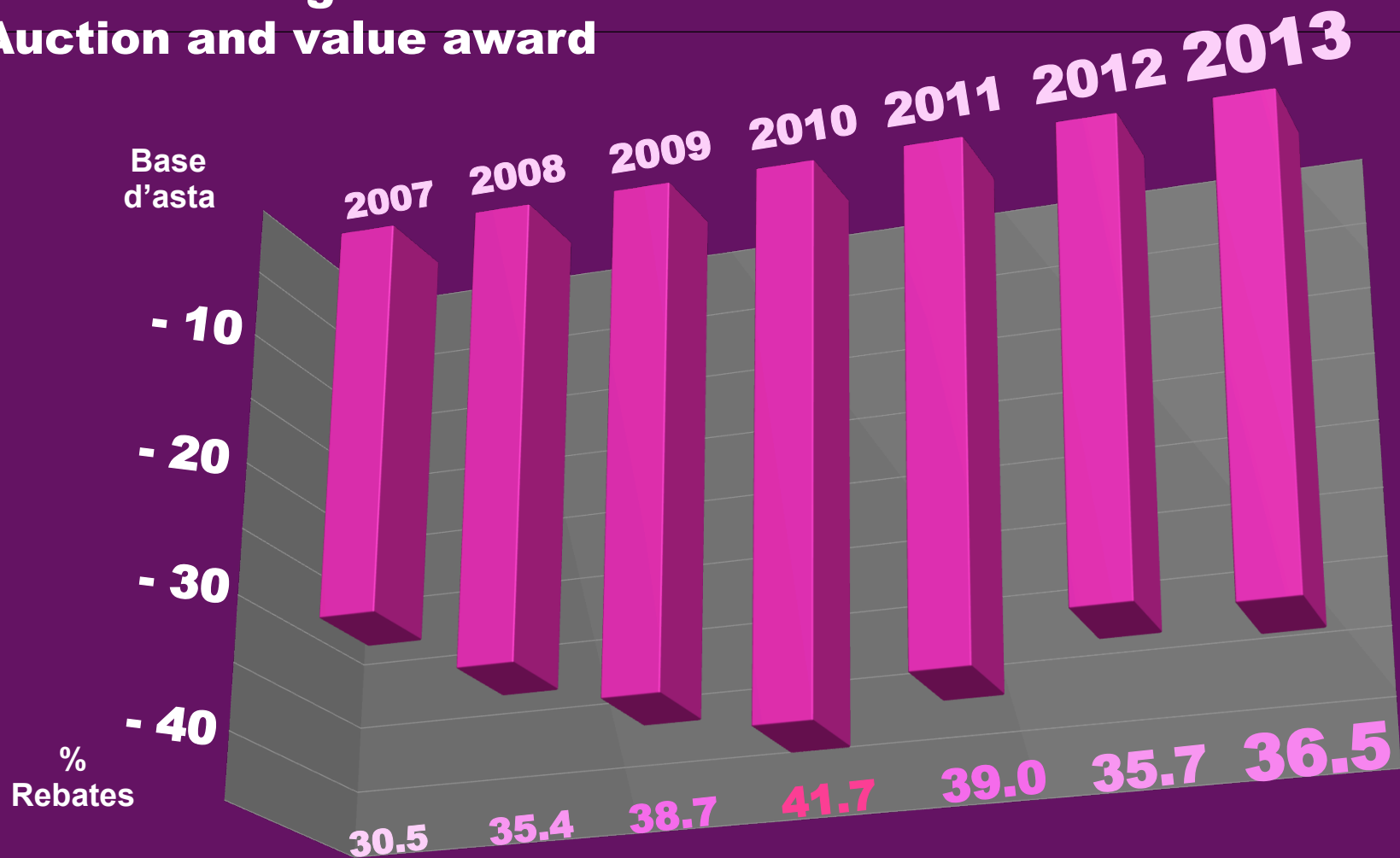
**Poor quality of
professional services**

Variants during construction

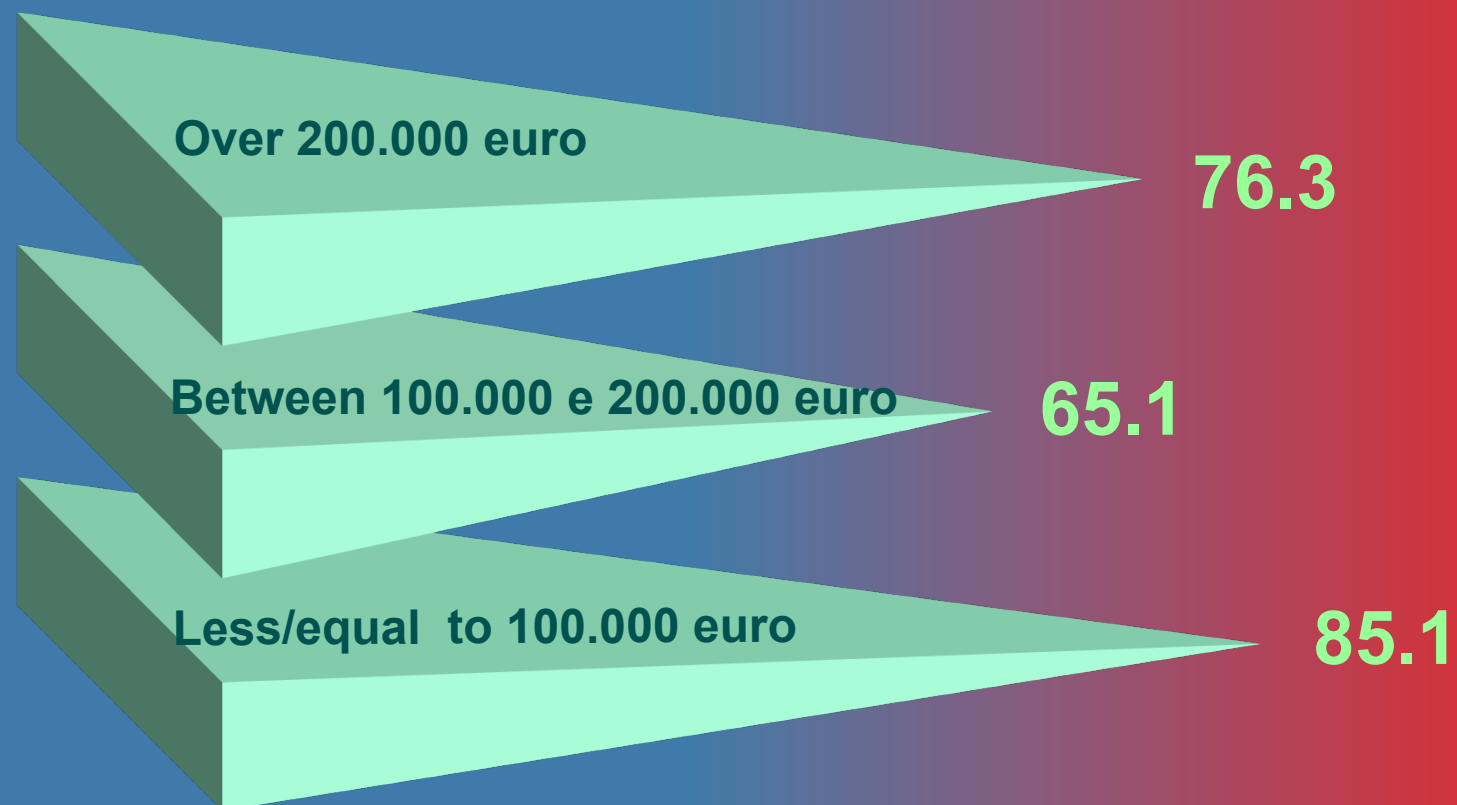
Unfinished public works

Poor quality of the final work.

Annual average difference between the amount based Auction and value award



% peaks of maximum rebate recorded in 2014





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PROBLEM N. 2

Excessive rebates in A.E.S.

ANAC "Guidelines"

RESTRICT THE USE OF THE CRITERION OF THE LOWEST PRICE

-  to awards with an amount less than 100,000 Euro;
-  to professional services that have character of simplicity

FORCE CONTRACTING AUTHORITIES TO "MOTIVATE VERY WELL THE USE OF THE LOWEST PRICE CRITERION" IN THE LETTER OF INVITATION





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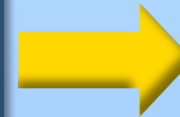


**GOAL
ACHIEVED**

Excessive rebates in A.E.S.

ANAC "Guidelines"

LOWEST PRICE CRITERION
MOST ECONOMICALLY
ADVANTAGEOUS TENDER



reduced rebates

**Reduction of economic score
assigned to offers with a rebate
higher than the average**



Requirements art. 263 of the Rule Book

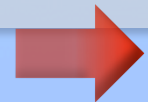
Similar works in the last 10 years

Access to tenders for awards of A.E.S. over 100.000 euro

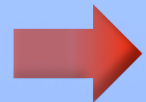
Difference of definition of works between DM 4/4/2001 and DM 143/2013

Must prove that they have carried out services for works similar to the service to be contracted over the last 10 years.

THERE IS THE RISK THAT:



professionals can no longer adequately exploit their past experience to access tenders



creation of “microsectors” in the already limited market of public works.





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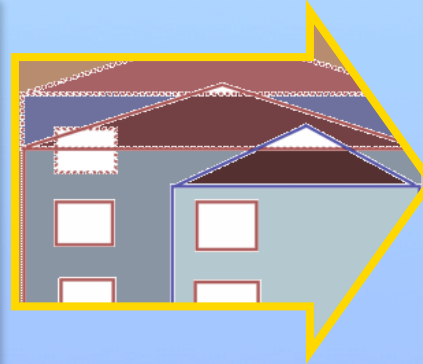
PROBLEM N. 3

Requirements art. 263 of the Rule Book

ANAC "Guidelines"

CLARIFY ART. 8 of DM 143/2013

Activities carried out on works similar to those under the services to be contracted



elegible to prove the requirements, when the degree of complexity is at least equal to that of the services to be contracted

E.g.: hospital eligible requirement for court building or a school of equal complexity



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PROBLEM N. 3

Requirements art. 263 of the Rule Book

Turnover

Access to tenders for awards of A.E.S. over 100.000 euro

turnover for services carried out in the past five years for an amount ranging between 2 and 4 times the base amount

In contrast with art. 41 of the Codex:

“the criteria that set limitations of access to tenders associated with the company's turnover, without appropriate reasons, are illegitimate”





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PROBLEM N. 3

Requirements art. 263 of the Rule Book

ANAC "Guidelines"

The Contracts Codex (DL n. 163/2006), as a higher-ranking rule, overrides the Rule Book (D.P.R. 207/2010)

ANAC recommends to the contracting authorities to:

- ➔ adequately MOTIVATE the possible use of the turnover requirement;
- ➔ **NOT EXCEED** the minimum value (2 times) of the range provided for by the existing rules (turnover over the last five years from 2 to 4 times the amount of the auction). This is also in line with the latest Directive 2014/24/EU.



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PROBLEM N. 3

Requirements art. 263 of the Rule Book

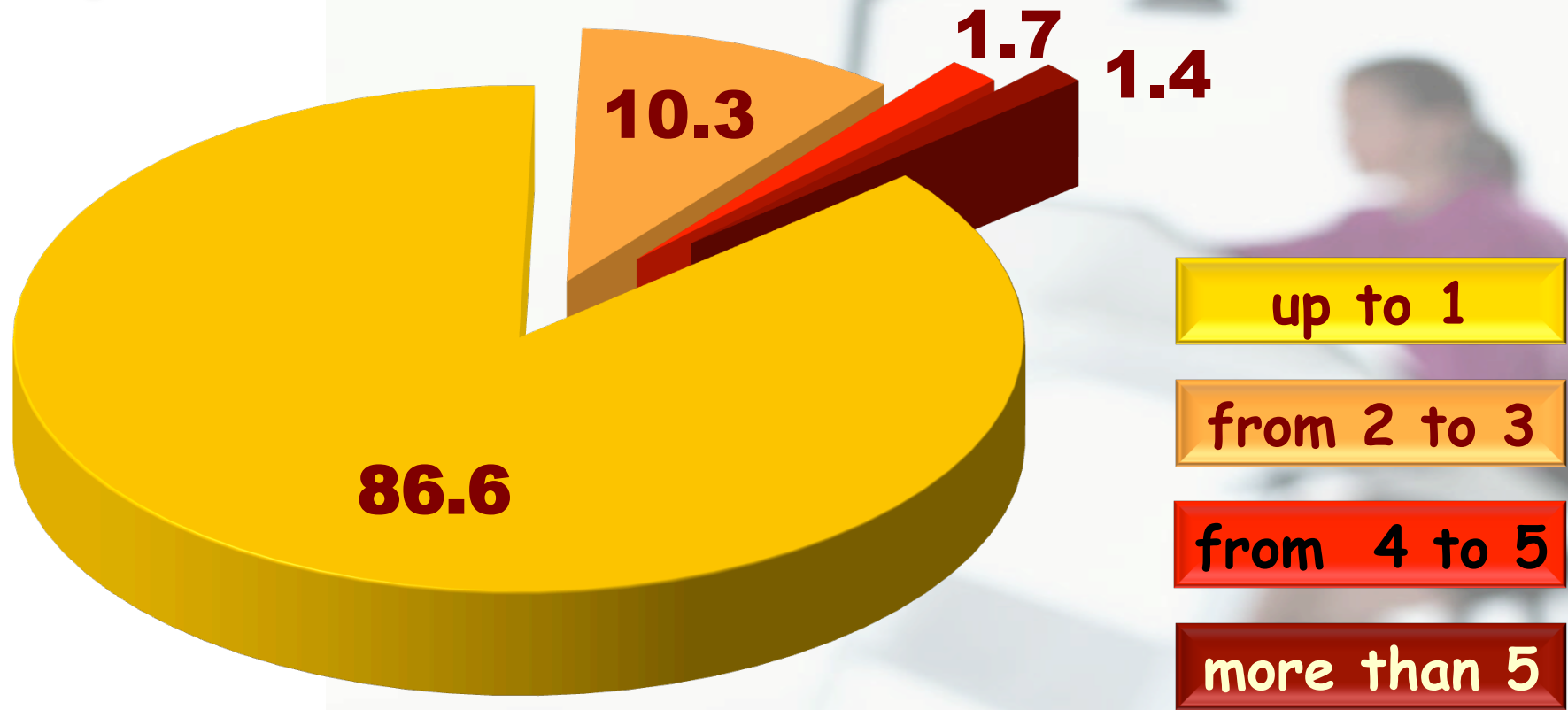
Number of workers

Access to tenders for awards of A.E.S. over 100.000 euro

Number of workers (employees or permanent collaborators) to be equal from 2 to 3 times the number of units estimated in the call

Closing the market of public works to young professionals and to professionals that do not have a working structure of considerable size.

% professional firms for number workers



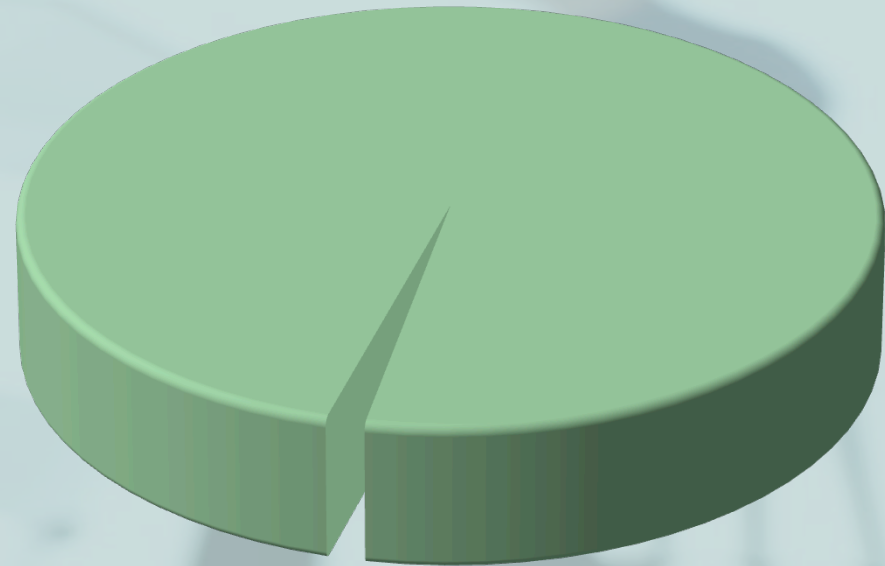
MARKET CLOSURE

In almost all of the calls for Architecture and Engineering services, above the threshold of 100,000 euro, a number of employees **greater than 5 units** is required.

... It follows a market closure that preclude participation to the ...

98.6%

of Italian professional firms





Requirements art. 263 of the Rule Book

ANAC “Guidelines”

Pending on review of the legislation framework, ANAC, accepting our proposals states that:

- ➔ It is possible to reach the estimated number of units set out in the call through the **INSTITUTION OF A TGP** (Temporary Group of Professionals), also counting individual associated professionals;
- ➔ the estimated number of units **MUST NOT BE OVERESTIMATED** by contracting authorities but commensurate with the nature of the service to be given, in order not to limit competition.



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PROBLEM N. 4

Subjective requirements in competitions

Contracting authorities, in the preparation of calls of competitions, often set **technical and organizational requirements** for access to competition procedures

that humble the professionalism of young talents and professionals who do not hold large firms.



Subjective requirements in competitions

ANAC "Guidelines"

In design and ideas contests, the contracting authorities, in order to ensure maximum participation:

- ➔ **must adopt** only qualitative evaluation criteria specifically related to the project
- ➔ **may not require** elements of technical, organizational and/or economic nature in the pre-qualification phase



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Professional competencies **ANAC "Guidelines"**

**Work on buildings of historical
and artistic interest that are
subjected to cultural bond**

DESIGN RESERVED FOR ARCHITECTS
under the Royal Decree
October 23, 1925, n. 2537
(Cons. St., Sec. VI, 11/09/2006, n. 5239)

Ordinary Journal of European Union march 28th 2014

New **procurement directive** (2014/23/UE - **2014/24/UE** - 2014/25/UE)

within il april 18th 2016

New public contracts **Codex** and relative Rule Book

Ordinary Journal of European Union march 28th 2014

New **procurement directive** (2014/23/UE - **2014/24/UE** - 2014/25/UE)

within il april 18th 2016



Document identifying

10 goals

to be achieved in the definition of
the new regulatory framework



ANAC
Autorità Nazionale Anticorruzione

Determination n. 4/2015

Guidelines



Senato della Repubblica

Disegno di
legge delega
al Governo

n. 1678



Camera
dei
Deputati

Enabling Act
to the
Government

n. 3194

New public contracts **Codex** and relative Rule Book

Major achievements with the approval by the Senate of **d.d.l. 1678** and currently before the House

- ✓ **Streamlining procurement procedures and verification requirements**
- ✓ **Significant limitation with regard to the award criterion of the lowest price**
- ✓ **Promotion of design competition as the best instrument of award ;**
- ✓ **Reduction of the use of integrated contract for cases in which the technological element characterizes 70% of the work**
- ✓ **Stop to contracts awarded in house: dealers must entrust 100% of works and services (including Architecture and Engineering services) to third parties;**
- ✓ **Promote the Project Financing Tool**

**FURTHER GOALS TO BE
ACHIEVED IN THE
PREPARATION OF
NEW CONTRACTS CODEX**

To concretely open the Public Work market

We ask the legislator to:

A) Abolish selective requirements, such as Article 263 of the Rule Book

C) Recognizing the “curriculum vitae”, as experience of life throughout the career of Professionals

B) Bring the eligibility requirements and professional qualification recognition only to the registration to the Professional Order

D) establish the requirement of integration of young professionals also for engineering companies as well as in the Temporary Group of Professionals

To promote an easier assignment of Architecture and Engineering services to professionals

we ask the legislator:

➤ **To redefine the tasks and roles of Public Administration and freelancers:**

Managers and officials of P. A.

**Planning, Monitoring and Control of
the whole process of construction of
public works**

Freelance professionals

**Designing activities, work
management and testing.**

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Department of Public Procurement and Architectural Design Competitions



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november 2015