

EVALUATION OF SMES' ACCESS TO
PUBLIC PROCUREMENT MARKETS IN THE EU

COORDINATED BY DG ENTERPRISE AND INDUSTRY
OF THE EUROPEAN COMMISSION

Executive summary

of

Final Report,
submitted by GHK and Technopolis

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EXECUTIVE SUMMARY

This Report presents the findings of the “Evaluation of Small and Medium-Sized Enterprises’ (SMEs’) Access to Public Procurement Markets”. The assignment was undertaken by GHK and Technopolis between April and September 2007 within the framework contract for the provision of studies and other supporting services on Commission evaluations (ENTR/04/093-FC-Lot 1) on behalf of Directorate-General Enterprise and Industry. The evaluation was commissioned by the Directorate E “Promotion of SMEs Competitiveness”, Unit E4 – “Horizontal Aspects of SMEs Policy” of Directorate-General Enterprise and Industry in co-operation with Directorate-General Internal Market and Services who were represented in the Steering Group.

This evaluation study was primarily conceived as a follow-up to the 2004 study ‘Access of SMEs to Public Procurement Contracts’¹. That study covered 15 Member States, analysed data from 2001 on public procurement contract awards, surveyed SMEs that had won contracts and awarding authorities, and undertook national case studies. This study adopted a similar methodology to that of the earlier study. In particular it:

- § Looked at trends in SMEs’ access to above EU-threshold² public procurement for the period 2002-2005, including developments in the new Member States that joined the EU in 2004. Altogether, 37,873 companies recognized as successful in the notices were sampled, and the size characteristics of 20,601 companies were identified.
- § Surveyed 568 SMEs and 166 large-scale enterprises (LSEs) that had been successful in above EU threshold public procurement, and 84 awarding authorities, to identify factors influencing the access of SMEs to public procurement;
- § Undertook case studies exploring below EU threshold public procurement in 10 Member States, to identify practices that had influenced the access of SMEs to public procurement;
- § Reviewed the structure and functioning of the US federal public procurement market and assessed the various schemes at Federal level which aim to promote SMEs’ access to public procurement – including the Small Business Act (SBA) and Small Business Innovation Research (SBIR) – identifying their strengths and weaknesses;
- § Drew conclusions and formulated recommendations on how SMEs’ access to public procurement could be improved.

¹ The Access of SMEs to Public Procurement Contracts (2004) prepared by EIM Business and Policy Research and KMU Forschung Austria for DG Enterprise and Industry.

<http://ec.europa.eu/enterprise/entrepreneurship/craft/craft-studies/craft-publicprocurement.htm>

² As a general rule, the current value thresholds above which the EU directives apply are € 5,278,000 for public works, and 137,000, 211,000, or 422,000 for supply and service contract, depending on whether the awarding authority is a central government body, other public body or a utility. The thresholds are summarised in **Error! Reference source not found.** on page **Error! Bookmark not defined.** of this report.

Key findings

The EU public procurement market and policy objectives

It is estimated that in 2002 the total value of public procurement was €1,500 billion, representing 16% of the European Union's combined GDP. Since then EU public procurement will have increased as a consequence of enlargement and economic growth. An estimated 16% of the total value of public procurement in the EU is above the thresholds fixed by EU directives³. For this part of public procurement the Directives specify the procedures that should be undertaken and tenders are published in the Official Journal of the European Union (OJ). Public procurement below the Directives' thresholds falls in the competence of the Member States. The EU policy objectives are targeted at ensuring transparency, efficiency, the single market and equal access between large enterprises and SMEs. EU policies concern public procurement both above and below EU thresholds.

Trends in the access of SMEs to public procurement

In 2004, 99.8% of all companies in the EU were SMEs. They accounted for 56% of gross value added (GVA), 67% of employees within the business sector (excluding agriculture, fisheries and financial services) and 58% of combined company turnover.

It was estimated that in 2001 the proportion of the value of public procurement above EU thresholds secured by SMEs was between 29% and 43%. The annual estimates made in this study of the values secured by SMEs since 2001 are all within the range estimated for 2001 but point to a slight overall increase. The equivalent figures for 2005 are 42% of value and 64% of contracts. SMEs tend to perform better in bidding for central government contracts and less well in the old Member States compared with the new.

SMEs seem somewhat underrepresented in public procurement above EU-thresholds, as compared to their weight in the economy – which is attributable to the weaker performance of micro and small enterprises. On the other side, medium-sized enterprises (i.e. those employing more than 50 and less than 250) secured a slightly higher share of public contracts (23%) than their role in the economy – measured by their share in combined company turnover (19%).

However, when comparing the value of contracts awarded to SMEs (42%) with the share of the latter in total company turnover in the EU-25 (58%), it should be kept in mind that this does not take into account the value of contracts subcontracted to SMEs⁴. In addition, the 58% figure relates to 'public and private contracts' of all sizes in the EU economy, while the 42% figure relates only to large public contracts in the EU, which are normally not accessible to a wide number of micro and small enterprises for reasons of economic and financial capacities. Indeed, the median value of contracts awarded between 2002 and 2005 was in the range of 310-360 thousand euros, while the majority EU micro-enterprises are one-man companies.

Although comparisons with the US are problematic because there is not a common definition of SMEs, it is estimated that small businesses (who may employ up to 500, and in certain sectors 1000 or even 1500 people) supplied just 23% of the total value of Federal prime contracts in 2005, while they provide around half of private sector employment and gross value added. In

³ The current directives in force, adopted in 2004, are the directives 2004/17/EC and 2004/18/EC.

⁴ Interestingly, statistics from the US federal public procurement markets (see Section 6) indicate that small businesses received almost 40% of US subcontracting value in 2006, although the total value of contracts directly awarded to them by the Federal agencies was only 23%.

parallel the estimate of 42% for the share of SMEs in European public procurement above thresholds suggests that SMEs in the EU are performing relatively well. Particularly so since larger contracts account for a greater share in above-threshold procurement in the EU than in the US: 93% of the total value of above EU threshold public procurement was in contracts - some of which were broken down into lots - of over 1 million dollars (corresponding approximately to € 802 thousand at 2006 exchange rates), whilst the equivalent figure for the US Federal public procurement was only 74%.

This, coupled with the relatively good performance of medium-sized companies, suggests that the EU is, in general, succeeding in ensuring reasonable access of SMEs to public procurement in above EU-threshold contracts.

Cross-border public procurement

In 2001 it was estimated that at least 1.1% of above threshold public procurement contracts were direct cross (EU internal) border – without the intervention of any local distributor or subsidiary. The proportion appears to have increased since 2001 and was 1.9% in 2004. However, the tendencies of companies operating in several member states to maintain offices/addresses in the countries in which they are active, means that the estimates are likely to understate the actual level of cross border trading in above EU threshold public procurement. Interestingly, small countries tend to award more contracts to foreign companies than larger countries.

The experience and perceptions of companies in public procurement

The most frequent problem faced by European SMEs in bidding for public procurement tenders is the over-emphasis placed on price by awarding authorities (52% of the companies encountered this either 'regularly' or 'often'). Onerous paperwork requirements were also mentioned as a common problem (46%).

The use of e-mails as a preferred channel of communication, improving tender specifications and documentation, as well as improving information on tenders in general were seen as the three most helpful actions that awarding authorities could do. Training for companies, the use of framework agreements and contracts, and more time to draw up tenders were less frequently emphasised.

The experience and perceptions of awarding authorities

There are marked variations in the experience and perceptions of awarding authorities on issues affecting SMEs access to public procurement. There are also some contrasts in the perceptions of awarding authorities and SMEs as to what is or would be useful.

Of the possibilities for enabling SMEs access to public procurement above or below EU-thresholds, the mostly used option is allowing the joint fulfilment of technical or financial requirements for companies, which is used 'always' or 'often' by 60% of awarding authorities (this is made obligatory by the EU's current public procurement directives⁵ in tenders above EU-thresholds, but which is not necessarily followed below the EU-thresholds). The emphasis on this option is justified and endorsed by SMEs. However, 31% of awarding authorities did not, or only infrequently use this possibility'.)

⁵ Articles 47 and 48 of Directive 2004/18/EC and Articles 53 and 54 of 2004/17/EC

Breaking down contracts into lots is also 'always' or 'often' done by 38% of awarding authorities, and also emphasised by SMEs, especially micro-enterprises, as an action that would enable the access of smaller companies to public contracts.

Only 10% of the awarding authorities surveyed published prior information notices 'always' or 'often' even though it is considered important by SMEs. Also, 23% of awarding authorities said that they never awarded framework contracts and agreements to SMEs.

The full potential of e-procurement is not widely exploited. Only 58% of awarding authorities employed some form of e-procurement. 36% of these accepted tenders in full electronic form, including electronic signatures, 40% accepted parts of the tenders in electronic form, 48% took advantage of systems storing and/or retrieving companies' administrative information (usually after some pre-selection procedure), and 65% provided electronic tools (e.g. calculation sheets) for tenderers. E-procurement has been considered rather beneficial by SMEs, while only 30% of awarding authorities saw it as 'helpful' or 'very helpful' in enabling SMEs access to public procurement.

Amongst the weaknesses perceived by awarding authorities of SMEs, capacity and financial guarantees were most often cited. The narrower product range of SMEs, their inability to meet all requests and the lack of references that could make the contracting of an SME a risk were also mentioned.

The key aspects of Member State approaches to SMEs' participation in public procurement

There is a diversity of approaches towards public procurement across and within EU Member States for public procurement below the EU thresholds. Member States operate different systems of legislation and governance. This is a legacy of years spent building up structures in isolation. On the contrary, for public procurement above the EU thresholds, the EU Directives have standardised approaches and there is some evidence from the Member States – particularly the new Member States – that the principles underpinning these Directives have filtered into national legislation governing sub-EU threshold public procurement.

Very few countries have explicit aims to increase the share of public procurement contracts won by SMEs, and most aim to concentrate on ensuring a level playing field. Nevertheless there are now a range of strategies, good practice guides, concordats and codes of conduct in use that aim to influence procurement bodies and encourage them to be more 'SME-friendly'.

Across the 10 case study countries there is a wide range of good practice and experience concerning approaches to breaking down the barriers to SMEs' access to public procurement. Activities cover a number of areas, including: providing information, training and support; simplified pre-qualification requirements; e-procurement systems; improved payment systems; debriefing arrangements; the use of smaller lots and framework agreements; and, the adoption of the 'economically most advantageous tender' criteria (as opposed to the lowest price only) as part of the bid appraisal process.

There are few mandatory measures with regard to SMEs and public procurement. In the main the measures mentioned above are voluntary examples of good practice (with the exception of some of the e-procurement activity, for instance). There is no obligation for public procurement bodies to follow all, or even, any of the recommendations. Moreover, public procurement is generally decentralised, making it hard for central government to influence decisions made at a regional and local level.

Similarities, differences and lessons from the US

In contrast to the EU and EU Member States there are and have been for a considerable time targets and affirmative action programmes for small business access to Federal public procurement in the US. However, there is only limited evidence as to whether the affirmative action programmes work and what costs and benefits they generate. In addition, the EU legal framework precludes such an affirmative action approach, and this limits substantially the types of compulsory actions that could be applied. Further, the fragmentation of markets in the EU compared to the situation in the US, may require varied actions in different areas.

The US federal programmes are supported in two ways – by a procurement budget and process administered at federal level over which there is a degree of control, and by a national network of support facilities through local offices. Neither of these exist at the EU level but there are analogies at the Member States level.

The data collected in the US, partly because of the US contractor registration system means that in the US it has been possible to track the impact of the system in a way that would be extremely difficult in the EU.

The responses to the evaluation questions addressed

The Task Specifications for the assignment posed six evaluation questions concerning effectiveness and efficiency.

Effectiveness

To what extent have existing practices helped to address market gaps in SMEs' access to public procurement?

Medium sized enterprises are performing relatively well, whereas this is not the case of small and micro enterprises when it comes to access to public contracts above the EU thresholds. Existing practices that improve information flows, reduce the transaction costs of bidding for public contracts and improve the quality of calls for tender appear to be improving access of SME to public procurement. However, there is little hard empirical evidence to assess the precise effects of existing practices.

What other measures could be envisaged?

Further measures to improve the quality of invitations to tender and widen the scope for aspects of quality and long term value for money considerations to be weighed against bid price in the evaluation of tenders, together with further moves towards e-procurement and central registration systems, reducing administrative burden for companies, would reduce further perceived disadvantages experienced by, in particular, small and micro enterprises.

Are there barriers to effective transfer of good practices from one Member State to another, and from the US to Member States? If so, what are these barriers? How could any such barriers be overcome?

There are no major legal or institutional constraints on the transfer of good practices from one Member State to another. However, there are practical challenges. The structure of public procurement varies markedly. In most countries there are many different agencies involved with different traditions and practices. Furthermore, it was not clear that good practices are necessarily transferred effectively within Member States in part because of the obvious lack of leverage

through which policies and practices could be 'enforced'. In these circumstances it is likely that the transfer of good practices between Member States would be best organised through the formation of 'clusters' of policy makers and practitioners who operate in similar institutional contexts, and including those with good and 'well evidenced' experience, working closely together over a period of time, focussed on particular aspects of good practice of mutual interest.

There is less scope for transferring good practices from the US to Member States because of the differing institutional and legal frameworks.

Are there any aspects/means/actors that render certain aspects of good practices more or less effective than others, and – if there are – what lessons can be drawn from this?

The evidence of this evaluation suggests that good practices are likely to be more effective if: they focus on addressing the needs of small and micro enterprises: they focus on SMEs within sectors where they appear to be performing less well compared to large companies; they improve the quality of invitations to tender, through for example, ensuring that procurement agencies are well resourced and staff well trained; and, they minimise transaction costs of preparing and submitting tenders by, for example, maximising the application of e procurement opportunities.

Efficiency

What aspects of these practices are the most efficient or inefficient, especially in terms of resources that are mobilised by stakeholders during the different phases of the process?

The limited evaluative evidence available on the costs and outputs of specific practices to enable and improve the access of SMEs to public procurement limits the extent to which observations can be made on aspects of efficiency. However, the practices that improve information flows and reduce transaction costs incurred by tenders are likely to be efficient. Practices that ensure high quality invitations to tender and good practice tender procedures, such as the adequate resourcing and training of the staff of awarding authorities are likely to be the most resource intensive. Practices involving support for consultancy services for SMEs new to public procurement markets could also be expensive given the very large number of potential players.

What does this represent in terms of administrative burdens on stakeholders and/or other actors?

There is a potential danger that some practices, pursued with the intention to even the 'playing field' for those SMEs with little or no public procurement experience and hence to improve their access, could increase both administrative burdens for awarding authorities and generate costs for SMEs.

Conclusions

Medium sized enterprises are performing relatively well in public procurement above the EU thresholds. However, this is not the case of small and micro enterprises. There are very wide variations between the performance of SMEs in accessing public procurement contracts in different countries. There are also marked variations in the activities and approaches of Member States and awarding authorities and contrasts in the perceptions of the problem and what should be done amongst awarding authorities and between awarding authorities and companies.

Several factors are tending to improve the performance of SMEs:

- § Improvements in information flows enabled by telecommunications. The use of the internet and e mail can help ensure SMEs are aware of tendering opportunities, can

access tender documents and be informed of the results of tenders in a timely manner and at low cost.

- § The possibilities and use of e-procurement tools. In particular SMEs benefit from being able to submit tenders electronically and avoid the repeated production of background information through centralised registration systems.
- § Moves to enable cooperation between companies to fulfil technical and financial criteria and the breaking of contracts into lots.
- § Training of the staff of awarding authorities and SME support initiatives.

The main factors that constrain SMEs access to public procurement include:

- § The growth in public procurement and pressures on the resources of awarding authorities that lead to preferences for larger contracts that in turn augur towards, poorer tender documents and awards being made on the basis of price rather than quality both of which are likely to favour larger and more experienced tenderers.

Recommendations

Overall the study findings suggest that there is still scope for improvement in the performance of SMEs in public procurement. In the light of this, steps should be taken to: reduce differentials in access between SMEs, and in particular small and micro-enterprises, and larger companies; exchange experience and encourage peer learning activity amongst Member States and awarding authorities; and, improve the information and research base.

Steps to reduce differentials in access between SMEs and larger companies

The following steps should be pursued:

- § The further development of Central Registration Systems should be encouraged so that the potential tenderers are only required to provide information on eligibility criteria to one register that can be referred to by different awarding authorities.
- § The further promotion and adoption of e-procurement should take place. e-procurement can reduce the transaction costs of preparing and submitting tenders which are disproportionate for SMEs compared to larger companies able to maintain procurement specialists and departments.⁶
- § The encouragement of initiatives that enhance the capacity of awarding authorities to generate high quality invitations to tender that increase the likelihood that factors other than price can be properly taken account of in award decisions, should take place.
- § The further promotion and adoption of measures perceived by SMEs, especially small and micro enterprises, and proven to be beneficial should be encouraged.

⁶ The Commission published an Action Plan for the Implementation of a legal framework in 2004. A review of this is anticipated in 2007

Steps to encourage the exchange of experience between Member States and awarding authorities

A series of meetings of Member State procurement policy actors and relevant stakeholders should take place in order to identify and oversee a programme of Peer Learning Activities.

The activities could include: clusters of Member State representatives from countries with similar procurement structures and policies working together to identify successful approaches to improve the access to public procurement of SMEs; study visits to Member States by actors from other countries to assess in detail the mechanisms used and their applicability and transferability; evaluation studies; and, seminars and conferences of awarding authorities at the EU level.

Steps to improve the information and research base

In order to: provide an informed backdrop to the exchange of experience activity; assess the performance of SMEs in public procurement; and evaluate the impact of relevant policies and practices, there would be benefit in the following:

- § Monitoring at the EU, national and sectoral levels on an annual basis the access of SME to above threshold EU public procurement.
- § Awarding authorities being required to issue contract award notice (CANs) for all public procurement tenders.
- § The frequency and quality of information on the identification of the company awarded the contract and the value of contracts awarded on CANs being improved. (During this assignment only 64% of all CANs provided sufficient information on these two parameters to be used in the analysis).
- § The CANs actually indicating the category of company. In the short term tenderers could be requested to self assess the category to which they belong when bidding, in the longer term centralised registration would enable reliable classification.
- § Tenderers being asked to indicate the proportion of the tender price that is planned to be subcontracted to SMEs. EU institutions could usefully take a lead on this.
- § Data on the concentration of employment and output within sectors being developed in a manner that enables valid comparisons between the performance of SMEs (and medium, small and micro enterprises) in public procurement and their contribution to the economy as a whole.

The findings of this evaluation and the comparisons with the US raise interesting questions about the state of the EU public procurement market and the role of SME and larger companies within it. It can be conjectured that the relative fragmentation of the EU market may limit the extent to which public procurement is generating innovation and efficiencies and the development of EU companies (large companies as well as SME) that are able to compete in public procurement markets outside the EU. The improvements in the information base could help inform and research such questions and help assess whether the relative decentralisation of public procurement markets in the EU and lack of a 'single market' is advantageous to SME and the EU economy.