



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

DG Enterprise and Industry

## Final Report

September 2010

*Evaluation of SMEs' access to public procurement markets in the EU*  
**Final Report**

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# 1 INTRODUCTION

## 1.1 Background to the report

This is the final report of the assignment concerning the “**Evaluation of SMEs’ access to public procurement**”. The assignment was undertaken by GHK as leader of the *European Policy Evaluation Consortium* ([www.epec.info](http://www.epec.info)), in cooperation with *TXT e-solutions s.p.a.*, Milan, within the framework contract for the provision of studies and other supporting services on Commission evaluations (ENTR/04/093-FC-Lot 1). The evaluation was commissioned by the Directorate E “Promotion of SMEs Competitiveness”, Unit E4 – “SME Policy Development” of the Directorate-General.

This study is mainly conceived as a follow-up to the 2007 study<sup>1</sup>. The latter covered 25 Member States and analysed data on public procurement from 2002 to 2005. The study identified a number of critical issues for SMEs, formulated a set of recommendations and described a number of good practices.

The overall purpose of the current study was to evaluate the progress made since the previous study (2007), to assess the effectiveness of policies and practices introduced since and to explore the opportunities of eProcurement and innovative solutions in relation to SMEs’ access to public contracts.

More specifically, the main questions to be assessed were the following:

### Main evaluation questions

- § “To what extent have specific procedures like cutting into lots, tenders looking for innovative solutions and eProcurement practices helped to address market gaps in SMEs’ access to public procurement?”
- § “What other measures could be envisaged?”
- § “Are there any aspects/means/actors that render certain aspects of the practices described in point 1 more or less effective than others, and – if there are – what lessons can be drawn from this?”
- § “What aspects of the practices described in point 1 are the most efficient or inefficient, especially in terms of resources that are mobilised by stakeholders during the different phases of the process? What does this represent in terms of administrative burdens on stakeholders and/or other actors?”

<sup>1</sup> Evaluation of SMEs Access of SMEs to Public Procurement Markets in the EU (2007)  
[http://ec.europa.eu/enterprise/newsroom/cf/document.cfm?action=display&doc\\_id=3691&userservice\\_id=1&request.id=0](http://ec.europa.eu/enterprise/newsroom/cf/document.cfm?action=display&doc_id=3691&userservice_id=1&request.id=0)

## **1.2 Methodology**

**The findings and conclusions in this study primarily feed from primary research,** conducted in order to investigate patterns and trends in above-threshold procurement, to understand procurers' and bidders' situation and behaviour, and to find good practices across Europe that might create, if implemented, a level playing field for SMEs wishing to participate in public procurement.

In specific, the first part of the study – Sections 2 and 3 – is based on a comprehensive **statistical analysis of a database of contract award notices and individual contracts (lots) awarded, published on TED** (Tenders Electronic Daily),<sup>2</sup> covering the years 2006 to 2008. The analysis involved descriptive statistics of the database, as well as a logistic regression analysis which explored the impact of a set of contextual factors on SMEs' chances of winning public procurement contracts (above the EU-thresholds).

The original database, obtained from the Commission, was cleaned and processed, and imported into Stata, a statistical software package. A sample of about 40,000 contracts for the three years covered was selected, and the details of the companies who were awarded these contracts were forwarded to Dun & Bradstreet for identification. Dun & Bradstreet has matched the companies with their business database and returned the headcount and annual sales figures, as well as corresponding information about the eventual parent company for identified enterprises. On the basis of this data, the companies in the sample were classified as micro, small, medium-sized or large enterprises – consistent with the methodology used in the predecessor study, which looked at the year 2005 in specific. Therefore, for comparisons between statistics on the success of SMEs for 2005 and the 2006-2008 period, these first results were used.

However, first analyses pointed to a wrong classification of several companies in the sample. Therefore, a manual check was conducted on about 600 companies from the sample to correct this, in order to obtain more reliable figures for SMEs' access to public procurement. This exercise focused on micro-enterprises winning large contracts (worth above 5 million euro).

The reliability of the estimates on the proportion of SMEs in public procurement, presented in this study, is considered to be the best achievable from the analysis of the TED database. Nonetheless, they still might carry some bias.

It is important to point out, however, that one can safely assume that this bias is appearing relatively evenly in all types and sub-groups of public contracts, so that comparisons between SMEs' access between one and another type of tender will yield sufficiently robust findings.

**The second part of the study – Sections 4 through 6 – involved two stakeholder surveys.** During May and June 2010, a set of telephone interviews were carried out amongst European SMEs and large companies who have participated (at least once) in public procurement above the EU-thresholds. This survey was complemented with an online version in parallel. Altogether, the questionnaire was answered by 887 companies from 19 Member States. A second online survey targeted contracting authorities and entities. Organisations from all over Europe, 296 in total, answered the questionnaire.

The survey responses were submitted into a database and analysed by question. The main findings are presented as charts or as summaries of qualitative responses.

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<sup>2</sup> The electronic supplement to the Official Journal of the European Union, containing

The survey on eProcurement - Section 5 – was supported by interviews with 7 companies with experience in the use of electronic tools. The companies gave further information on the background of the benefits and specific problems they encounter when using eProcurement solutions.

Throughout the second part, usually in form of small inserts, **information derived from mini-case studies** is used to highlight some of the good practices contracting bodies are undertaking in the EU to enhance SMEs' access to public procurement, to provide better eProcurement services or to increase opportunities for innovation in their tenders. These practices may be considered and emulated by public organisations, given it is applicable to the specific circumstances they face.

Apart from the above, the study team has reviewed and processed relevant legislation, policy documents, position papers, statistical surveys and studies, and has conducted a series of interviews were undertaken with key stakeholders at European level (Commission services and business organisations).

### 1.3 Structure of the report

This report is structured as follows:

- Section 2*      Presents key figures and patterns of above-threshold EU procurement, based on notices published on the EU's Tender Electronic Daily (TED) portal.
- Section 3*      Provides the results of the statistical analysis on SMEs' share in public procurement above thresholds, based on a sample selected from contract award notices published on TED. The section also explores the impact of certain factors on SMEs likelihood of winning public contracts, partly through detailed breakdowns of the key figures, partly through a regression analysis technique.
- Section 4*      Contains the findings in relation to public procurement practices on the ground. This feeds mainly from surveys amongst European SMEs, large companies, and contracting authorities and entities, as well as a series of mini case studies.
- Section 5*      Looks at concepts, benefits and usage patterns of eProcurement solutions, and in specific at the experiences of SMEs with such electronic tools.
- Section 6*      Describes the current status of introducing innovation in public procurement in Europe, covering pre-commercial procurement, SBIR schemes as well as individual innovative elements that can be introduced to traditional public procurement.
- Section 7*      Summarises conclusions and recommendations.

Supporting material – statistical tables and a set of detailed case studies – is provided in Annexes.

## 2 PATTERNS AND TRENDS IN PUBLIC PROCUREMENT ABOVE EU-THRESHOLDS

### 2.1 General patterns and trends

Altogether, 319,728 individual contract award notices (CANs) were published by Member States on TED in the three years between 2006 and 2008 (excluding financial services and purchases of armed forces).<sup>3</sup> Since 2002, a positive trend is observed in the number of notices published, with a relatively steep increase in 2007-2008 (42% in these two years, corresponding to an annual average of about 19%, compared to an average growth of only 10% between 2002 and 2005).

Unlike in the period between 2003 and 2005, which was marked by a slight drop in the numbers for EU-15 countries, publication numbers increased in all Member States in the last three years for which data was available. Still, the share of the EU-15 decreased from 76.4% in 2005 to just about 73.3% by 2008.

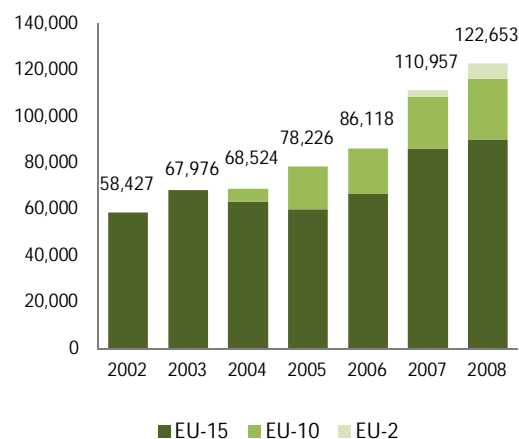
The total value of tenders published on TED for the three-year period between 2006 and 2008 was estimated by the Commission services to amount to ca. 1,137 billion euro (estimation was necessary, as some 21% of the notices did not indicate the value of the contract). The annual figure rose from ca. €377 billion to 392 billion, which translates into an average annual increase of ca. 2%. Since this was considerably lower than the increase in the number of CANs published, the average value of notices has decreased over this period.

The total value of actual contracts awarded is evidently lower: some procedures were cancelled, suspended, or were not successful. This study - based on a different methodology than the official estimates of the Commission - arrived at a total of ca. 876 billion euro, corresponding to about 77% of the Commission's estimate on the value of tenders published.

**The aggregate figures mask large differences across countries.**

**Contracting authorities and entities from the new Member States tend to be more accurate in filling in the value of the contract, whilst procurers from some of the EU-15**

Figure 2.1 Number of contract award notices published on TED\*



\*By EU Member States excluding armed forces and financial services (CPV 66)

Independently from the Commission's official estimates, a separate exercise was undertaken in this study to assign a probable value to all awarded contracts individually, to which values were not indicated in the database.

These were obtained through a predictive mean matching (PMM) based multiple imputation method.

This exercise helped to increase the robustness of subsequent statistical analysis by avoiding the possible bias if a large number of records would have been excluded from the analysis.

<sup>3</sup> Contract awards published by EU institutions or third countries were not used for the analysis



countries, notably Finland, the Netherlands, Ireland and Sweden were less willing to provide this information.

#### Member State's share

**CAEs from France published the largest number of contract award notices by far.** They accounted for 27.5 % of all notices (88,033 in the 2006-2008 period). Since 2005, Poland is the second largest publisher of CANs (37,688 notices in the 2006-2008 period, amounting to almost 12% the estimated total).

Germany, Spain, the United Kingdom (GB) and Italy remain large contributors, reaching a combined estimated share of about 34%.

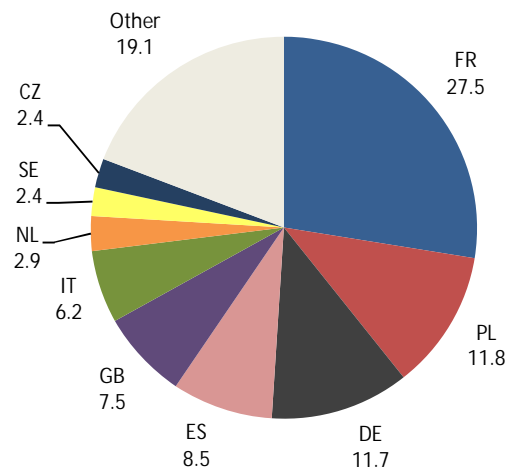
**One can easily see that the number of CANs published does not only depend on the size of the country. The institutional framework of the given country plays a great role.** For example, in Member States where public procurement is largely decentralised to regions and municipalities (as in Germany), tenders tend to be smaller and many of them will not exceed the EU thresholds above which publication in the Official Journal of the EU is obligatory.

A further explanatory factor of a technical nature is the use of lots: CAEs that break their tender down into lots do not always publish all results in one notice but may issue several award notices, each providing information on one or more lots. Countries that use lots more often may thus have a disproportionately higher number of CANs. This is the case e.g. for France and Poland.

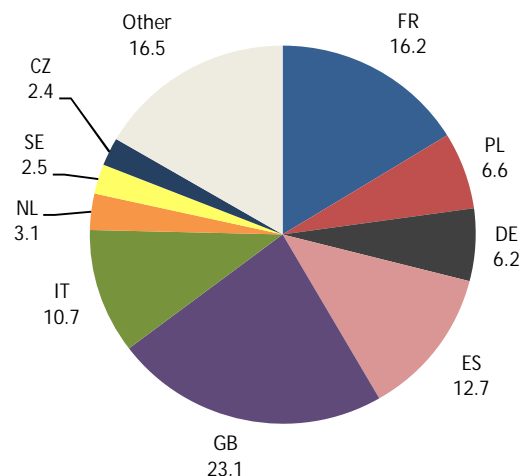
**In terms of estimated total value of contracts awarded published on TED, some important changes can be observed amongst the Member States.** The countries issuing most of the notices are still among the top ten in terms of estimated value of contracts awarded. However, their ranking has substantially changed.

According to the estimations, the United Kingdom accounts for 23% of the total estimated value while it issues only 7.5% of the total number of CANs. Spain's estimated share in terms of value

**Figure 2.2 Member States' share of contracts awarded by number (total for 2006-2008)**



**Figure 2.3 Member States' share of contracts awarded by value (total for 2006-2008)**



is also larger than its share in terms of number of contract award notices. France, which issues 27.5% of the total number of CANs, represents only 16% of the total estimated value. Similar applies to Poland (11.8% of the total number of CANs for a share amounting to 6.6% in terms of estimated value) and Germany (11.7% of the CANs versus only 6.2% of the value of contracts awarded).

*Type of contracting authority or entity (CAE)*

**Local authorities account for the relative majority of public contracts above EU-thresholds, for around 25% in 2008, and as much as 34% in 2007.**

Central government bodies, bodies governed by public law (hospitals, schools etc.) and utilities do also have a large share of procurement.

Whilst the distribution of contracts between the different types of procurers barely change over time, their share in terms of value does change. This is due to some very large-scale procurement procedures that bias the results for a given year.

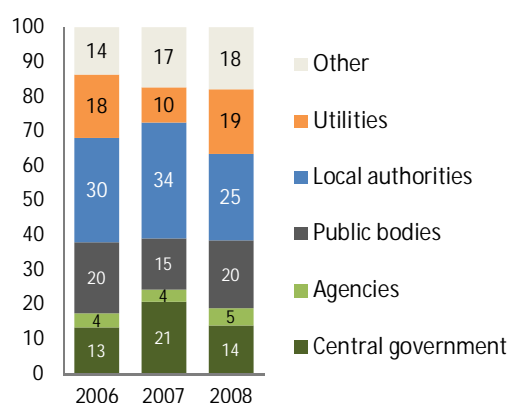
*Nature of contract*

**Service and supply contracts were the most common types of CANs, taking a similar share from the notices.** Together, they comprised 83-84% of all CANs between 2006 and 2008. The share of supply contracts slightly declined in this time period, from 42% to 40%, to the advantage of service contracts. Public works accounted for 16-17% of all above-threshold contract award notices.

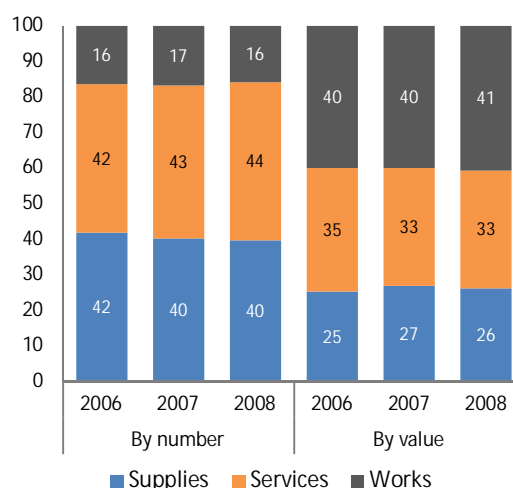
**In terms of contract value, the distributions look different: works – with a considerably larger average project value (and threshold) than the other two categories – have a 40-41% share.** Services are the smallest category in terms of value, accounting only to 25-27%.

The share of service contracts in terms of value – unlike their proportion in terms of number – slightly declined from 2006 to 2008.

**Figure 2.4 Distribution of contracts awarded by value - by type of contracting body**



**Figure 2.5 Distribution of contracts awarded by number and value - by nature of contract**

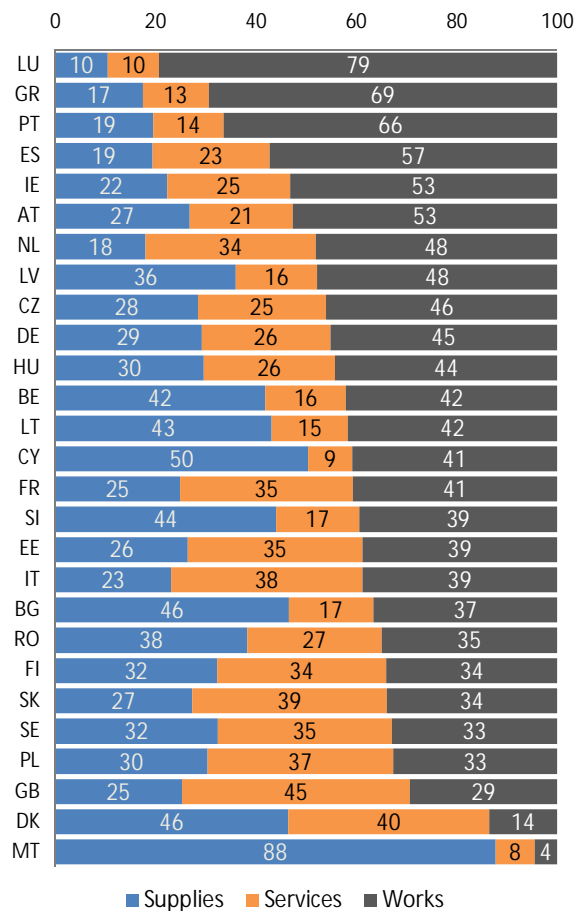


**Looking at individual Member States, some noticeable differences can be detected.** The share of public works contracts in the total value of above-threshold procurement is strikingly high in Luxembourg (79%), Greece (69%), Portugal (66%) and Spain (57%), but very low in Denmark (14%) and Malta (4%).

The share of supply contracts is much above average in Malta, Cyprus, Bulgaria and Denmark.

Service contracts account for the majority of above-threshold public procurement spending in the United Kingdom, Slovakia, Poland and Sweden – and is also relatively high in Italy and France.

**Figure 2.6 Distribution of contracts awarded by value - by nature of contract by Member State (total for 2006-2008)**



*Sector of product/service*

The goods or services procured can be grouped into six broad categories on the basis of the main CPV ('Common Procurement Vocabulary') code as indicated in the contract award notices.<sup>4 5</sup>

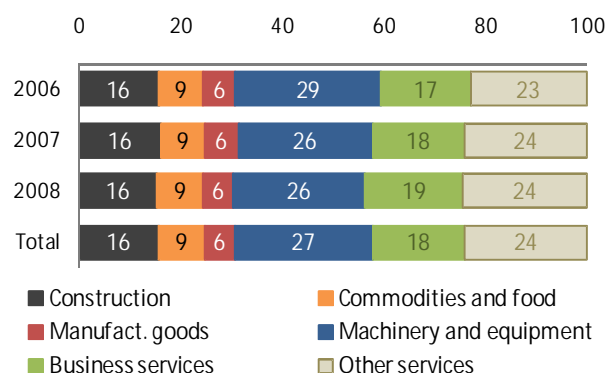
**In terms of number of contracts, 'machinery and equipment' are the largest category in terms of number of notices (27%), followed by 'other services' and 'business services'.** This classification has been refined as compared to the 2004 and 2007 studies.

There is a strong association between the overall nature of the contract and the sector of product or service bought. The first three categories ('commodities and food'; 'manufactured goods'; and 'machinery and equipment') accounting for 42% of the total number of CANs are usually – albeit not exclusively – supply contracts. 'Construction' (16%) is normally procured under public works contracts, and 'business services' and 'other services' (42% combined) under service contracts.

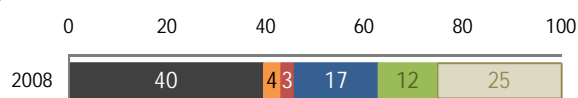
**In terms of value, construction is the largest category, accounting for 40% of above-threshold contracts published on TED (in 2008).**

A slow change in the sectoral structure mirrors the one between the contract categories: from 2006 to 2008, the two large service sectors increased their proportion by about 2 %-points. This was balanced out by a ca. 3% decrease in the procurement of machinery and equipment.

**Figure 2.7 Distribution of contracts awarded by number - by sector**



**Figure 2.8 Distribution of contracts awarded by value - by sector**



The share of awarded contracts of construction services (40%) and public works contracts (41%) should theoretically not differ from each other. The observed divergence may be here – as well as for a small amount of service and supply contracts – mostly the result of erroneous use of CPV codes.

<sup>4</sup> CPV codes form a standardised classification system, developed by the European Union, used to classify the subject of the contract in public procurement procedures. The codes help bidders to search for contracts that are within their scope of activity.

<sup>5</sup> The above six main sectors group together following CPV codes: Construction (45), Commodities and food (03, 09, 14, 15, 24, 41 and 44), Manufactured goods (18, 19, 22, 37, 39 and 48), Machinery and equipment (16, 30-35, 38, 42 and 43), Business services (70-73, 79), Other services (50, 51, 55, 60, 63-65, 75-77, 80, 85, 90, 92, 98)

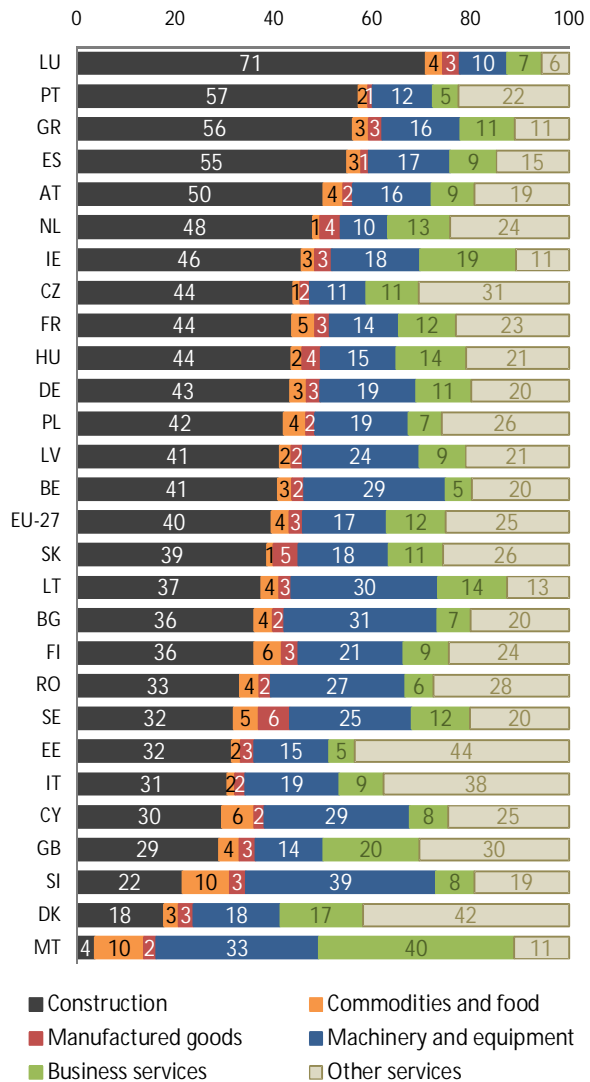
The differences across Member States regarding the sectors of product/services are again closely linked to the differences concerning the nature of contracts, as described earlier.

In 2008, expenditure on construction activities had a very strong weight in Luxembourg (71%), Portugal, Greece and Spain (55-57%), and little in Malta (4%).

Looking at supply contracts into more details, Malta and Slovenia seem to focus heavily on machinery and equipment purchases. Also, the significance of commodities (and food) was relatively high in these two countries.

The proportion of business services was high in Malta, the United Kingdom or Ireland, and relatively low in Portugal, Estonia and Belgium.

**Figure 2.9 Distribution of contracts awarded by value - by sector (CPV) (2008)**



## 2.2 Direct cross-border procurement

### 2.2.1 Introduction

Cross-border procurement may involve a range of different contractual and organisational setups in connection with public contracts. These are grouped into two main scenarios:

- **Direct cross-border procurement:** One or more companies (single bidder or part of a consortium or joint venture) supplying a contracting authority which is located in a different country than the country(ies) where they are seated. This scenario can be easily established by comparing the country of the procurer and winner(s) of public contracts, as supplied in the TED databases.
- **Indirect cross-border procurement:** The suppliers whom the public contract is awarded are located in the same country than the contracting authority, but the main responsibility for the delivery of the contract lies with a company based abroad. The different sub-types of indirect cross-border procurement include e.g. bidding through local subsidiaries, where the decisions over bidding and contracting are in reality made by the headquarter, or bidding through local dealers. Indirect cross-border procurement can also occur when a domestic firm imports goods in order to supply them to a contracting authority or entity.

**In the subsequent analysis, only direct cross-border procurement is discussed.**

### 2.2.2 Contracts given to companies located abroad

**Direct cross-border procurement is estimated to account for at least 4,626 public contracts above EU thresholds (published on TED) in 2008, corresponding to 1.5% of all contracts analysed.** The incidence of such transactions remains very similar to the figures given in the previous study, which were oscillating between 1.1% for 2001 and 1.9% for 2004.

All cases where the winning company appeared to be located in a different country code were checked manually, essentially by verifying that the postal code and the city were consistent with the country code. This check revealed an error rate of 11% (593 changes had to be made); these were almost exclusively domestic procurements in fact. The errors are likely to originate at the CAEs filling in the forms.

**In terms of overall value, direct cross-border procurement in 2008 was worth at least an estimated 9,194 million euro, corresponding to 3.74% of the total value of all above-threshold public procurement.**

As the TED database does not provide sufficient information - or in some cases any information - on the contractor for a considerable proportion of the contracts awarded, some direct cross-border contracts may not have been included in these figures.<sup>6</sup>

<sup>6</sup> Sufficient information would be – apart from its name – at least the town and/or ZIP code of the company being awarded the contract.

Figure 2.1: Number of cross-border procurement (2008)

	Number of cases	As % of total	Value (million EUR)	As % of total
Domestic procurement (successful bidders' contact address in home country)	302,651	98.49%	236,895	96.26%
Direct cross-border procurement (successful bidders' contact address in foreign country)	4,626	1.51%	9,194	3.74%
<b>Total</b>	<b>307,277</b>	<b>100%</b>	<b>246,089</b>	<b>100.00%</b>

Source: GHK calculations based on TED database. Calculations include only awarded contracts in which sufficient information on the winner was given (see above).

**Local and regional authorities do less frequently engage in direct cross-border transactions (0.5 to 0.6% of all cases) than utilities which are active in water, energy, transport and telecommunications sectors and award about 4.5% of their contracts to a foreign company.** Supply contracts are the type of contracts which are – though by a relatively small margin only – the most likely to be awarded across borders. Direct cross-border procurement is seen in 1.8% of cases for supply contracts while services and works contracts are procured across border in only 1.2 and 1% of cases respectively. Figure 2.1 and Figure 2.2 illustrate the trends by type of awarding authority and nature of contract.

Figure 2.1: Cross-border procurement, by type of awarding authority (2008)

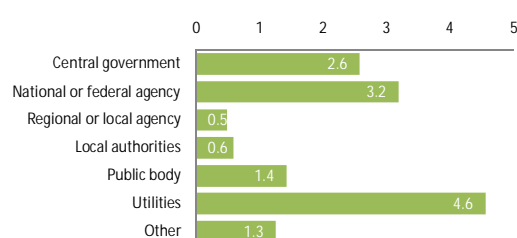
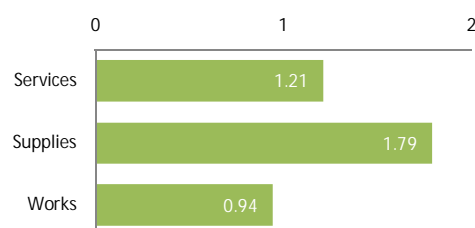
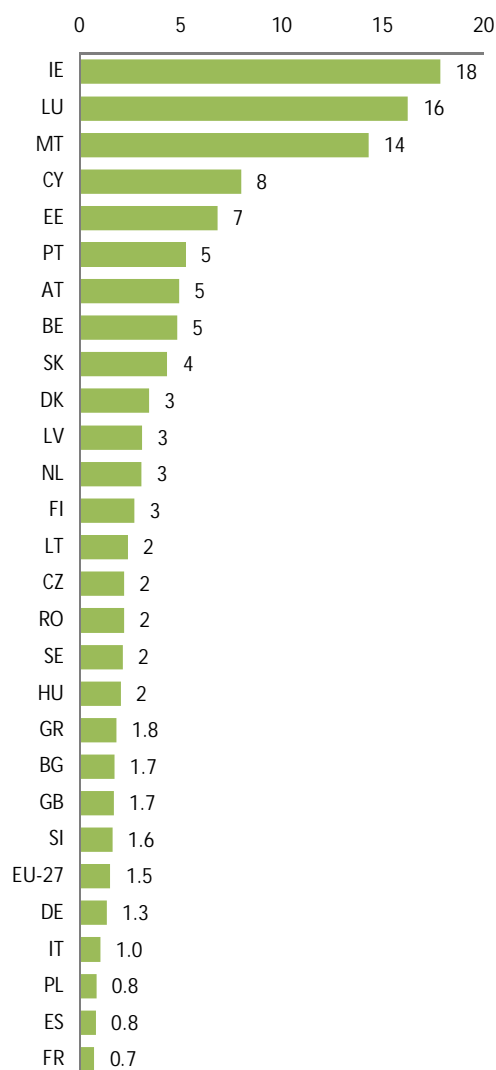


Figure 2.2: Cross-border procurement, by nature of contract (2008)

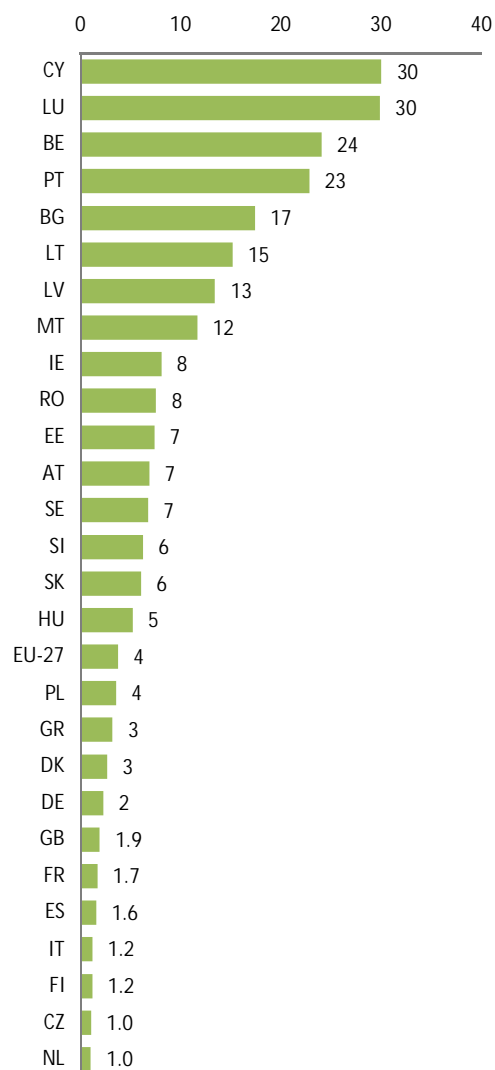


**As already highlighted in previous studies, the extent to which a country awards contracts to companies based abroad is largely related to the size of the country and more precisely the size of its internal market.** Thus, in countries such as Malta, Luxemburg or Ireland, the proportion of contracts awarded to foreign based companies reaches 14% to 18%, while in large countries, France, Spain or Poland for example, this proportion is less than 1%. A low share of cross border procurement tends also to be associated with the comparatively high importance of local (decentralised) procurement. France and Germany are examples where this link appears strong.

**Figure 2.3 Public contracts awarded to companies located abroad (by number of contracts)**



**Figure 2.4 Public contracts awarded to companies located abroad (by total value of contracts)**



Source: GHK

**The value of direct cross-border procurement reaches a share of 30% in Luxembourg or Cyprus.** Whilst the share of cross border contracts is public procurement in large country such Italy, France or Spain is low (less than 2%), a few medium-sized countries, namely the Netherlands and the Czech Republic also have very low shares of about 1%.

### 2.2.3 Companies bidding on foreign markets

Companies from certain member states tend to be more active in securing public markets abroad. **In terms of value, German companies have been particularly successful in 2008, winning public contracts in other Member States for a value of 3.5 billion euro.** Companies from France, the United Kingdom, Italy, Austria and the Netherlands have also done well, securing abroad from 900 million (French companies) to just below 350 million (Dutch companies). **Looking at the relative importance of contracts won in other Member States, Cyprus, Germany, Austria and Estonia are leading the league table.**



**Figure 2.5 Value of contracts secured by companies outside their own Member State (2008)**

Country	Value of cross-border contracts (million EUR)	As % of total value secured by domestic companies
CY	99	20.80%
DE	3,591	20.71%
AT	364	11.01%
EE	127	10.85%
IE	172	8.36%
FI	181	7.85%
LU	21	6.07%
NL	342	5.43%
DK	204	4.54%
BE	187	3.48%
SK	97	3.19%
FR	911	2.47%
CZ	218	2.36%
GR	77	2.17%
LT	28	2.17%
HU	78	1.76%
IT	422	1.71%
SE	57	1.30%
ES	293	1.02%
GB	423	0.88%
LV	13	0.87%
MT	0	0.73%
PT	10	0.51%
PL	65	0.29%
BG	5	0.24%
SI	2	0.15%
RO	6	0.07%

**For companies from most large countries, domestic public procurement markets remain the overwhelmingly major source of revenue.** This is true for Italian, English and French companies, for which the cross-border share of their public market revenue (considering only direct cross-border contracts) amounts only to 0.9, 1.7 and 2.5%, respectively. Non-domestic public markets were however important for German companies in 2008, amounting up to 20% of their public procurement revenues. This seems to be a rather exceptional phenomenon in 2008, due to a few contracts won abroad of exceptionally high value - most notably one which was secured in Belgium, worth more than 1.5 billion euro.

For companies from smaller countries, a lower amount secured abroad might actually represent a larger share of their public procurement revenues. For example, companies from Cyprus won public contracts worth only 99 million euro in tenders launched by other Member States (overwhelmingly by the UK, which is largely explained by the military bases of the latter on the island), but this represented more than 20% of their total revenues originating from public markets.

**Companies, when engaging in direct cross-border public procurement, tend to focus more and/or be more successful in neighbouring countries.** This is best illustrated by reviewing the top five foreign procurement markets for the companies from each Member State in terms of revenue. E.g., Germany is the main target for Austrian companies and France the most important for Belgian ones. **In the majority of Member States, neighbouring countries account for above 50% of the direct cross-border revenues of the companies from public procurement. Exceptions are Belgium, Bulgaria, Denmark, Italy, Netherlands, Portugal, Sweden and the United Kingdom.**

**Figure 2.6 Top five target countries of companies in terms of total value of direct cross-border contracts (2008)**

Country of company	Major public procurement markets abroad (neighbouring countries shaded)				
	No 1	No 2	No 3	No 4	No 5
AT	DE	RO	SI	PL	HU
	27.92%	22.82%	13.70%	8.77%	8.16%
BE	FR	RO	NL	ES	SK
	26.73%	22.00%	9.65%	9.00%	8.50%
BG	IT	FR	LV		
	85.63%	8.69%	5.68%		
CY	GB <sup>7</sup>	RO	GR	PL	IT
	82.12%	7.98%	5.70%	2.17%	1.68%
CZ	SK	LV	AT	DE	RO
	49.40%	25.43%	6.19%	6.00%	4.43%
DE	BE	PL	PT	LT	RO
	40.87%	13.26%	10.65%	4.36%	4.20%
DK	IT	CY	GR	FR	IE
	36.72%	35.27%	8.98%	5.48%	2.99%
EE	LV	BG	LT	DE	FI
	39.95%	35.75%	17.00%	4.79%	2.04%
ES	GB <sup>8</sup>	PT	GR	RO	PL
	30.57%	20.30%	13.62%	13.51%	11.80%
FI	SE	PL	EE	DK	GR
	53.34%	16.02%	8.00%	5.73%	3.61%
FR	GB	ES	PT	BE	PL
	28.99%	28.75%	10.55%	10.17%	6.03%
GB	DE	IE	FR	PL	RO
	20.20%	19.85%	14.58%	10.92%	8.89%
GR	CY	RO	ES	BG	IT
	48.85%	22.69%	13.02%	5.41%	2.71%
HU	RO	SK	CY	DE	SI
	57.08%	12.55%	9.70%	7.49%	5.22%
IE	GB	ES	RO	DK	PL
	65.55%	9.33%	6.12%	5.54%	4.86%
IT	RO	BG	PL	ES	FR
	23.83%	23.06%	11.09%	10.77%	9.61%

<sup>7</sup> British military bases on Cyprus

<sup>8</sup> Gibraltar

Country of company	Major public procurement markets abroad (neighbouring countries shaded)				
	No 1	No 2	No 3	No 4	No 5
LT	LV	DK	IT	PL	RO
	61.99%	13.28%	10.52%	5.86%	4.66%
LU	LV	BE	DE	FR	LT
	45.83%	33.48%	11.49%	3.58%	2.12%
LV	LT	EE	IT	SE	
	75.36%	18.71%	5.46%	0.47%	
NL	FR	BE	GB	PL	DK
	44.60%	14.71%	10.99%	5.22%	4.15%
PT	MT	RO	ES	FR	IT
	39.12%	24.57%	10.71%	10.03%	7.35%
PL	CZ	HU	LT	LV	DE
	27.11%	23.53%	21.57%	18.90%	5.79%
RO	HU	GR	LU	FI	
	56.11%	42.04%	1.52%	0.33%	
SE	DK	IT	EE	LV	PL
	36.97%	22.48%	6.69%	5.20%	4.51%
SI	IT	BG	GR	AT	
	38.28%	27.54%	19.28%	14.90%	
SK	CZ	AT	HU	PL	DE
	43.67%	35.86%	13.55%	4.64%	1.18%

## 2.3 Summary

- § The number of contract award notices published on TED is increasing steadily. Between 2007 and 2008, the increase was significantly steeper than before. The value of contracts awarded also rose in the 2006-2008 period, but at a slower pace than the number of contracts. Correspondingly, the average contract value has slightly decreased
- § The number of above-threshold contracts published on TED does not only depend on the size of the country, but also on the extent to which procurement is decentralised (local contracts are often below thresholds) and the propensity to break down tenders into lots (if the contract includes several lots, often more contract award notices are issued)
- § Direct cross-border procurement accounts for 1.5% of all contracts, corresponding to about 3.7% of the total value of above-threshold contracts. Small countries tend to award more contracts to companies abroad. Local and regional authorities seem to engage less frequently in direct cross-border transactions. Public utilities come first in terms of direct cross-border procurement
- § German and Cypriot companies were particularly successful in winning contracts abroad, together with Austrian and Estonian enterprises. The domestic market was almost the exclusive source for above-threshold public contracts for Romanian, Slovenian, Bulgarian and Polish companies

## 3 PUBLIC PROCUREMENT AND SMALL AND MEDIUM-SIZED ENTERPRISES

### 3.1 Introduction

Following up on the predecessor studies from 2004 and 2007, the main aim of the statistical analysis was to estimate the proportion of small and medium-size enterprises amongst companies winning above-threshold public contracts in the EU in the time period between 2006 and 2008, as well as their share in the total value of such contracts. The descriptive analysis undertaken in this study investigates differences across Member States and the main types of public procurement, and tries to gauge the extent to which SMEs are disadvantaged in accessing public contracts – in comparison to their overall significance in the European economy. This current study takes the analysis in the earlier reports one step forward by introducing confidence intervals to its estimates.

The official European definition of SMEs is given by the Commission's recommendation from 2003 (see side box).<sup>9</sup> The method of this study of classifying enterprises which were awarded public contracts followed this definition as far as possible. Whilst data on eventual public ownership was not available, data on the number of employees and annual sales were mostly consolidated for partner and linked enterprises (balance sheet figures were not collected).

The categorisation of sampled companies into SME size classes and the resulting estimates are not free from some bias (considerations on this, as well as some simulations trying to mitigate confounding factors were made during the assignment), but - thanks to a revised methodology and considerable efforts put in manually checking and refining the categorisation - their reliability has improved over the predecessor studies.

The definition of SMEs distinguishes between micro, small and medium-sized enterprises. The classification, in short, depends on the number of persons they employ and their annual sales volume - or their annual balance sheet total (only one of the latter two criteria needs to be met):

Size category	Employee number	Annual sales or balance sheet (euro)
Micro	Less than 10	2 million / 2 million
Small	10-49	10 million / 10 million
Medium	50-249	50 million / 43 million

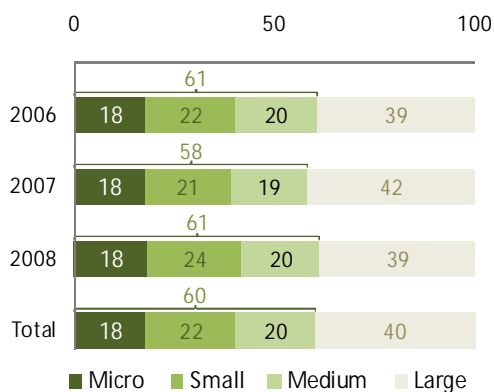
The thresholds apply to consolidated company figures, taking into account partner and linked organisations. Also, companies of which at least 25% is controlled by public bodies are normally not considered SMEs – with some exemptions.

<sup>9</sup> Commission Recommendation 2003/361/EC as published in the Official Journal of the European Union L 124, p. 36 of 20 May 2003

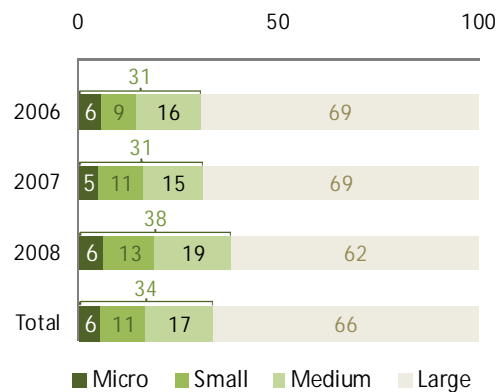
### 3.2 General trends

It is estimated that between 2006 and 2008, the proportion of SMEs amongst companies who won public contracts above the EU thresholds ranged between 58% and 61% in the EU-27. The total figure for the whole period was 60%. Micro-enterprises accounted for 18%, small enterprises to 22% and medium-sized enterprises to 20%. The proportions were relatively stable in the three years. The results are comparable to the previous estimate for the year 2005, where SMEs were estimated to account for 61% of public contracts above thresholds.

**Figure 3.1 Proportion of SMEs amongst successful bidders**<sup>10</sup>



**Figure 3.2 Share of SMEs in the total value of contracts awarded**



Source: GHK

In terms of estimated total contract value of public procurement secured, SMEs accounted for between 31% to 38% (their combined share for three years was 34%).<sup>11</sup> Micro-enterprises secured in total a share of 6%, small enterprises 11%, and medium-sized companies 17%. The relative weight of all three SME categories is smaller here due to their tendency to win contracts with lower values than large enterprises.

In the preceding study from three years ago, the share of SMEs winning public contracts was estimated to be 61% in terms of the number of contracts, and 42% in terms of value. The current results show about the same proportion but a lower share in the value of contracts. However, these new results rest on an improved methodology, a better match rate of sampled companies in Dun & Bradstreet databases, and on an extensive manual check of results, and are thus **not directly comparable to those the preceding study**.

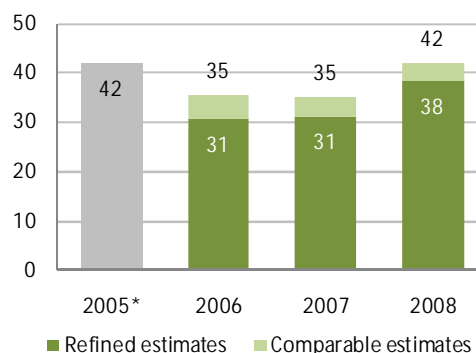
<sup>10</sup> All data on size class distribution are sample-based.

<sup>11</sup> These estimates only take into account the total value of public procurement contracts directly awarded to SMEs and do not cover the value that is subcontracted to SMEs.

The improved matching rate of Dun & Bradstreet had helped to mitigate a bias in underestimating, whilst the manual check mitigated a bias in overestimating the share of SMEs. The latter bias was however considerably larger in the statistical analysis of the 2007 study, according to a sensitivity analysis conducted on the dataset.

The initial estimates - prior to the manual check – which are broadly comparable to the figures from the previous study show that the market share secured by SMEs fell slightly to 35%-35% in 2006 and 2007, but rose back to 42% in 2008 (see Figure 3.3).

**Figure 3.3 Comparison of the initial estimates with 2005 figure**



\* Estimate of the previous study for 2005

Source: GHK

**It may therefore be concluded that the share of SMEs in winning public procurement contracts has not changed markedly, as compared to 2005, nor in comparison with 2002-2004 figures.**<sup>12</sup> An increase in SMEs' performance is observed in 2008, but it is too early to say whether this signals an emerging positive trend.

<sup>12</sup> The estimate in the previous study was 33% for 2002, 39% for 2003 and 35% for 2004. Given however the small sample of contract notices analysed from these three years, the figures are less reliable than the estimate for 2005.

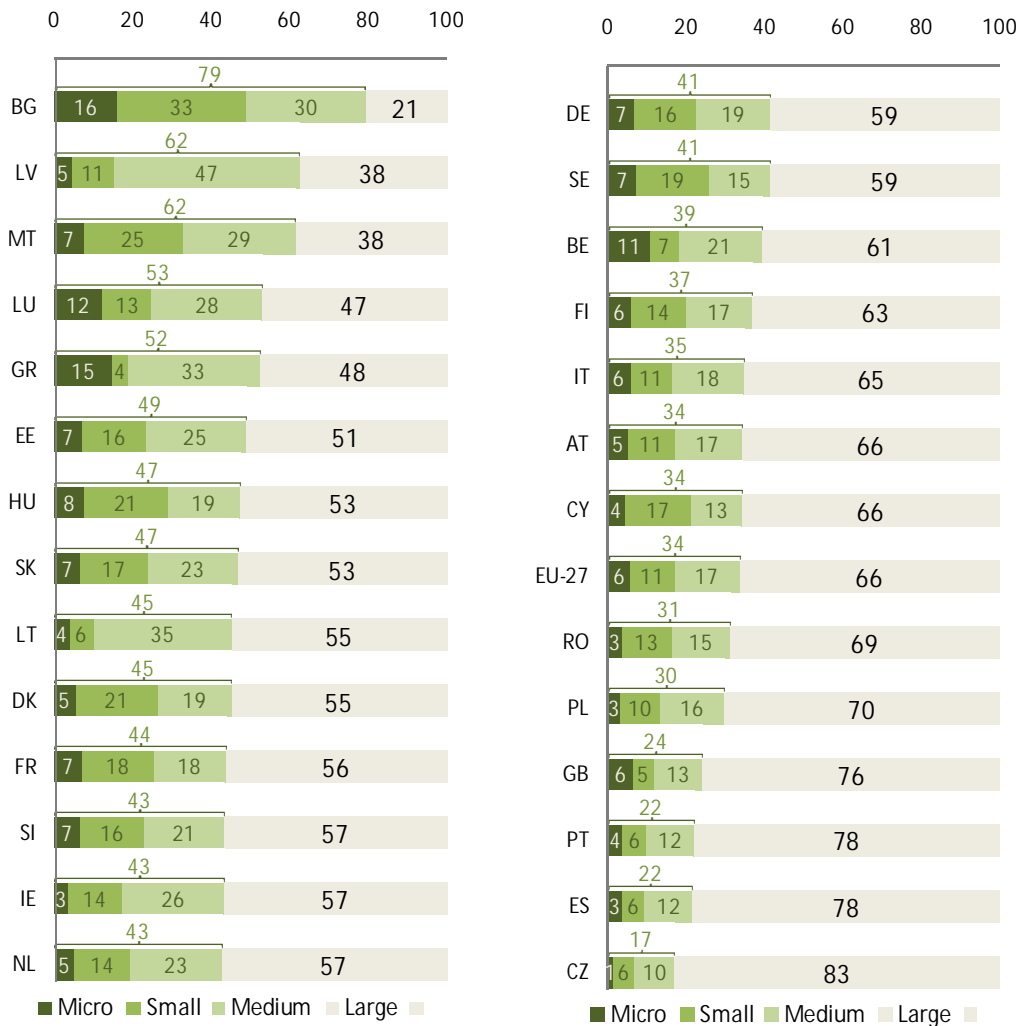
### Country differences in access to public contracts

The analysis by Member State shows large difference in the estimated total value of contracts awarded to SMEs.

The figures are high in some of the new Member States (Bulgaria, Latvia, Malta, Estonia, Hungary), in Luxembourg and Greece (Figure 3.4), but low in the Czech Republic, Spain, Portugal and the United Kingdom. Interestingly, it is also low in Poland, the country with the lowest median value for single contracts (lots)<sup>13</sup>.

Note that whilst the figures given below are considered as the best estimates that were feasible under the method used, some Member States (e.g. France or Hungary) collect more comprehensive data, which lead to more accurate statistics on SMEs' access.

Figure 3.1 Share of SMEs in the total value of contracts awarded, by Member State (total for 2006-2008)



Source: GHK

<sup>13</sup> As explained above, an explanation for this might be the propensity of Polish authorities to break down certain supply contracts into a very large number of lots.

**As a general trend, SMEs are more dominant in smaller countries.** Not less than 7 of the 8 Member States with populations below 5 million (Cyprus is the sole exception) are positioned in the top half of the countries, arranged by the share SMEs secure in public procurement, in the figure below. From amongst the six largest Member States, only France falls into this category.

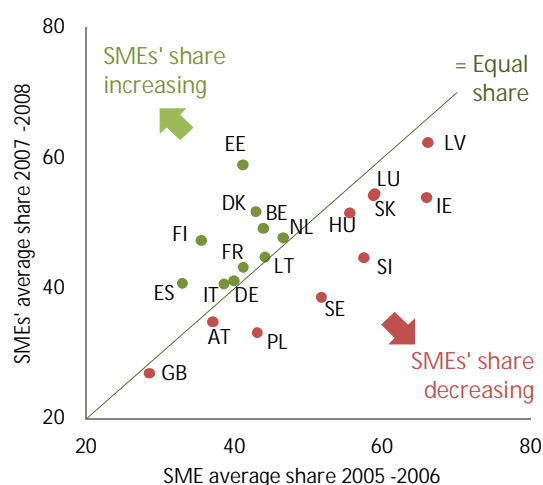
**The results also reveal structural differences within the group of SMEs.** The combined market share of micro and small enterprises – the two size class categories that are more often facing barriers to accessing public contracts than medium-sized enterprises – in above-threshold public procurement seems to be exceptionally high in Bulgaria (49%), and it is also considerably above the EU average (which was 17%) in Malta, Hungary, Denmark, France, Sweden and Luxembourg.

In Latvia and Lithuania, the favourable market position of SMEs seems to originate predominantly from the success of medium-sized companies – they may be large enough to cover the relatively small smaller service area of these countries. Medium-sized enterprises do also relatively well in Greece, Malta, Luxembourg, Ireland, Estonia, Slovakia, Slovenia, Belgium and the Netherlands.

**A comparison over time suggests an improvement in SMEs' performance in the majority of EU-15 countries, but a loss of market share in most of the new Member States.**

From the larger countries, Spain, France, Germany, Italy, Belgium and the Netherlands all increased the share of SMEs winning public contracts from the 2005-2006 period to 2007-2008 (two years were averaged to mitigate sampling bias). SMEs from the United Kingdom, Austria, Sweden, Poland and Hungary, however, seem to have lost some ground.

**Figure 3.2 Change of SMEs' share in public procurement above thresholds**

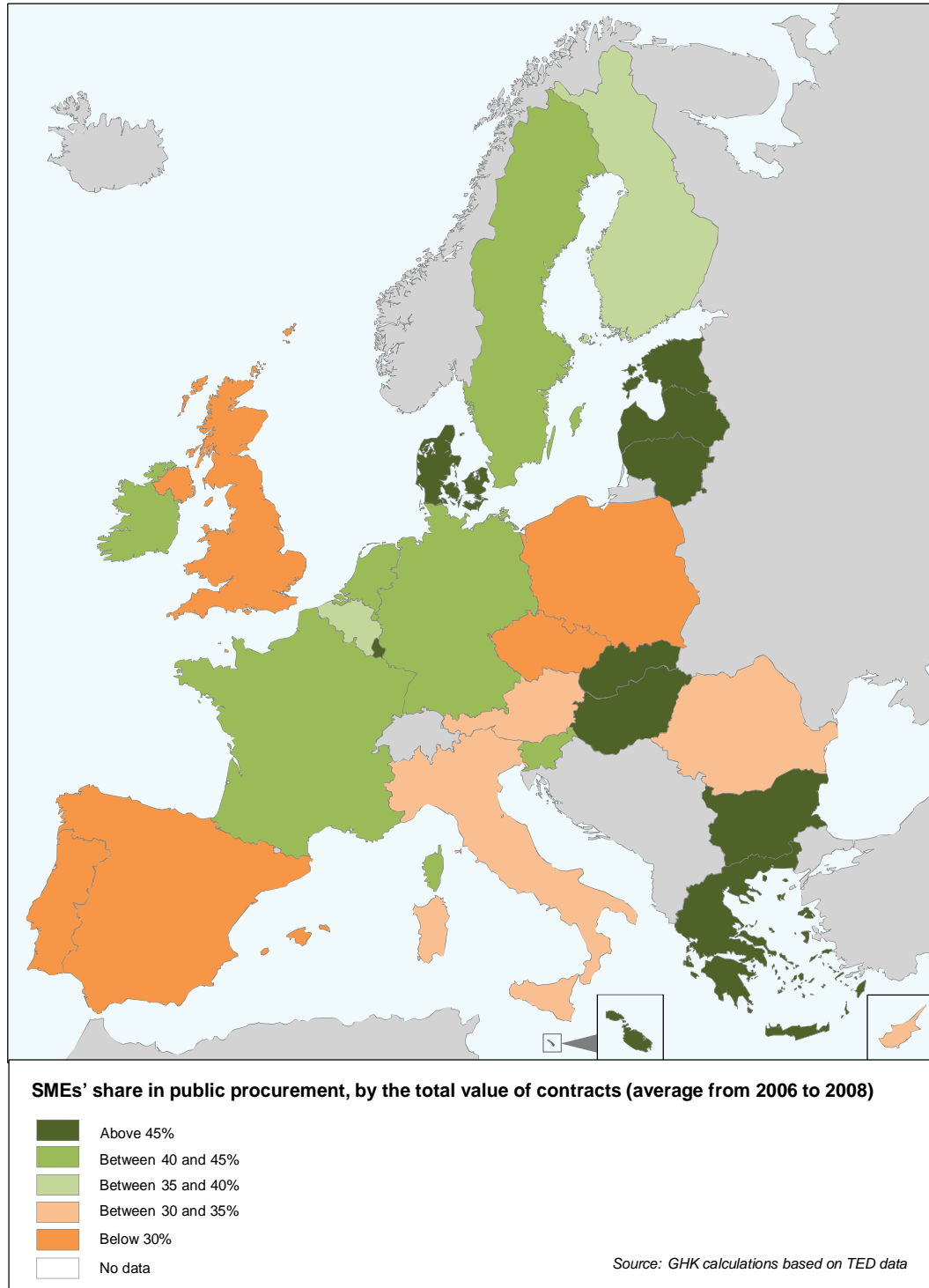


Source: GHK

This figure and analysis is based on data before the manual check of suspicious records, to be comparable with the data from the 2007 study. The results should be however treated with caution, as individual country samples for many Member States – especially the smaller ones – are not large enough to allow for a robust analysis across years.



**Figure 3.3 Share of SMEs in the total value of contracts awarded, by Member State (average for 2006-2008)**



The share of SMEs in the estimated total contract value secured is best to be compared either with the share of SMEs in the combined turnover or gross premium written within the business sector, or alternatively with their share within the total added value generated by enterprises.

The comparison of SMEs' average public procurement performance between 2006 and 2008 with the role they play in the economy shows that they are indeed disadvantaged in public procurement above the EU-thresholds.

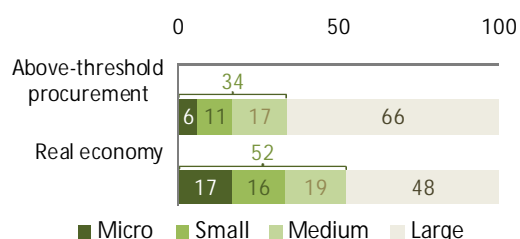
**In terms of total contract value secured, European SMEs accounted for about 34% of public procurement in the 2006-2008 period, which is 18 percentage points lower than their overall share in the economy, as calculated on the basis of their combined turnover (52%).<sup>14</sup>**

Comparing however the relative performance of the different SME size classes with their role in the total economy, one can see that **medium-sized enterprises do not seem to be unduly under-represented in public procurement.** Their share of above-threshold public procurement by estimated value was 17% in 2008, close to their 19% share in the economy.

**On the other hand, the relative significance of micro and small enterprises lags considerably behind their actual role in the real economy.** Micro-enterprises account for about 6% of the contract value in public procurement above the thresholds, versus ca. 17% of total turnover in the European economy – a lag of 11 percentage points. Small enterprises lag behind by 5 percentage points.

It is important to highlight that SMEs' share of the value contracted for contract below 300,000 euro in fact slightly exceeds the corresponding figures for real economy. However, this is more than offset by the huge disadvantage they (micro and small enterprises primarily) have in accessing larger contracts. Whilst one would not expect the largest contracts to be won by SMEs, they could eventually win more lower-value contracts to have their 'fair share' of public procurement overall.

**Figure 3.4 Difference between the share of SMEs in public procurement and their role in economy (average 2006-2008)\***



\*Calculated on the total annual turnover or gross premium written in manufacturing, construction, business services and other services

Source: GHK

<sup>14</sup> Figures do not include agriculture and fisheries, mining and utilities.

The extent to which SMEs are lagging behind is not the same in all Member States. **Between 2006 and 2008, SMEs in Luxembourg, Slovakia, Germany and Ireland had a greater access to public procurement above the EU-thresholds than their significance in the wider economy would suggest.**

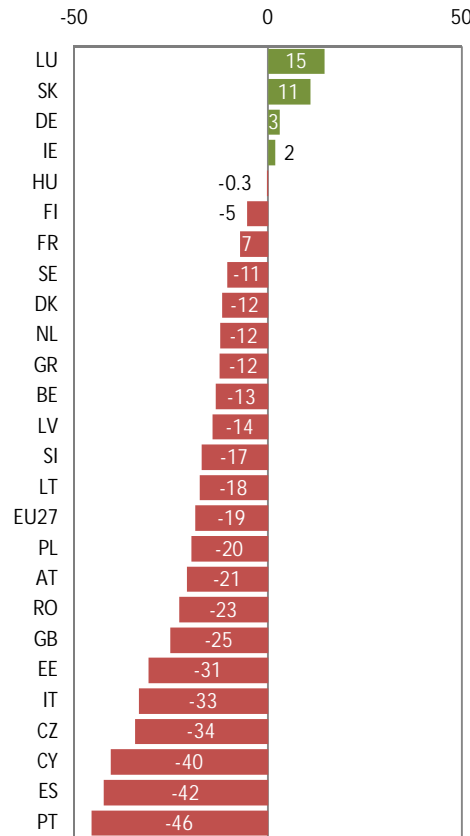
This might signal – apart from specific contextual factors – policies and practices that favour SMEs' participation. Hungary, Finland and France were also in relatively good positions.

**On the other hand, SMEs in Portugal, Spain, Cyprus, the Czech Republic, Italy and Estonia were losing out disproportionately in public procurement in the 2006-2008 period.**

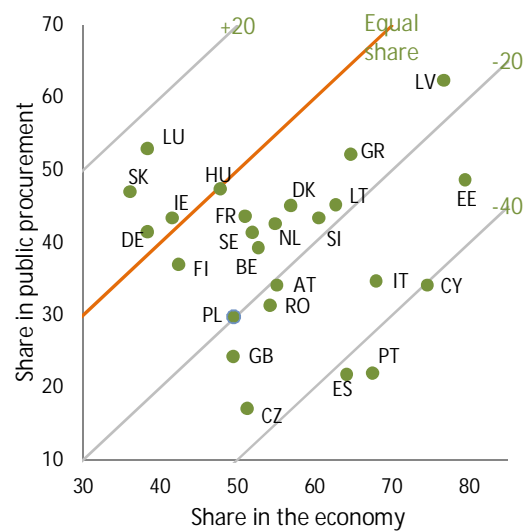
One part of country differences might be explained by a form of 'regression to the mean'. In countries where the weight of SMEs is below average (e.g. because their strongly export-oriented economy is dominated by the group of large companies in manufacturing or the business service sector) like Ireland, Germany, Slovakia, Hungary, Finland, they lag less behind in the specific domestic market of public procurement.

On the other hand, in countries where the relative significance of micro and small companies is high (although not in all sectors) such as in Greece, Cyprus, Latvia or Italy, they are often not able to achieve similarly exceptional performance in public procurement.

**Figure 3.5 Difference between the share of SMEs in public procurement and their role in economy by country (average 2006-2008)**



**Figure 3.6 Difference between the share of SMEs in public procurement and their role in the economy**



Source: GHK

### 3.3 Factors influencing SMEs' share in winning public contracts

#### 3.3.1 Introduction

Apart from differences between countries in the extent to which SMEs are able to secure public contracts, as presented above, there are also a number of common factors that can influence their chances in public procurement. Literature and European policy papers list several actions that can help SMEs to reach a level playing field, starting from the use of lots to framework agreements with several suppliers.

This study investigates through the statistical analysis of contract award notices in the TED database six main factors in specific – and further factors are explored in the next section on the basis of a survey amongst contracting authorities and entities and companies:

- § the type of the procurer
- § the type of contract (or, in a more refined breakdown, the sector of the good or service procured)
- § the tender procedure chosen
- § the use of EMAT (economically most advantageous tender) criteria
- § the overall contract value for a single contract (lot)

The statistical analysis looks first at the patterns of SMEs' participation in public tenders by breaking down overall figures by the above factors. Comparative charts reveal differences between SMEs' share in public contract under various settings.

Finally, a regression analysis brings all the factors together, estimating the impact of each of the factors on SMEs' probability of winning public contracts above the EU-thresholds. This *logit* (logistic regression) model calculates how the above factors, on average, influence the odds that a specific public contract will be won by an SME.

### 3.3.2 Analysis of the individual factors

#### The type of the procurer

The proportion of public procurement contracts awarded to SMEs was – not surprisingly – significantly larger for tenders launched by local authorities and regional or local agencies than for national agencies, bodies governed by public law or utilities – both in terms of number and value of contracts. Micro-enterprises in particular- seem to take the most advantages from the contracts issued by local authorities. The share of procurement value secured by SMEs was smaller in tenders published by utilities and by bodies governed by public law.

Figure 3.7 Proportion of SMEs amongst successful bidders, by type of awarding body

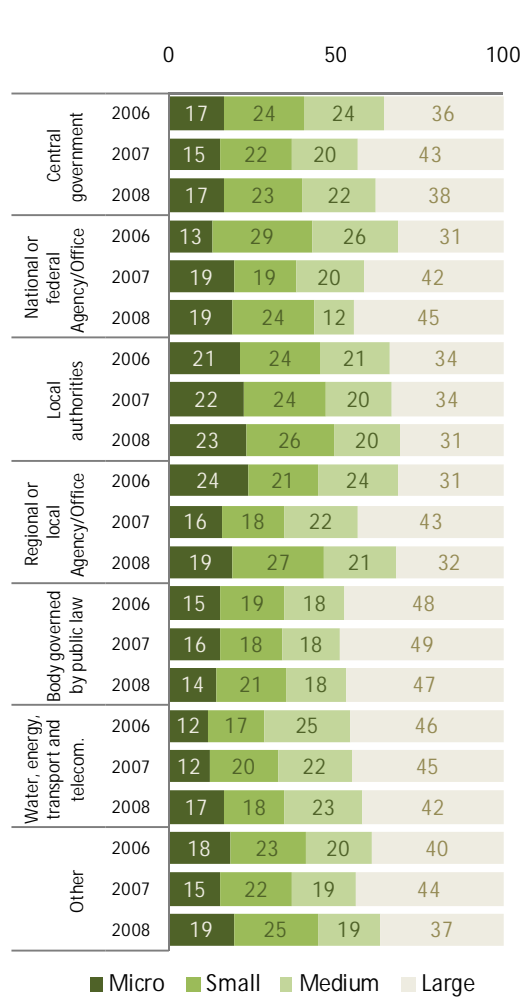
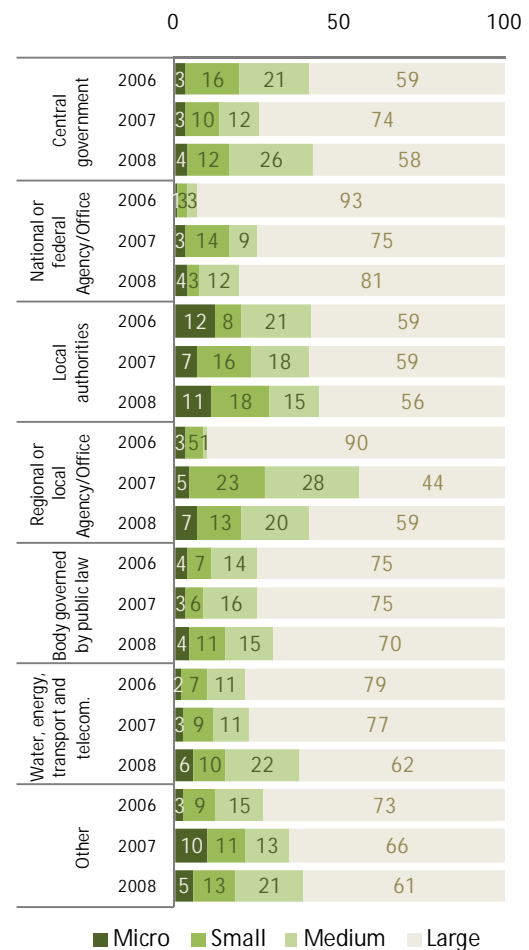


Figure 3.8 Share of SMEs in the total value of contracts awarded, by type of awarding body



*The type of contract*

SMEs account for considerably lower proportion of above-threshold supplies contracts (53-56% between 2006 and 2008) than of public works contracts (70-71%). **However, when looking at the value share secured SMEs seem to perform better under supplies and services contracts.**

Whilst public works include many simple construction projects and are often broken down into separate lots that are suitable for SMEs, this category also contains some of the largest contracts – which SMEs normally can not access.

**Figure 3.9 Proportion of SMEs amongst successful bidders, by nature of contract**



**Figure 3.10 Share of SMEs in the total value of contracts awarded, by nature of contract**

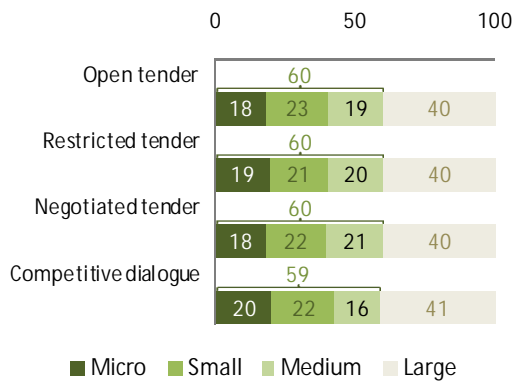


*The tender procedure*

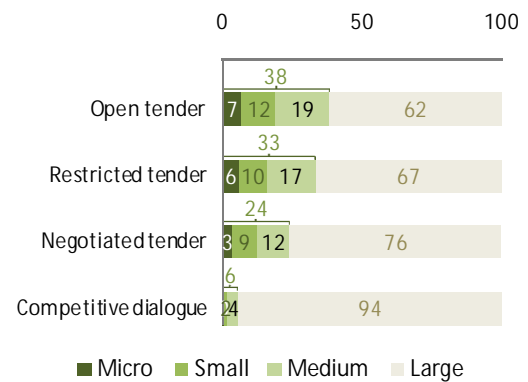
**In terms of type of procedure followed, the proportion of SMEs is about the same for all formats in terms of number of contracts won.** Micro enterprises won about 18-20%, small enterprises about 21-23% and medium-sized enterprises about 16-21% under all four procedures (in the analysis, all sub-types of restricted tender procedures and all sub-types of negotiated tender procedures were grouped together).

**However, in terms of the value of the contract secured, the differences are striking. SMEs fare well in open tender, but less so in restricted and negotiated procedures.** Under the new competitive dialogue, SMEs won only 6% of the total value of contracts. The latter is explicable by the fact that the competitive dialogue is designed for large, complex projects, which small companies usually can not lead.

**Figure 3.11 Proportion of SMEs amongst successful bidders, by type of procedure**



**Figure 3.12 Share of SMEs in the total value of contracts awarded, by type of procedure**



Source: GHK

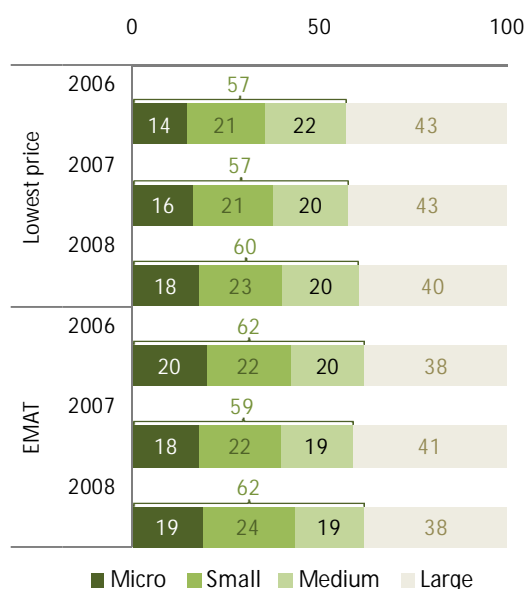
*The EMAT criteria*

**The simple analysis of CANs by the main criteria applied shows that SMEs tend to win about the same number - maybe slightly more - contracts when the 'economically most advantageous' (EMAT) criterion is applied.** These findings seem to support the argument often voiced by SME organisations and the Commission to use EMAT criteria more often, as this enables quality-conscious and flexible SMEs to bid successfully for public contracts, whilst also maximising value for money for the procurer.

However, as seen in the regression results later in this section, the connection between the use of EMAT and SMEs' chances of winning is not a simple one. For two contracts of the same broad group of goods or services, of the same value, procedure and the same number of lots, the one using EMAT criteria will be somewhat less likely to be won by an SME.

**SMEs' estimated share in terms of contract value is significantly lower in tenders that select the 'economically most advantageous tender'.** This is due to the fact that procurers use the EMAT criteria for high-value contracts more often (as these are usually more complex, and quality and other factors play a great role in the decision), and SMEs have correspondingly lower chances winning these tenders.

**Figure 3.13 Proportion of SMEs amongst successful bidders, by criteria applied**



**Figure 3.14 Share of SMEs in the total value of contracts awarded, by criteria applied**



### Contract value

**The (sometimes) large size of contracts is widely seen as the most important barrier to SMEs accessing public procurement. The statistics confirm that the value of a public contract has indeed a major – arguable the greatest – influence on the extent to which SMEs can access these.** According to the estimations, the proportion of SMEs awarded contracts is relatively stable at around 65% in contracts worth less than 300,000 euro, and starts to decline above this threshold. SMEs have only limited access to large contracts above €5 million (only 30%).

It is important to note one striking exception from the general rule: the proportion of SMEs in contracts with the lowest values (i.e. below €10,000) was below 60% between 2006 and 2008. This might be explained by the confounding effect of a number of relatively large supply contracts (e.g. for pharmaceuticals) very often supplied by large enterprises, which were broken down into tiny lots, virtually item by item. This was done e.g. in Poland.

The breakdown in terms of estimated value secured is very similar – which was expected considering that contracts are categorised by value range in this analysis, thus all contracts within a category have a similar value, eliminating the confounding effect of very large contracts (which are usually won by large enterprises). **The share of public contracts secured by SMEs is only 21-29% for contracts worth more than 5 million euro, but more than 60% in contracts of below 300,000 euro. The weight of SMEs starts to decrease above the 300,000 euro threshold.** The above results lead to the conclusion that the contract value threshold above which SMEs are genuinely disadvantaged is somewhere around 300,000 euro.



**Figure 3.15 Proportion of SMEs amongst successful bidders, by contract value**



**Figure 3.16 Share of SMEs in the total value of contracts awarded, by contract value**



### Manual check of companies

The first results of the statistical analysis showed, interestingly, that micro enterprises managed to win quite a considerable proportion of contracts with a value of above €5 million (ca. 8-11%). Similar results were obtained for small companies. This seemed to be highly unlikely. Some of the companies in question did lead temporary groupings (frequent e.g. in France, Italy), allowing micro or small companies to fulfil technical and financial criteria they would not otherwise be able to, but it was suspected that others were wrongly categorised.

Consequently, a comprehensive manual check was undertaken by GHK for this category. Indeed, 83% of the 220 enterprises that were marked as micro-enterprises by Dun & Bradstreet - but appeared to be suspicious - were found to belong to a larger size class. The corrected figures now show only a proportion of about 1 to 4% for micro-enterprises in winning contracts above €5 million.

To see how these results compare to the market context given by the structure of public contracts published on TED, one needs to look at the median contract values in above-threshold procurement.

Over the 2006-2008 period, the estimated median values of all CANs published were relatively stable, oscillating between 365 and 391 thousand euro. Whilst estimated average contract values decreased between 2006 and 2008, one can observe that the trend was different for estimated median values: these slightly exceed those of the 2002-2005 period – although the difference is not very large.

The estimated median values for supply and service contracts do barely differ (both having similar EU thresholds). They both fell within the range of around 320-370,000 euro between 2006 and 2008.

As expected, the estimated values for public work contracts (with a higher threshold) exceeded the above two categories significantly. However, the gap opened only after 2003, and the gap widens steadily since then.

The situation in individual Member States is diverse. As a general observation, one can say that estimated median values of public procurement contracts from most of the new Member States tend to be lower. 8 out of the 10 countries with the lowest estimated median contract values (below €350,000) have joined the EU only recently. The two notable exceptions are France and Germany. On the other end of the spectrum one finds Danish, Italian and interestingly Slovak public contracts, which have median values of above €750,000.

However, the estimated median values of the estimated aggregate value of a public tender - as indicated in the contract award notice – does not tell much about eventual barriers to SMEs as they tender for single contracts (i.e. individual lots). Compared to the estimated median aggregate contract value of €391,000, the estimated median value for single lots was much lower.

Figure 3.17 Trends in the estimated median value of CANs

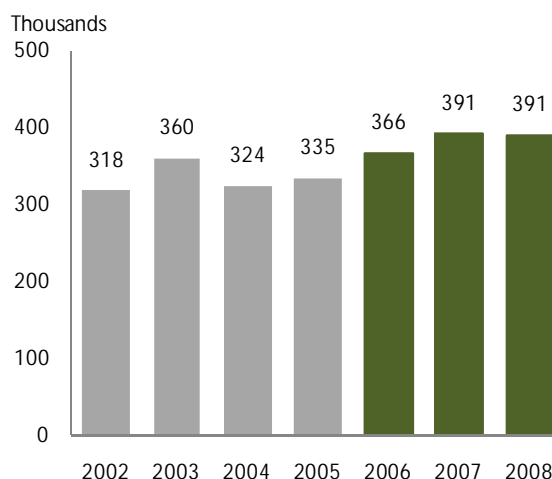


Figure 3.18 Trends in estimated median value of CANs, by type of nature of contract

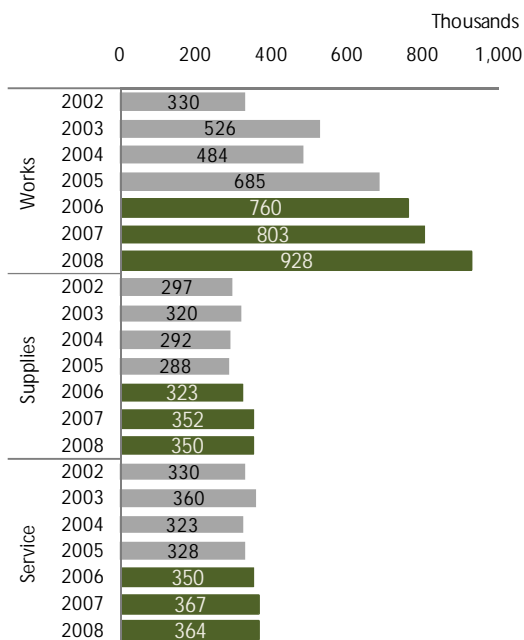


Figure 3.19 Estimated median aggregate value of CANs, by Member State (2008)<sup>15</sup>

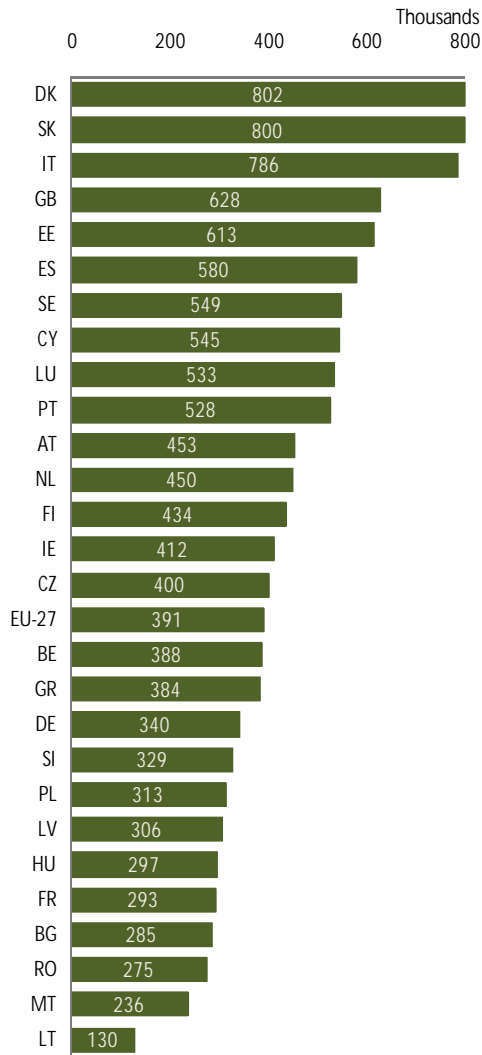
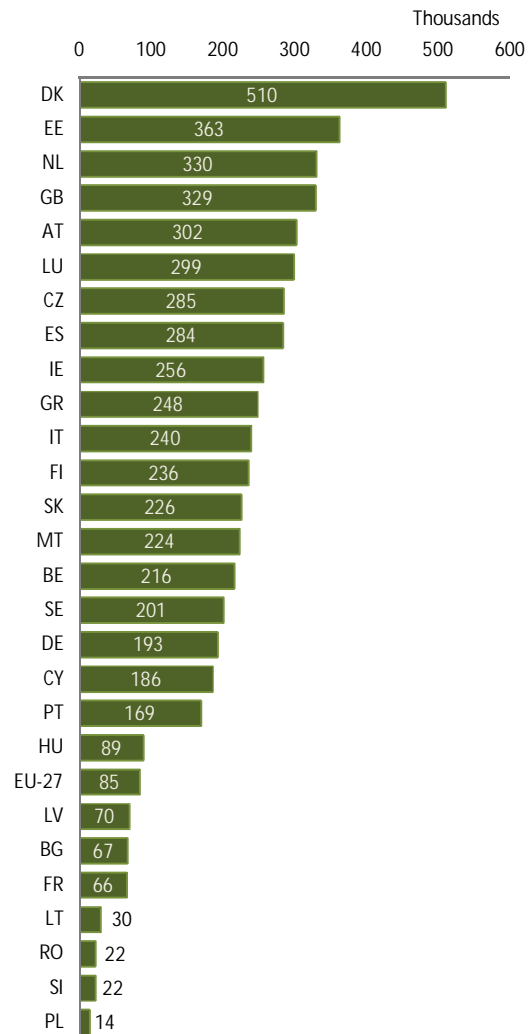


Figure 3.20 Estimated median value of single contracts (lots), by Member State (2008)<sup>16</sup>



Source: GHK

Calculating it on the sample of 10,039 identified companies winning single contracts selected from the 2008 database, the estimated median value was ca. €5,000 only.<sup>17</sup> Estimated differences across Member States are even more wide here, ranging from about €510,000 in Denmark to a mere €14,000 in Poland! Thus the 'typical' contract seems to be – if purely from a financial perspective – accessible for SMEs (note that the threshold above which the proportion of SMEs in public procurement starts to diminish is at about 300,000 euro).

<sup>15</sup> Calculated on all CANs published on TED

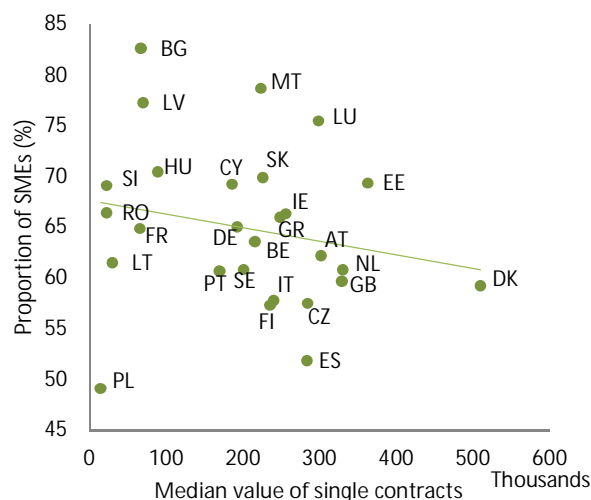
<sup>16</sup> Calculated on the sample of 10,039 identified companies winning single contracts selected from the 2008 database

<sup>17</sup> The large number of very small Polish single contracts (lots) is distorting the overall EU median

Countries that tend to break down certain tenders into very large number of small lots (sometimes hundreds!) will expect the lowest estimated median values – as the large number of very small lots impacts strongly on the median value. It appears that authorities in most of the new Member States, as well as France and Greece make it the easiest for SMEs, especially micro- and small enterprises to access public contracts.

The scatter diagram to the right also confirms that there is some correlation between the median value of single contracts (lots) above the EU-thresholds and the proportion of these contracts that are won by SMEs. On average, the higher the median value, the lower the success rate of SMEs. Some outliers, notably Poland with public contracts that often contain a massive number of lots, bias the diagram slightly. Without Poland, the slope of the fitted trend line would be more steeply negative.

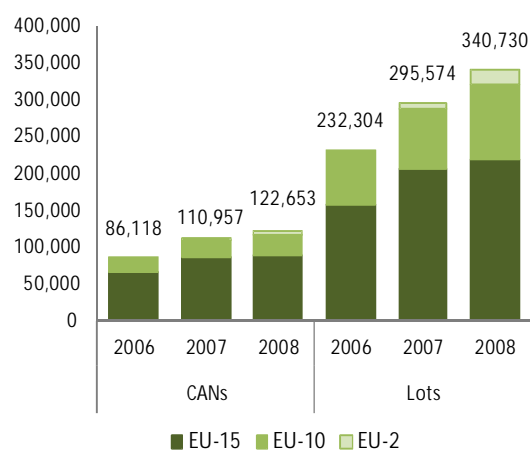
**Figure 3.21 Relationship between the median value of single contracts and proportion of contracts won by SMEs**



**Breaking down tenders into lots is commonly seen by stakeholders as one of the most important tools that help SMEs accessing public tenders.** This is achieved primarily by mitigating the above problem with large contract sizes. This is especially true for larger contracts, which would require technical capacities and financial resources that SMEs do not possess. But breaking down contracts into distinct professional tasks or geographical service areas may also help.

Many CAEs take advantage of this possibility. The 319,728 CANs issued over the 2006-2008 period were split into altogether 868,608 lots, which corresponds to an average of roughly 2.7 lots per notice. And this option seems to be used and to take further ground in the EU: **Between 2006 and 2008, the number of lots published increased by close to 47%, and has thus surpassed the growth of the number of CANs (42%).** The largest increases happened between 2006 and 2007. (+29% number of CANs, +27% number of lots). From 2007 to 2008, the number of CANs increased by 11%, while the number of lots rose by 15%.<sup>18</sup>

**Figure 3.22 Comparison of the number of CANs published and the number of single lots**



<sup>18</sup> Note that the figures exclude lots that were cancelled or unsuccessful. Such tenders were identified through an extensive keyword search conducted in several languages (searching e.g. for variations of 'infructueuse' in the cells normally containing the name of the successful tenderer) and manual verification of results.

Accordingly, some increase – albeit very small – is detectable in the overall proportion of notices being broken down into lots. The average number of lots per CAN increased from 2.7 in 2006 and 2007 to 2.8 in 2008.

Between 2006 and 2008, 27% of the CANs published have been split into lots. This proportion slightly increased to 28% in 2008. On average, 16% of CANs contained between 2 and 4 lots, while 6% comprised between 5 and 9 lots. 3% of the CANs were spread into 20 to 49 lots and only less than 0.5% had more than 50 lots (but in some cases they had up to several hundred lots!). 73% of the CANs published between 2006 and 2008 were single-contract tenders.

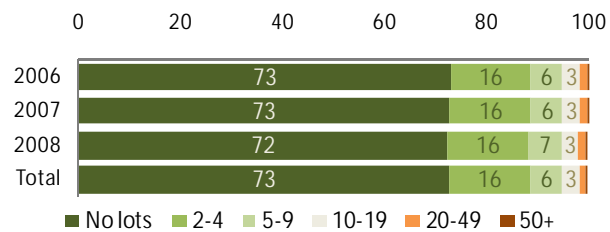
**Looking at the figures in more detail, considerable differences in the propensity of countries to use lots can be observed.**

In Cyprus, almost every second tender above the EU thresholds was broken down into lots in the 2006-2008 period. CAEs from Slovenia, France and Poland seem also to favour lots.

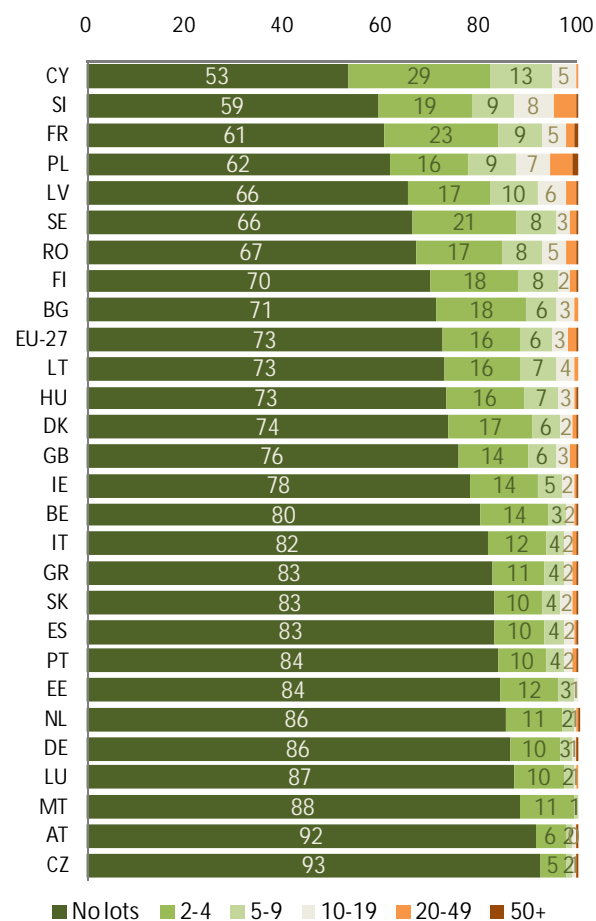
On the other end of the spectrum, one finds authorities from the Czech Republic, Austria, Malta and Luxembourg, who only rarely use the opportunity of lowering the entry barrier to SMEs through lots.

The simple comparison of this league table with the proportion of SMEs in above-threshold procurement in these countries does not reveal any apparent link between the two. However, the logistic regression, presented later in this section, will show that there is indeed a connection between the number of lots and SMEs' odds of winning above-threshold contracts. Contracts broken down into more lots are more likely to be won by SMEs, even when accounting for the resulting lower contract sizes.

**Figure 3.23 Distribution of CANs by the number of lots they contain**



**Figure 3.24 Distribution of CANs by the number of lots they contain, by Member State (2006-2008)**



Source : GHK

### 3.3.3 Compound analysis of the factors

To assess the *ceteris paribus* effects<sup>19</sup> of the different factors on SMEs' participation in a systematic way, controlling for contextual variables, a multiple logistic regression analysis (*logit*) was conducted. The model was populated with data from the three-year sample of contract award notices taken from TED, for which the winners have been identified (altogether above 27,000 observations). This looks at how certain explanatory factors influence the odds ratio that SMEs will win a specific contract.

This model provides for the first time some evidence on the impact and importance of the selected key factors on SMEs' success in public procurement above the thresholds.

The response variable was a binary variable taking the value of 1 if the specific contract has been won by an SMEs and 0 if not. The 'contextual' explanatory variables were:

- § country dummies to control for different country policies, overall practices and strength of the SME sector (a specific country dummy variable takes the value of 1 if the given contract was issued by that specific country)
- § dummies for the type of procurer (national government etc.) to control for differences
- § dummies for the sector of the good or service provided (main CPV code) to control for differences in the sector context (these equal the sectors in the main report, but pharmaceuticals and medical supplies were separated from the supply of 'other goods')

The 'key' explanatory variables (which can be influenced by policy) were:

- § the contract value (logarithm)
- § dummies for the procedure chosen
- § a binary variable for application of EMAT
- § dummies for the number of lots in which the original tender was broken down (grouped into value ranges)

The model returns for each of the explanatory variables an 'odds ratio', which shows the proportion of the chance of SMEs winning public contracts if the explanatory variable is increased by one unit (in case of dummy variables: if the contract falls into the category indicated by the dummy) versus their chance otherwise, all other things being equal. If the odds ratio for a given variable is above 1, this means that SMEs are more likely to win contracts by increasing the level of that specific factor.

The results are valid if the probability of the null hypothesis (i.e. that the given factor does not have a significant influence on SMEs' chances) is lower than 5%.

**The results confirm that the higher the contract value, the lesser the likelihood that an SME will win that contract. The odds ratio for the logarithm of the contract value is 0.8529, which means that for each increase in the contract value by about 172%, the chance of SMEs winning decreases by about 8%. Apart from the specific sector of pharmaceuticals (in which SMEs were unlikely to win contracts), this factor was associated with the greatest significance in the model.**

**The specific tender procedure chosen does not seem to have a clear impact on the opportunities of SMEs.** The regression analysis suggests that the procedure in which SMEs may be the most successful is the open tender procedures, followed by negotiated and restricted tender. The competitive dialogue (reserved normally for large, complex projects) is won by SMEs the least often. However, the odds ratios obtained were not significant for any of the procedure types, perhaps due to the limited sample size on which the analysis was performed.

**One of the most intriguing findings from , the use of the EMAT criterion decreases their chance of winning by about 9% (the odds ratio was 0.8340).** This may come as a

<sup>19</sup> I.e. looking at the impact of one individual factor, all other things being equal

surprise at first sight, countering the policy arguments in favour of EMAT. However, the above result does not necessarily mean that the introduction of EMAT reduces SMEs' opportunities. It merely says that everything else (such as sector, value or lots) being held constant, the type of projects that are evaluated under EMAT criteria are more likely to be won by large enterprises than those that are evaluated on the basis of the lowest price only. Without more information on these contracts, one can only guess what the reasons are: maybe large companies have an advantage in tenders asking for complex, leading-edge supplies or services, where the track record, the technical and financial capabilities of the supplier, or previous experience with him play a major role in awarding the contract.

**The subdivision of contract into lots increases SMEs' success rate, even above the evident effect of smaller contract values.** This means that between contracts of the same size, the one that is a lot of a larger contract is more likely to be won by SMEs. The mere fact of breaking down a contract into lots, irrespective of the final value of the single contract supports SMEs.

Breaking down the contract into geographical service areas or professional activities (e.g. in construction) may have an intrinsic value from an SME policy perspective. Interestingly, the odds ratio is the greatest for contracts with 10-19 lots (SMEs have a 25% greater chance winning these than contracts that are not subdivided), and starts to fall afterwards. For contracts with 50 or more lots, SMEs' probability of winning is ca. 10% smaller than for contracts with no lots at all.

From the control variables, countries naturally have a relatively large influence (the results for the country dummies are not presented in the figure above). But certain sectors have also a strong impact. **SMEs rarely win contracts concerning pharmaceuticals, commodities and food and machinery and equipment (as compared to constructions, which is in the midfield), but are successful in business services and the supply of manufactured goods (other than machinery and equipment).** The sector contextual variables are statistically all strongly significant. The newly defined 'pharmaceuticals' sector was in fact the strongest explanatory variable in the model: the probability of SMEs winning such contracts is by about 55% lower than in construction, the baseline sector chosen.

Most of the procurer types do not seem to have a significant impact on the chances of SMEs winning contracts, with the exception of local authorities (positive impact: +7%), central government bodies and utilities (negative impact, -5% and -6%, respectively).

Figure 3.4 Key results of the regression analysis

Variable	Odds ratio	Std. error	z value	Prob. of 0-hypoth.	[95% conf. interval ]	
<b>(Country - not presented here)</b>						
<b>Type of procurer</b>						
Central government	<b>0.9098</b>	0.0443	-1.94	<b>0.052 *</b>	0.8269	1.0010
National or federal Agency/Office	0.8852	0.0927	-1.16	0.244	0.7209	1.0869
Local authorities	<b>1.1418</b>	0.0479	3.16	<b>0.002 **</b>	1.0516	1.2398
Regional or local Agency/Office	1.1139	0.1020	1.18	0.239	0.9308	1.3329
Body governed by public law	0.9303	0.0386	-1.74	0.082	0.8575	1.0091
Utility	<b>0.8827</b>	0.0516	-2.13	<b>0.033 *</b>	0.7872	0.9899
Other	(omitted)					
<b>Sector</b>						
Business services	<b>1.1450</b>	0.0588	2.64	<b>0.008 **</b>	1.0353	1.2662
Commodities and food	<b>0.5772</b>	0.0317	-10.01	<b>0.000 ***</b>	0.5182	0.6427
Construction	(omitted)					
Machinery and equipment	<b>0.7474</b>	0.0365	-5.97	<b>0.000 ***</b>	0.6792	0.8224
Manufactured goods	<b>1.5132</b>	0.1092	5.74	<b>0.000 ***</b>	1.3137	1.7431
Other services	<b>0.8891</b>	0.0402	-2.60	<b>0.009 **</b>	0.8137	0.9714
Pharmaceuticals	<b>0.2924</b>	0.0153	-23.55	<b>0.000 ***</b>	0.2639	0.3239
<b>Key explanatory variables</b>						
Logarithm of the value of a single contract in euro	<b>0.8529</b>	0.0059	-22.88	<b>0.000 ***</b>	0.8413	0.8646
Open tender	1.3759	0.4419	0.99	0.320	0.7331	2.5822
Restricted tender	1.2228	0.3950	0.62	0.533	0.6492	2.3032
Negotiated tender	1.3052	0.4224	0.82	0.410	0.6922	2.4610
Compet. dialogue	(omitted)					
Use of EMAT	<b>0.8340</b>	0.0272	-5.56	<b>0.000 ***</b>	0.7828	0.8893
No. of lots = none	(omitted)					
No. of lots = 2-4	<b>1.1019</b>	0.0441	2.43	<b>0.015 *</b>	1.0188	1.1919
No. of lots = 5-9	<b>1.2445</b>	0.0556	4.90	<b>0.000 ***</b>	1.1402	1.3583
No. of lots = 10-19	<b>1.6633</b>	0.0804	10.53	<b>0.000 ***</b>	1.5130	1.8286
No. of lots = 20-49	<b>1.3676</b>	0.0723	5.92	<b>0.000 ***</b>	1.2329	1.5170
No. of lots = 50+	<b>0.8252</b>	0.0516	-3.07	<b>0.002 **</b>	0.7300	0.9328

\* Significant at 5%, \*\* Significant at 1%, \*\*\* Significant at 0.1%

<b>Model metrics</b>	
Number of observations	27,173
LR chi2(48)	2565.09
Prob > chi2	0.0000
Log likelihood	17040.602
Pseudo R2	0.0700
Mean VIF	2.21
Max VIF	12.45



### 3.4 Summary

- § The proportion of SMEs amongst companies winning above-threshold contracts is estimated at 60% for the period between 2006 and 2008. Micro-enterprises accounted for 18%, small enterprises to 22% and medium-sized enterprises to 20%. In terms of the value of the contract, SMEs accounted for 34% in the three years observed. Micro-enterprises secured a share of 6%, small enterprises between 11%, and medium-sized companies between 17%
- § The estimates on SMEs' proportion in the number of contracts won are similar to the findings of the 2007 study, the estimates on SMEs' share in the total value are lower (the estimate was 42% for 2005). However, this is due to the refined methodology: the final conclusion is that the share of SMEs did not change markedly over the last years
- § SMEs secure a larger share of above-threshold procurement in some new Member States – with Bulgaria in the lead – in Luxembourg and Greece. Their significance in public procurement is relatively low in the Czech Republic, Spain, Portugal and the United Kingdom.
- § SMEs share in above-threshold public procurement (in terms of contract value secured) is 18%-points lower than their overall weight in the economy, measured by the combined turnover or gross premium written in the business sector. Medium-sized enterprises do not seem to be unduly under-represented, but micro and small enterprises lag considerably behind their actual role in the real economy.
- § SMEs in Luxembourg, Slovakia, Germany and Ireland have a greater access to public procurement above the EU-thresholds than their significance in the wider economy would suggest. SMEs in the Czech Republic, Cyprus, Spain and Portugal are however losing out disproportionately. The weight of SMEs is significantly larger in public procurement launched by local authorities and regional or local agencies than in the tenders of national agencies, bodies governed by public law or utilities. SMEs win more public works contracts than services and especially supplies contracts, however, in terms of value, their relative position is better in the latter two types of contract
- § SMEs win open, restricted and negotiated procedures, as well as competitive dialogue in almost exactly in the same proportion. In terms of value, they assume the greatest significance under open tenders (38%). Their share in public procurement launched under a competitive dialogue is only 6%. Public procurement procedures based on the 'economically most advantageous tender' (EMAT) criteria do not seem to help SMEs' chances of winning: their secured share of public contracts was only about 28% (37% in 2008), as compared to 38-43% in contracts on the basis of the lowest bid price
- § The large size of contracts is arguably the most important barrier for SMEs accessing public procurement. Whilst SMEs won around or even more than 60% of contracts below 1 million euro, they barely won 30% of contracts above 5 million euro. Similar applies to their share in terms of the total value of contracts secured.
- § The value threshold above which SMEs are considerably disadvantaged is in the range of 300,000 to 1 million euro. The median contract size above thresholds range between 366 and 391 thousand euros, which should be accessible for SMEs. However, the median value for public works contracts has constantly increased over the last years, from about 330 thousand to 928 thousand euro. New Member States tend to publish tenders (single contracts) with a lower median value, but contracts in France are also mostly of a lower value. The median value of public contracts is the highest in

Denmark, Estonia, Netherlands and the United Kingdom

- § Breaking down tenders into lots is commonly seen as one of the most important tools of helping SMEs to access public contracts and many CAEs take advantage of this possibility. 27% of the CANs have been broken down into two or more lots. On average, TED contains 2.7 lots per contract award notice, and the number of lots published has surpassed the growth in the number of CANs published between 2006 and 2008. CAEs from the Czech Republic, Austria, Malta do break down their contracts into lots the least frequently. Procurers from Cyprus, Slovenia, France and Poland use lots the most often
- § The regression analysis of individual factors influencing SMEs' chances confirms that the higher value the contract, the lesser the likelihood of SMEs winning the contract. Procedures using the EMAT criterion tend to be won less frequently by SMEs, but the subdivision of the contract into lots increases SMEs' success rate, even above the evident effect of smaller contract values – whereas the tender procedure does not have a significant impact

## 4 PUBLIC PROCUREMENT PRACTICES ON THE GROUND

### 4.1 Introduction

Within the framework of the study, a multi-lingual surveys were undertaken amongst companies and contracting authorities and entities within the Member States, to collect information directly from stakeholders on the ground on their concrete activities and views in the field of public procurement.

The results from the surveys are complemented with findings from 'mini case studies': descriptions of procurer initiatives that may enhance SMEs access to public contracts.

### 4.2 Suppliers' views

#### 4.2.1 The sample

In May and June 2010, a set of telephone interview were conducted with SMEs and large companies from 12 Member States, who have won at least one public tender above EU thresholds in 2008. In parallel, an abridged version of the questionnaire was put on the Internet, to which a large number of companies from across Europe were invited. **Altogether, 887 companies from 19 Member States answered the survey, putting the size of the sample comparable to that of the 2007 study.** The number of companies per country interviewed varied, ranging from 1 (Lithuania) to 118 (Germany). The sub-samples from 11 Member States are large enough for statistical analysis.

Figure 4.1 Number of companies surveyed by country

Country	Number of respondents		Country (summarised under 'Other')	Number of respondents	
	Count	% of total		Count	% of total
Germany	118	13			
Romania	91	10			
Italy	90	10			
United Kingdom	90	10			
Poland	86	10	Bulgaria	8	0.9
France	83	9	Finland	7	0.8
Belgium	81	9	Slovenia	5	0.6
Austria	59	7	Sweden	4	0.5
Hungary	57	6	Slovakia	3	0.3
Spain	50	6	Netherlands	2	0.2
Ireland	49	6	Portugal	2	0.2
Other	33	4	Lithuania	1	0.1
<b>Grand Total</b>	<b>887</b>	<b>100</b>	Unknown	1	0.1

Source: GHK

Companies participating in the telephone or the online survey were categorised into size classes taking into account the number of employees and annual turnover. **60% of the respondents (526 companies in total) were SMEs, and 40% (359 companies) were classified as large enterprises.**

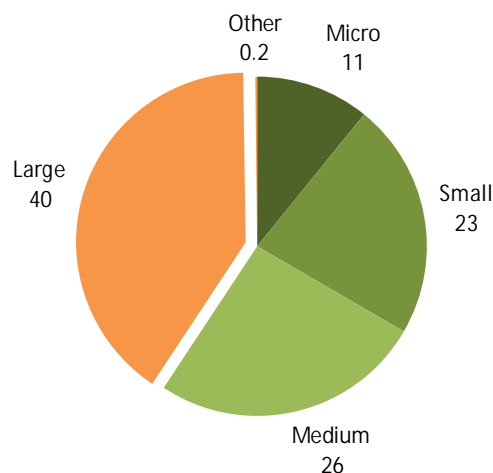
The sample obtained was adequately balanced when breaking the above figure further down: **11% of the sample were micro-enterprises, 23% of companies small enterprises, and 26% of the sample were categorised as medium-sized enterprises.** 2 organisations were not companies but organisations from the public sector.

**The sector distribution of responding companies was relatively balanced: 27% of the companies surveyed provide 'other services'<sup>20</sup>, 20% work in business services, 23% in general trade, 10% in construction and a total of 19% in manufacturing or the supply of goods (3% commodities or food, 8% machinery and equipment, 8% other goods).**

The proportion of SMEs was lower-than-average in the production or supply of machinery and commodities and food, and higher in trade and in the 'other services' category.

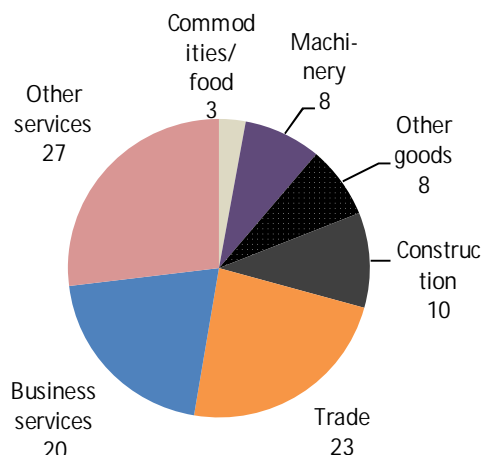
In addition to the country of origin, enterprise size classes and industry sectors as defined above have been used as key dimensions for comparisons between groups of enterprises in subsequent analyses.

**Figure 4.1 Distribution of companies by size class (in percentage)**



Source: GHK

**Figure 4.2 Distribution of companies by main sector of activity (in percentage)**



Source: GHK

<sup>20</sup> I.e. services other than trade and business services

**Most companies surveyed (52%) regarded the national market as their main geographical market.** The local or regional market was the main market for less than a quarter of companies (23%). Small and micro-enterprises in the sample were of course less likely to enter EU or international (global) markets, whereas these were the main markets for 42% of larger companies.

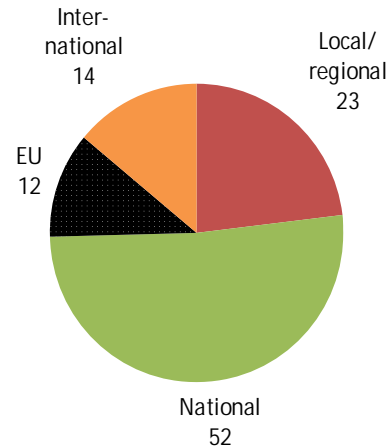
Companies providing business services were more likely to work on the national market (55%) than the average of the company sample. Companies in manufacturing have a relatively large presence in EU or global markets (43%, compared to 26% for all companies surveyed).

**The public sector is an important client for most of the companies that participated in public procurement. For most companies surveyed, competing for public contracts was seen as an important element in organisational strategy.** Differences across sectors and size classes were limited.

Overall, 56% of companies surveyed said that public contracts were 'very important' for their organisation, and 7% of companies worked solely for the public sector. 7% of companies stated that public procurement contracts were only of minor importance for them.

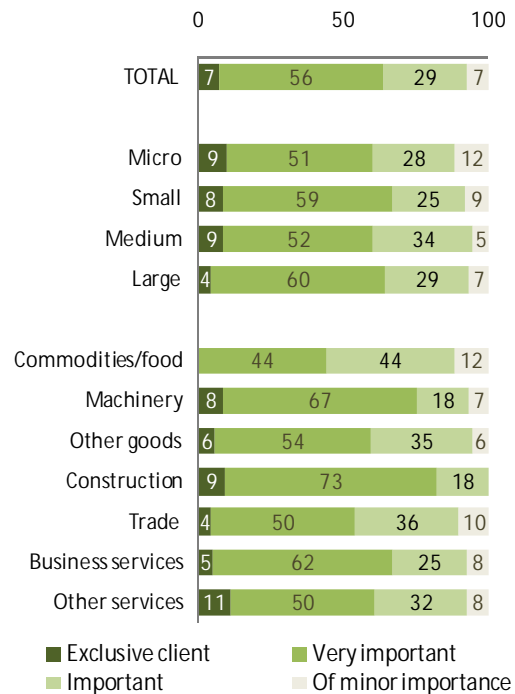
Public procurement was an exclusive or a 'very important' element of organisational strategy for construction companies (82%) and in the machinery and equipment sector (75%), but less so for companies supplying commodities or food (44%).

**Figure 4.3 Distribution of companies by their main geographical market (in percentage)**



Source: GHK

**Figure 4.4 The importance of public contracts for the companies surveyed (in percentage)**



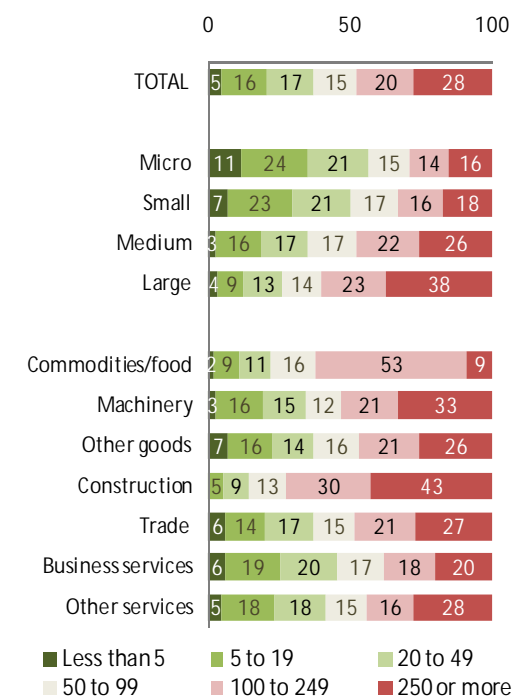
Source: GHK

Almost half of companies surveyed had considerable experience of public procurement: 20% submitted more than 100, and 28% more than 250 tenders in the last three years. Only 5% of the companies were infrequent bidders, submitting 5 or less tenders between 2007 and 2009.

Companies with limited procurement experience - submitting less than 5 tenders in the last 3 years - were more common among micro- and small enterprises, with 11% and 7%, respectively. Large companies in the sample were mostly major players in the public procurement market, having submitted over 100 tenders during that period.

The sectoral distribution shows that firms operating in the construction business tend to submit public procurement tenders routinely. 43% of construction companies had submitted over 250 tenders over the last 3 years. Providers of business services were however less active participants: 45% of them submitted less than 50 tenders (on average, less than ca. one per month).

Figure 4.5 Number of tenders submitted in the last 3 years (in percentage)



Source: GHK

#### 4.2.2 Access to information on public tenders

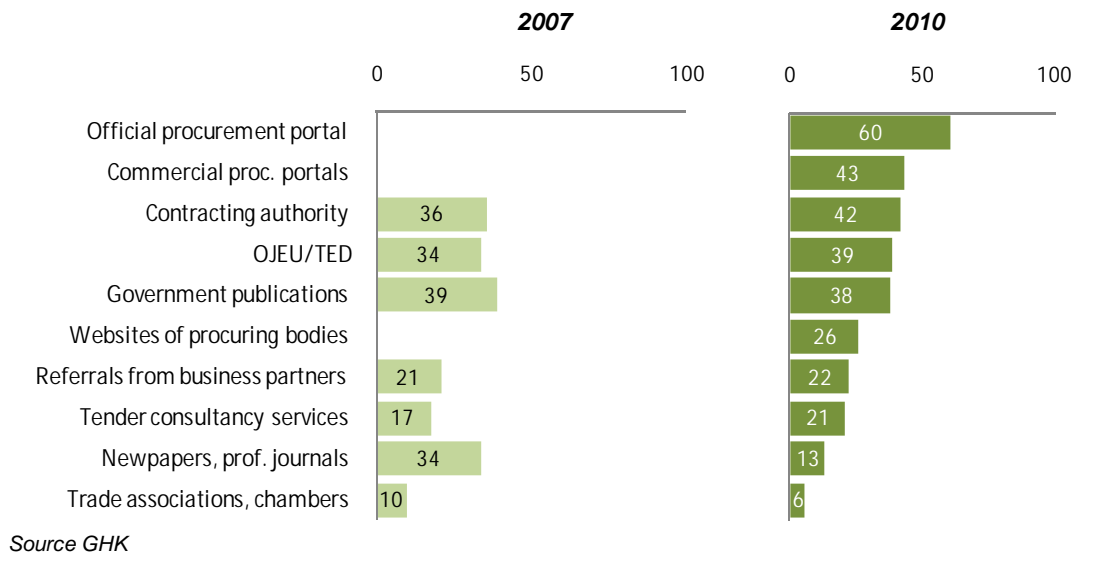
A variety of information sources at EU, national or regional level can be used by companies to learn about public procurement opportunities. The survey asked respondents to indicate which sources they use and how frequently. **The most often used information sources for companies are official web portals on public tenders – at national or regional level – used always or often by 60%.** Information also often originates from commercial public procurement portals<sup>21</sup> (used regularly by 43% of respondents), directly from the contracting authority itself through notification or invitation to tender (42%), EU's TED website (39%) and government publications, which are mainly paper-based procurement journals (38%).

Tender consultancy services and referrals from business partners do also play a role in accessing information, whereas trade associations and chambers, and newspapers or professional journals are a regularly used source for information only for a small fraction of companies.

**The results of the survey three years ago pointed to rather similar usage patterns for most of these sources** (web portals were not included in the 2007 questionnaire). The only significant difference is seen in the utilisation figures of newspapers and professional journals. These options seem to have lost ground considerably in recent times. Electronic systems for information distribution have taken over – and extending - their role at large.

<sup>21</sup> Such as e.g. [www.achatpublic.com](http://www.achatpublic.com) or [www.marco-web.fr](http://www.marco-web.fr) in France

**Figure 4.6 Information sources used by companies 'always' or 'often' to identify tendering opportunities (in percentage)**



**Large companies use in general more information sources, as compared to smaller enterprises.** The survey results point to marked gaps between companies of different size in the use of four specific information sources: micro-enterprises are much less likely to obtain information from the TED website, directly from the contracting authority, from government publications and from tender consultancy services than medium-sized or large enterprises.

To explain these findings, one may consider that TED (publicising above-threshold tenders) seems to be a natural source of tender opportunities for rather larger companies, but less so for small and micro-enterprises. Also, small business is much less likely to engage public procurement consultants, given the limited scope of the revenue they can expect from public contracts. Also, the relatively large gap in the use of paper-based government publications (public procurement journals) will be probably not a problem over the long run, since electronic publication methods will largely replace this form of information provision.

**The gap in the area of direct notifications from the contracting authorities points however to a weakness of SMEs, especially micro-enterprises, in building up and maintaining contacts with the procuring agencies, subscribing to e-mail distribution lists or participating on supplier events.**

**Figure 4.7 Use of information sources by company size class (proportion of companies using the source 'always' or 'often', in percentage)**

Information source	Micro	Small	Medium	Large	Total
Official procurement portal	66	61	56	61	<b>61</b>
Commercial proc. portals	45	47	40	41	<b>43</b>
Contracting authority	29	43	43	44	<b>41</b>
OJEU/TED	27	31	43	44	<b>39</b>
Government publications	26	41	30	46	<b>38</b>
Websites of procuring bodies	34	18	28	25	<b>26</b>
Referrals from business partners	18	23	23	23	<b>22</b>
Tender consultancy services	12	13	28	23	<b>21</b>
Newspapers, prof. journals	18	13	12	12	<b>13</b>
Trade associations, chambers	6	2	8	5	<b>6</b>

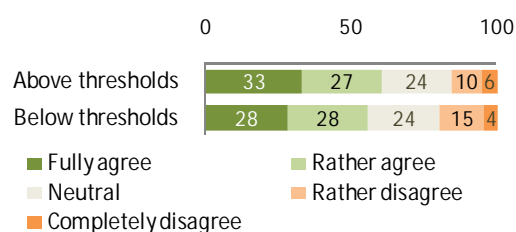
As for the sector breakdown, companies active in business services are considerably more fervent users of all kind of information sources than the average. Construction companies and especially suppliers of commodities or food, however, do not rely regularly on many different sources to chase up public procurement possibilities.

**The majority of companies surveyed is content with the information they are able to access about tendering opportunities.** 60% of the respondents either fully agreed or agreed that the information available for above-threshold tender opportunities was appropriate, compared to 56% of companies for below-threshold opportunities. Only 6% and 4%, respectively, disagreed completely with this statement.

These results are about the same for below-threshold procurement than in 2007, where 55% agreed or fully agreed that they were properly informed, and slightly better for above-threshold procurement (50%) agreed.

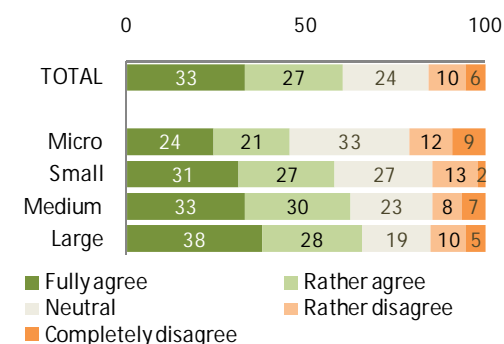
**Large enterprises are in general more satisfied with the information on tender opportunities.** 66% of large companies agreed or fully agreed that the level of information on above-threshold opportunities was appropriate. For smaller enterprises, the level of satisfaction decreases: only 45% of micro-enterprises agree or fully agree with this statement. This can be put in

**Figure 4.8 Views on appropriateness of information about tender opportunities**



Source: GHK

**Figure 4.9 Views on appropriateness of information about above-threshold tender opportunities, by company size class**



Source: GHK



line with earlier findings that larger companies use more information sources, especially on above-threshold procurement (a significantly larger proportion of large enterprises uses the TED portal regularly than micro and small enterprises).

#### 4.2.3 **Obstacles to participation in public procurement**

To learn about what hinders them in public procurement, companies were asked to state the frequency problems had been encountered when tendering for public contracts. The barriers included in the interview check list were as follows:

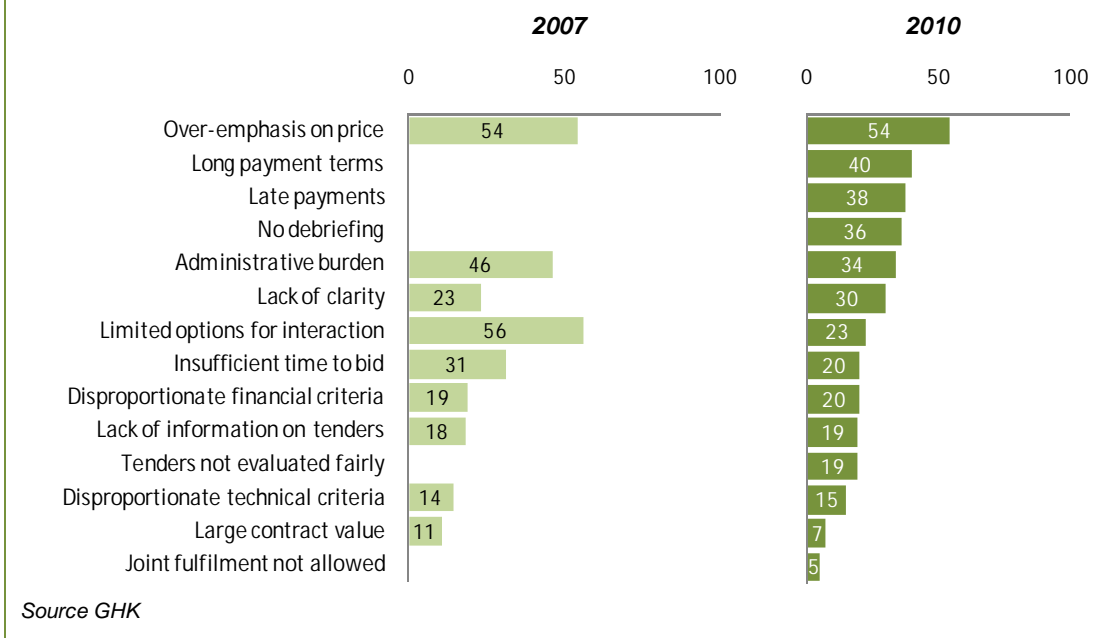
##### Possible barriers to participation in public procurement

- § Insufficient information about tendering opportunities
- § Information about the tender is received too late to prepare a tender
- § Information on the requirements is not clear, difficult to interpret
- § Insufficient opportunity to ask questions about uncertainties prior to tendering
- § The contract value is too large relative to the size of the company
- § The administrative requirements involved are onerous
- § Technical qualification levels and certification criteria demanded are too high
- § Financial requirements such as bank guarantees are too onerous
- § Joint fulfilment of the requirements by members of the consortium is not allowed
- § Over-emphasis on bid price in selection of contractors, rather than quality and flexibility
- § No information why your tender was not chosen
- § The deadline for payments from the public authority as set in the contract are too long
- § The payments made by the public authority arrive significantly later than set in the contract
- § Tenders are not evaluated fairly and objectively

**The survey results illustrate that the most frequently encountered barrier is the over-emphasis on price (54% of companies experienced it 'always' or 'often'). This is followed by unfavourable (i.e. too long) payment terms (40%) and late payments (38%).** And excessive administrative burden is also seen as an often-occurring problem (34% of companies experienced it 'always' or 'often'), and many companies also complain about unclear requirements set out by public authorities (30%). **The least frequently mentioned obstacles to procurement are too large contract values (7%) and that joint fulfilment of requirements by members of the consortium is not allowed by the procurer (5%).**

**Some notable changes occurred over the previous survey conducted in 2007: insufficient opportunity for interaction, i.e. to ask questions from the procurer prior to tendering seems to be much less of a problem now.** CAEs appear to offer more possibilities for discussion. The administrative burden (onerous paperwork) also seems to have slightly reduced, and fewer companies complain about the insufficient time available to prepare their bid.

**Figure 4.10 Frequency of problems faced by companies when tendering for, or participating in, public procurement (proportion of companies facing the problem 'always' or 'often', in percentage)**



In addition to the above key barriers, further problems mentioned by respondents were the following:

- § Evaluation criteria are ambiguous; they carry an incomprehensibly large or small weight, or are not accurately quantifiable, which leaves room for subjectivity.
- § In many cases, it is not understood by bidders why the specific criteria had been selected, and they are sometimes too inflexible (often of a technical nature), clearly customised to a given product or solution and will unduly disfavour other offers, so stifling innovation.
- § Even when using EMAT criteria, the price is sometimes so dominant (e.g. 80%) and quality criteria so fragmented to a large number of sub-criteria, that even large quality differences in certain key areas do not have any influence on the evaluation outcome. Cases were cited in which bidders with questionable qualification and/or limited experience were selected on grounds on a better price offer – although skills and experience would normally be key for the successful delivery of the contract.
- § The prices offered are sometimes unreasonably low – so low that it is impossible to deliver the contract in appropriate quality (the supplier may then later ask for a topping up of fees for extra, 'unforeseen' work). Companies ask for excluding such bids from the procedure.
- § Sometimes, suppliers contracted for a previous project phase are all but certain to being awarded the new contract, but this is not communicated clearly to the new bidders, who are then working in vain.
- § Of course, corruption was also sometimes suspected. The possibilities of CAEs to select their preferred suppliers are almost endless: e.g. excluding concurring bidders on grounds of technical errors of negligible importance, by subjective scoring, by

restricting competition by disproportionately narrow eligibility criteria (e.g. on track record, technological specifications, quality managements systems to be applied).

**The breakdown of the perceived obstacles by enterprise size class shows remarkable similarities for many of the barriers.** One can also see that if there are any outliers, it is usually only micro-enterprises that differ from the rest, by facing the problems more often than the other three enterprise categories. **There is barely any variance between the opinions of large and medium-sized, and only a little between large and small enterprises.**

**The problems that are perceived by micro-enterprises more often involve – unsurprisingly –large contract values, for which they are not big enough to compete.** Similarly, financial requirements such as bank guarantees set out in the terms of reference are significantly more often a burden for them than for larger companies.

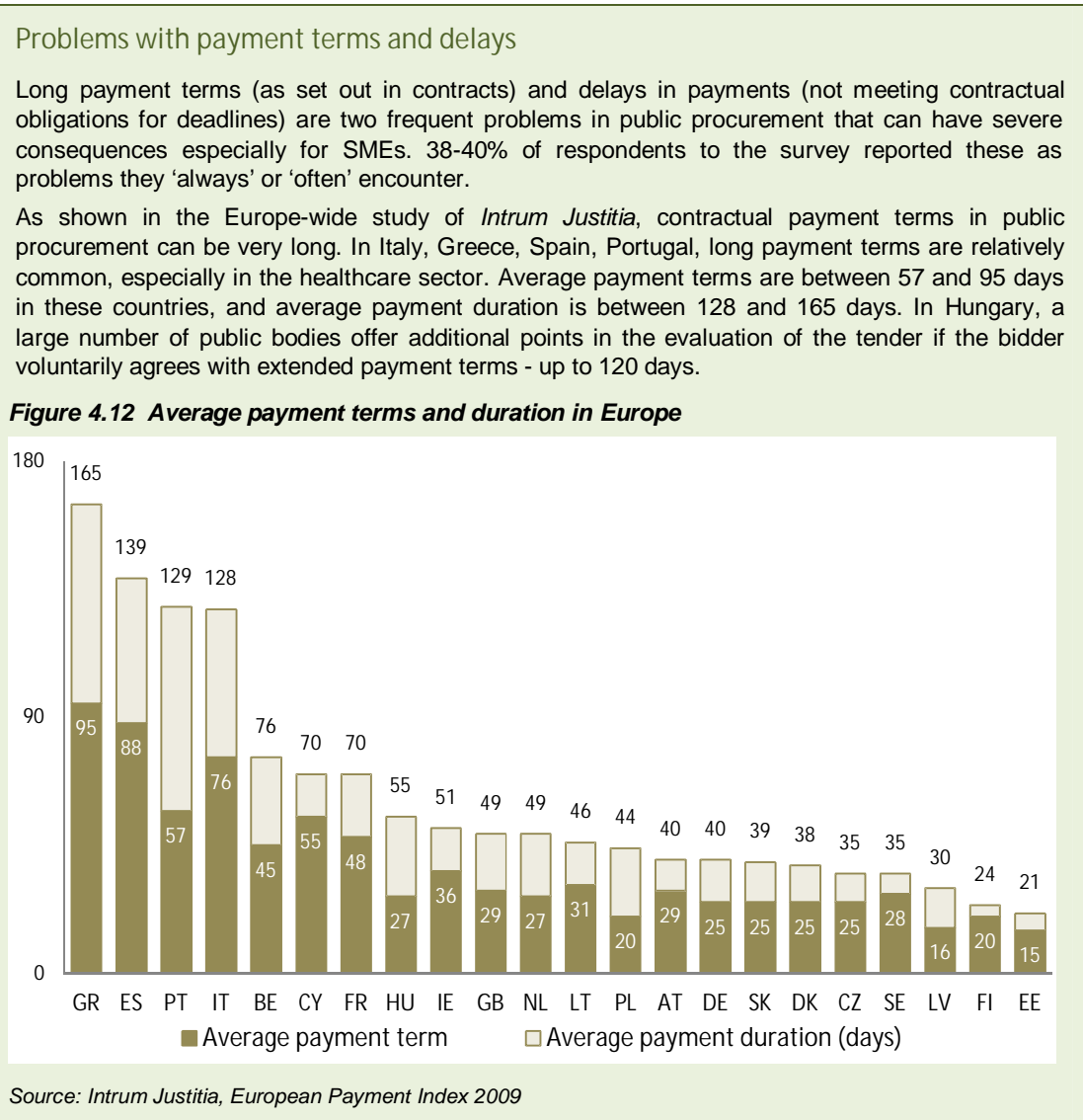
**Figure 4.11 Problems faces by bidders, by company size class (proportion of companies using the source 'always' or 'often', in percentage)**

Potential problems	Micro	Small	Medium	Large	Total
Over-emphasis on price	58	55	51	55	<b>54</b>
Long payment terms	52	42	38	36	<b>40</b>
Late payments	47	36	39	35	<b>38</b>
No debriefing	43	36	33	36	<b>36</b>
Administrative burden	45	34	35	30	<b>34</b>
Lack of clarity	38	28	29	28	<b>30</b>
Limited options for interaction	30	23	19	22	<b>23</b>
Disproportionate financial criteria	34	21	18	17	<b>20</b>
Insufficient time to bid	27	23	14	20	<b>20</b>
Lack of information on opportunities	23	22	18	17	<b>19</b>
Tenders not evaluated fairly	16	14	26	30	<b>19</b>
Disproportionate technical criteria	18	18	14	13	<b>15</b>
Large contract value	22	15	5	1	<b>7</b>
Joint fulfilment of criteria not allowed	8	5	6	4	<b>5</b>

**Micro-enterprises are also more vulnerable to the overall administrative burden of the procedure and late payments.** They also find a lack of clarity in the tender documents more frequently, and think that they have not been debriefed properly.

**Interestingly, one problem is encountered by larger enterprises more often: this is the perceived flaws in the evaluation of the bids that makes it unfair or not objective.** When asked about what exactly is the problem in the evaluation of tenders, many companies referred in the survey to problems with the application of the EMAT criteria.

Evidently, this is the method which can be more easily misused on purpose or simply become opaque for participants.



#### 4.2.4 Views on measures to improve access to public procurement

As concerning companies' views on how to remedy the above problems, and despite the progress of recent years, the options considered most helpful still concerned the reduction of administrative burden and more interaction with the bidder. 80% of companies felt further reducing the paperwork requirement of tenders would be very helpful or helpful, whilst allowing dialogue between a company and the procurer to clarify the brief prior to submission was also seen as helpful or very helpful by 80%.

Companies also felt that supplying certain documentation at a later stage in the tendering process would be beneficial in improving access to public procurement (73% of companies felt this would be helpful/very helpful). 71% of companies felt that increasing the opportunity for electronic submission would be helpful/very helpful.

Two-thirds of companies expressed the view that more free of charge information on the tender would help to make public procurement more accessible; over half (57%) also felt that pre-selection or shortlists could improve accessibility.

The least emphasised options were deemed to be dividing contracts into smaller lots, providing training to potential suppliers, and the use of framework contracts.

**Figure 4.13 Views on the helpfulness of options in improving access to public procurement (proportion of companies viewing the option 'helpful' or 'very helpful, in percentage)**

Measures	Micro	Small	Medium	Large*	Total
Dialogue with the procurer	80	79	80	..	<b>80</b>
Less paperwork	78	78	81	..	<b>80</b>
Supplying certain documents at later stages	69	73	75	..	<b>74</b>
Opportunity to submit tenders electronically	75	67	70	..	<b>70</b>
More free information on tenders	70	65	65	..	<b>66</b>
Use of pre-selection and shortlists	51	54	64	..	<b>58</b>
More time to submit tenders	53	51	47	..	<b>50</b>
Smaller contracts/use of lots	53	53	40	..	<b>47</b>
Trainings for bidders	43	42	51	..	<b>47</b>
Use of framework contracts/agreements	34	45	48	..	<b>44</b>

\* Views of large companies included in the total but not separately displayed due to the small number of responses

Source: GHK

## 4.3 Contracting authorities and entities' views

### 4.3.1 The sample

From May to June 2010, several thousand of CAEs from throughout Europe were invited to participate in the online survey on their experiences with public procurement and SMEs. **296 procurers answered the call and filled in the questionnaire.**<sup>22</sup> Almost all of the Member States of the EU were covered, but only 12 countries from which at least 10 CEAs participated were included separately in the analysed. The sample size was insufficient for the rest of the Member States.

Figure 4.2 Number of CAEs surveyed by country

Country	Number of respondents		Country (summarised under 'Other')	Number of respondents	
	Count	% of total		Count	% of total
United Kingdom	62	21	<i>Finland</i>	8	3
Sweden	27	9	<i>Lithuania</i>	7	2
Belgium	24	8	<i>Czech Republic</i>	5	2
Italy	21	7	<i>Austria</i>	4	1
Germany	18	6	<i>Latvia</i>	4	1
Denmark	16	5	<i>Poland</i>	4	1
Netherlands	16	5	<i>Portugal</i>	4	1
Ireland	15	5	<i>Estonia</i>	3	1
Romania	13	4	<i>Greece</i>	3	1
France	12	4	<i>Hungary</i>	2	0.7
Spain	12	4	<i>Luxembourg</i>	2	0.7
Cyprus	10	3	<i>Slovenia</i>	2	0.7
<i>Other</i>	<i>50</i>	<i>17</i>	<i>Malta</i>	1	0.3
<b>Grand Total</b>	<b>296</b>	<b>100</b>	<i>Slovakia</i>	1	0.3

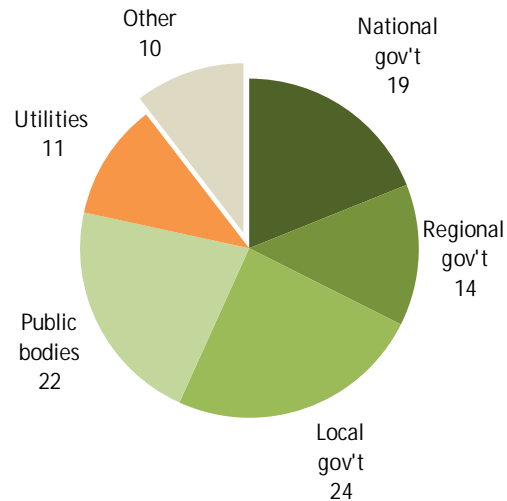
Source: GHK

<sup>22</sup> This figure is more than 3 times higher than the sample in the preceding study (84 authorities were interviewed in 2007).

**CAEs from all major categories were represented in the survey.**

- § The majority, 57% of the authorities surveyed were government bodies, either at national, regional or local level.
- § 22% of the respondents were bodies governed by public law: organisations of the judiciary system, from the education, healthcare and social housing sectors.
- § 11% of the procurers categorised themselves as public utilities.
- § Finally, 10% of the participants were grouped under the label 'Other'. This category includes e.g. civil organisations procuring for projects funded from public budget.

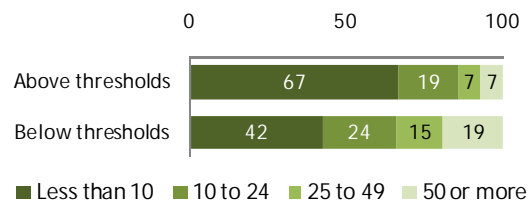
**Figure 4.14 Distribution of sample by type of awarding authority (in percentage)**



Source: GHK

Respondents were also asked about the number of tenders they publish annually. Most of them were small procurers: 67% of them published not more than 10 tenders above EU thresholds in the last year, whilst the respective figure was 42% for below-threshold procurement (classified for later analysis as “small procurers”). At the other end of the scale, organisations publishing at least 50 tenders annually above EU thresholds (“large procurers”) made up 7% of the sample, and 19% for tenders below the thresholds.

**Figure 4.15 Distribution of the sample by the number of tenders published annually**



Source: GHK

18% of the authorities do also conduct public procurement on behalf of other public agencies (e.g. as a central purchasing body).

**Overall, this study put the focus on smaller procurers: the sample includes a larger proportion of smaller procurers than the 2007 one did.** This slight emphasis on small procurers helps to better understand the situation at public organisations which may not have specific policies and strategies towards SMEs, nor hands-on experience with the legal and practical possibilities to support SMEs' access. These authorities may be the more appropriate targets of European efforts aiming to spread best practice.

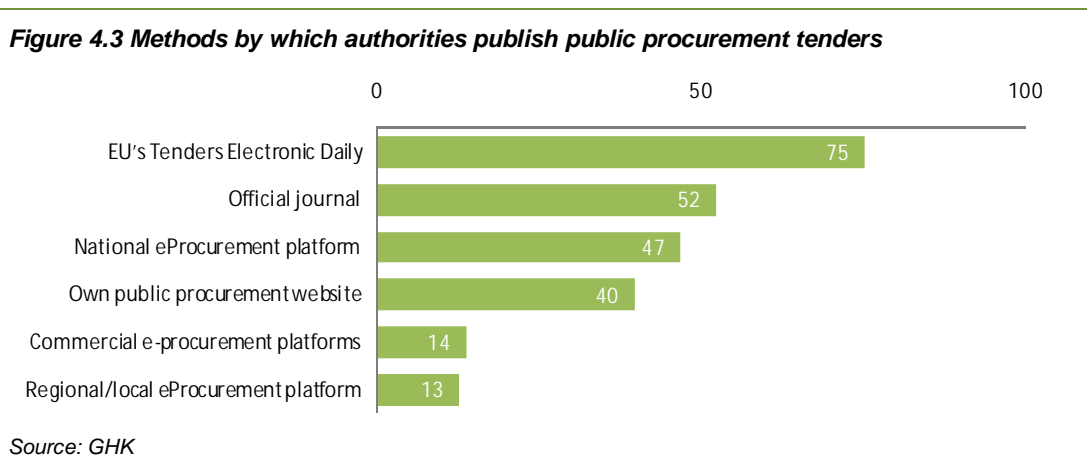
**4.3.2 Information on tenders**

To officially publish their tenders, procurers normally have to follow strict procedures prescribed by national law. This is usually the national or regional official procurement journal, possibly a public (official) eProcurement portal. However, there are some additional options. Some procurers publish tender on their own websites. In some countries, popular commercial platforms are also often used.

**The most frequently chosen answer categories were the ones that are mostly mandatory:** the TED website (75%), the official journal (52%) and the national eProcurement platform (47%). Somewhat surprisingly, the figures are far from 100%. 40%

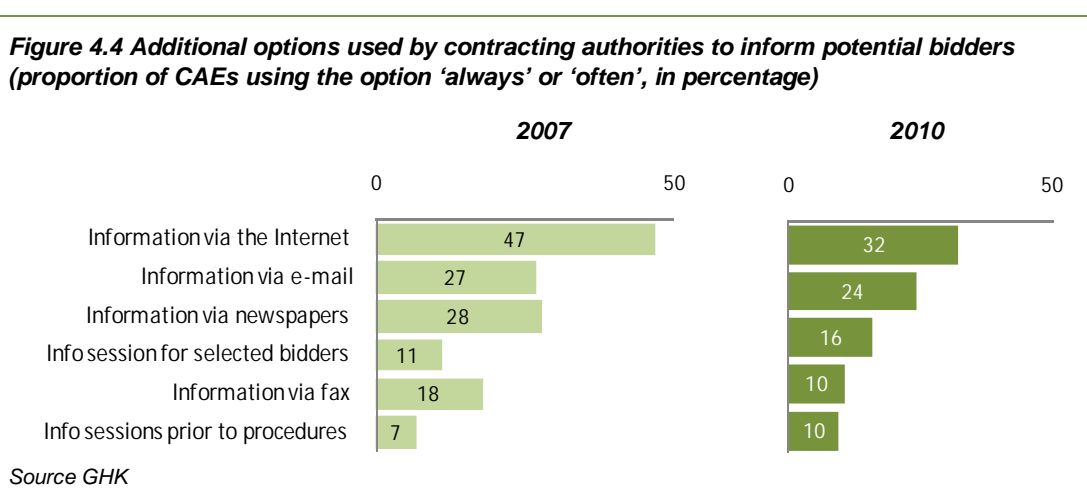
of respondents (also) publish their tenders on their own website. 14% of procurers use commercial eProcurement portals and 13% regional or local public portals.

The number of respondents indicating the use of certain options is lower for all categories than the comparable figures from the 2007 study. This is due to the large proportion of small procurers in the sample: these tend to use less channels to publish their public procurement tenders.



**Procurers seem to feel more and more often the need to utilise additional information channels to inform potential bidders about the tendering opportunities.** This helps in strengthening competition, attracting new business partners with new ideas, skills and experience, which leads to better value for money for the procurer.

SMEs probably benefit the most of this, as the easy and timely access to information on opportunities is one of the key areas where large companies – with their human resource capacities and networks – are often ahead. Accordingly, many CAEs look for additional active and passive information channels to reach potential bidders.



In the survey, 51% of contracting authorities reported that they use the Internet 'always' or 'often' to provide general information about their tenders and their procurement activity, requirements and purchasing plans, and 32% send out emails regularly to potential

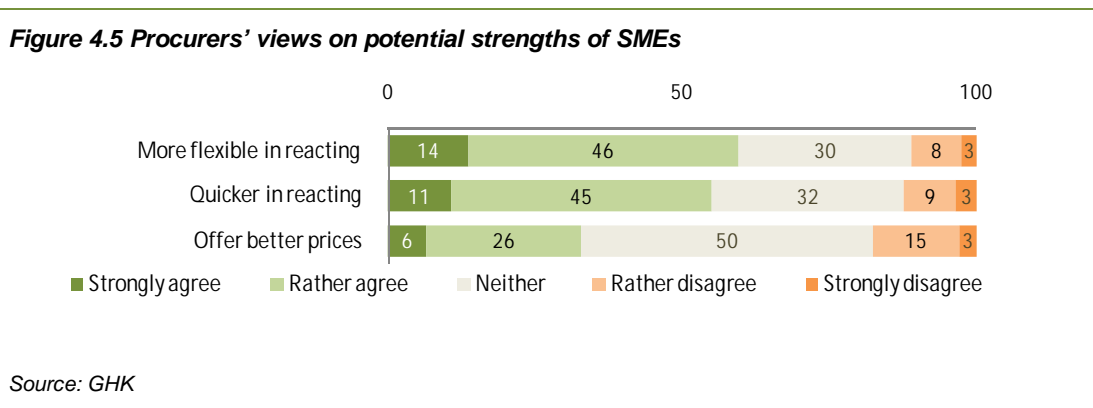


bidders. Both these options seem to have gained popularity since 2007.<sup>23</sup> 24% of respondents publish information in newspapers 'always' or 'often'. This is one of the rare options that are less commonly used as three years ago - the other one being sending information via fax (with a drop from 18% in 2007 to 10% in 2010).

Other options – information sessions prior to launching the procurement procedure, or sessions for (pre-)selected bidders – are less frequently used, but their significance seems to have slightly increased in the last three years.

#### 4.3.3 Procurers' perception of SMEs' strength and weaknesses

According to survey results, most contracting authorities and entities seem to have a rather favourable view on small and medium-sized enterprises when working with them on public contracts. 60% of respondents agreed that SMEs are more flexible, and 56% agreed that they were quicker in reacting upon their requests (11% and 12% disagreed, respectively). The procurers were more divided in judging whether or not SMEs in general offer better prices, e.g. as their overhead costs are usually lower. 32% agreed with this statement, but 18% disagreed.



Apart from the above, procurers identified a number of additional strengths of SMEs – with the caveat that these do not apply to all companies and that there are plenty of counter-examples (see box below).

**Other potential strengths of SMEs**

**Client focus**

- § The quality of the service they provide is often better; they are generally more motivated to deliver a good job and dedicated to please their clients. They seem to regard public sector clients they work for as more important
- § They can often provide customized solutions at a much shorter timescale than many large companies
- § Some of them have adopted early market engagement techniques well. By maintaining contacts with the procuring agency they are keen on learning about its future needs and requirements

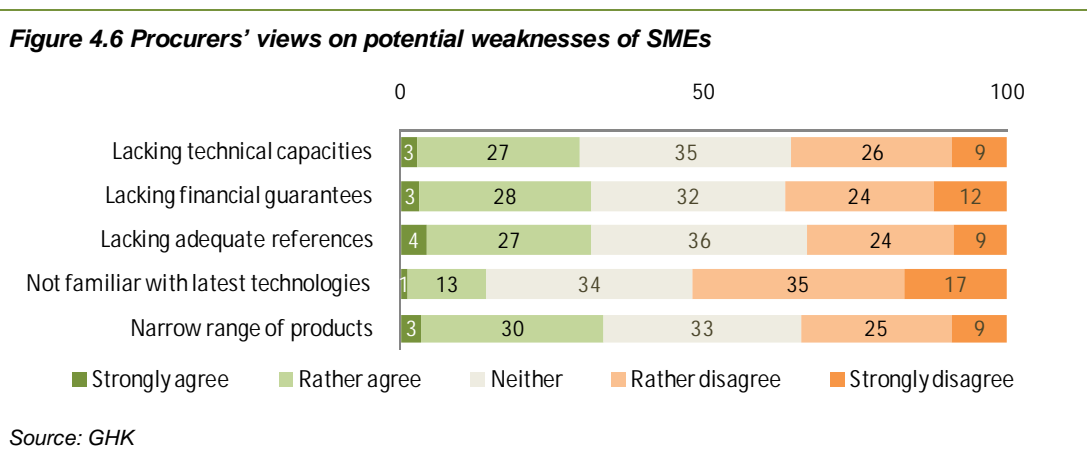
**Accessibility**

<sup>23</sup> Noting that the weight of small procurers is larger in the 2010 sample, the overall use of these options is likely to have increased by even more than the figures show.

- § The relevant people, including senior management are usually more accessible and forthcoming in general, so that eventual disputes or misunderstandings can be easily resolved
  - § Their client communication channels and their organisational structure are normally simpler, they often have one account manager nominated, so that interactions with them are easier for the procuring body
- Proximity
- § They are usually more closely located, which speeds up communication where face-to-face meetings are required
  - § They usually have a better knowledge and understanding of the local context and of the specific circumstances and needs of the client
  - § The contract given to local SMEs will benefit the local economy
  - § Also, by engaging local suppliers and thus reducing transport needs, the procurer may lower its carbon footprint

**As concerning the potential weaknesses of SMEs, CAEs relatively were divided.** Procurers' views were fairly equally split as to whether SMEs lack the technical capacities to work on contracts and whether they lack financial guarantees required for contracts. Evidently, the smallest companies will surely lack the capacities to compete for large contracts. But medium-sized enterprises would be capable to win most public contracts.

Views were also split as to whether SMEs lack adequate references or a track record and whether they offer only a narrow range of products. **The majority (52%) of procurers however disagreed with the notion that SMEs were not familiar with latest technologies.**



Respondents mentioned also a number of possible weaknesses that were not originally included in the questionnaire (see box below).

- Other potential weaknesses of SMEs**
- Lack of knowledge and skills
- § They are not always familiar with the public procurement procedure or understand the rules with which procurers and suppliers have to comply. They are thus likely to commit mistakes more often than experienced (large) companies. Their contract administration does not always satisfy requirements

- § They struggle sometimes in submitting good tenders. They do not have tender specialists as large companies do, who are experienced and can maximize the chances of winning
- § They might not have adequate knowledge about the environmental impact of the technologies and materials they use
- § There is some resistance perceived in coping with innovative and electronic public procurement due to the lack of corresponding knowledge and skills

#### Capacities

- § Their geographical coverage is limited and face difficulties outside their normal action radius
- § They are more vulnerable to key personnel leaving the company or getting unavailable for the project for other reasons. This can jeopardise the successful execution of the contract
- § Lack of reserve capacities and additional expertise, especially if the scope of the project is being amended. This, in effect, means that SMEs may not always be as flexible as they would like to, due to lack of capacities and capabilities. In more serious cases, they may overstretch themselves and taking on a huge risk by committing themselves to large projects
- § There is a greater risk surrounding their financial stability, which is strongly aggravated by the current credit crisis

#### Compliance with elevated requirements

- § They may not always comply with necessary quality insurance and engineering capabilities requirements
- § They have often no sustainability, equality and diversity policies, and have difficulties with complying with the policies of the procurer. Also, their health and safety policies may not always be up to standards<sup>24</sup>

#### Reluctance to compete

- § Finally, they may sometimes be afraid and the costs of the complexity of the public procurement process and of the legislative framework, so they would not even try to tender for public contracts

#### 4.3.4 Promoting SMEs' access to public procurement

**Acknowledging the benefits of SMEs, many procuring bodies try to address the likely weaknesses of SMEs in accessing public contracts through specific initiatives.**

Some do indeed go at great lengths helping SMEs to stand equal chances as opposed to large enterprises when competing for tenders. Corresponding actions are mostly undertaken in three large areas:

- A. Overcoming the limited technical and financial capacities of SMEs
- B. Improving the dialogue between SMEs and procurers
- C. Simplifying the procurement procedure

The first area groups together three possibilities to create more favourable rules for SMEs in the procedure - all allowed by EU legislation.

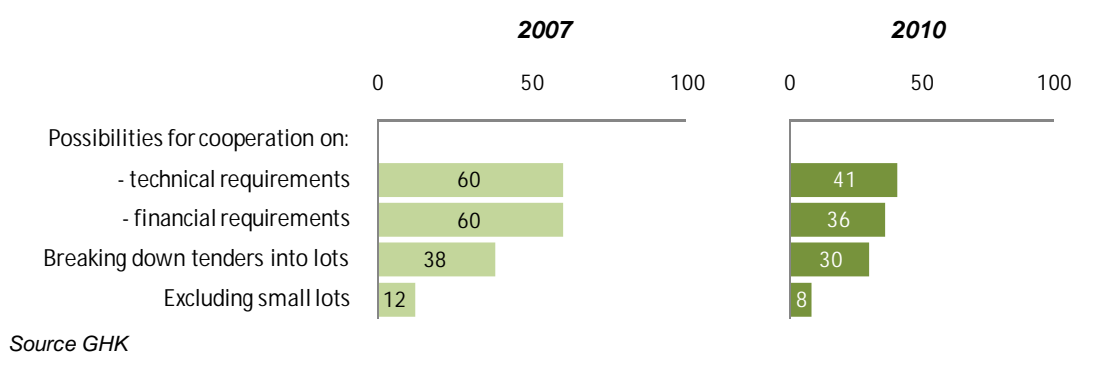
**Creating possibilities for cooperation amongst companies – the joint fulfilment of the necessary technical or financial criteria – seems to be the most popular option.** 21% and 20% of the respondents always or very often take advantage of this possibility, respectively.

<sup>24</sup> Some procuring authorities (e.g. in the United Kingdom) set environmental and equal opportunities policies as preconditions for winning public contracts, as a key element of their Green Public Procurement and socially responsible procurement endeavours. One should note that SME organisations have some reservations about such retrospective eligibility criteria.

10% of the respondents do always break tenders into separate lots. Excluding small lots from the scope of the European directive in above threshold procurement is a less popular option, with only 3% of the respondents utilising this option always (and 57% never).

The above actions that can help improve SMEs' access to public procurement were undertaken by a slightly lower proportion of respondents than in 2007 (with the exception of the exclusion of small lots). However, this is well explained by the shift in the focus of the survey towards small procurers.

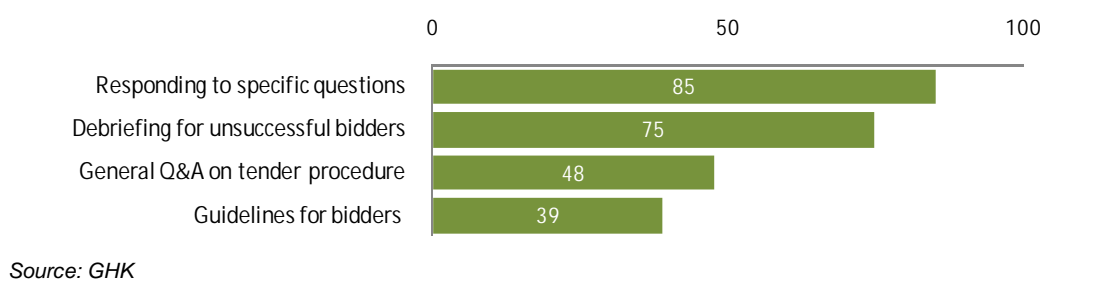
**Figure 4.7 Activities to enhance SMEs' access – A. Overcoming the limited technical and financial capacities of SMEs (proportion of CAEs using the option 'always' or 'often', in percentage)**



The second area of possible actions concerns communication. **Most, but not all CAEs do communicate during the tendering phase with bidders, responding to specific questions raised by them.** 85% of the procurers undertake this always or often. The second most frequent help for SMEs in this area is debriefing: explaining unsuccessful bidders the reasons why their tender was not selected. This is done regularly by 75% of the respondents, especially by UK procurers.

Less popular measures are the provision of a general Q&A on issues of the tender procedure, and making guidelines available for bidders.

**Figure 4.8 Activities to enhance SMEs' access – B. Improving the dialogue between SMEs and procurers (proportion of CAEs using the option 'always' or 'often', in percentage)**



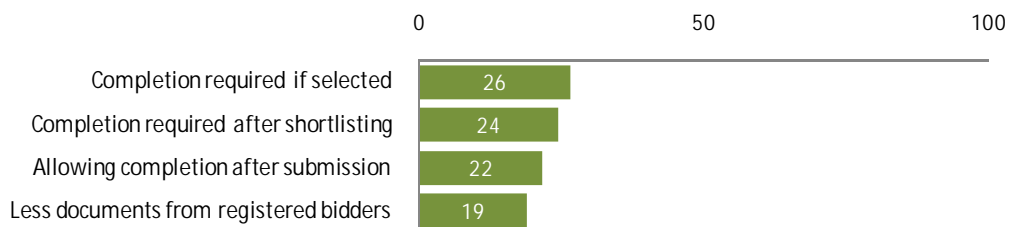
In the third area, four possible activities were highlighted that all concern the supply of documentation by the bidder, especially attestations and certificates. These options are used regularly by about the same proportion of procurers.

Several procurers request the complete documentation with all attestations and certificates only when the company has been shortlisted, or when its bid was selected (done regularly by 24 and 26% of respondents, respectively). These have the potential to reduce the administrative burden for bidders, and the risk of administrative mistakes, very significantly.

Also, some CAEs allow the completion of the tender after submission, so that omitting certain documents does not lead to the automatic exclusion of bids. As SMEs, especially newly established companies with limited experience in public procurement, are more likely to make smaller mistakes in the tender, this can be a help for them.<sup>25</sup> However, only 22% of the procurers use this option 'always' or 'often'.

19% of respondents have systems in place that register, validate and store certain company information (legal identity, financial data, attestations, certifications) of registered bidders so that they do not have to supply these each time for a new tender. This again is a useful step to reduce the administrative burden on bidders.

**Figure 4.9 Activities to enhance SMEs' access – C. Simplifying the procurement procedure (proportion of CAEs using the option 'always' or 'often', in percentage)**



Source: GHK

The above were predesigned answer options. Respondents mentioned several other activities that they undertake in order to improve SMEs' chances to access public contracts – most of them linked to enhanced information activities, to training initiatives, the reduction of administrative or financial burden and to specific tender design solutions. The main activities mentioned are summarised as follows:

*i. Information and communication activities*

- § Presenting the purchasing coordinator or other responsible official as a permanent contact for potential suppliers, informing them about procurement plans (as a form of prior information), requirements and procedures
- § Informing potential bidders directly (through e-mail, but even via phone) when a tender is published. The group which is contacted can be existing business partners or registered bidders
- § Early market engagement initiatives, including events prior to finalising the tender specifications to discuss the requirements and to receive feedback from potential suppliers

<sup>25</sup> However, such arrangements combined with the strict rule that the procedure is only valid if and when three eligible bids are submitted may lead to unfair behaviour from bidders. Deliberately not submitting all documents and withholding these when they anticipate that they can not win the tender may well render the procurement unsuccessful.

- § Q&A sessions after pre-selection, but before launching the call for tender, to explain requirements
- § Communicating as short and simple as possible, and requesting as less information and documentation from bidders as possible (especially in the pre-selection phase)
- § Defining preferred minimum turnover thresholds to individual tenders and advertise the tender amongst companies that exceed this threshold, whilst flagging contracts that may be better suitable for SMEs when publishing the tender
- § Reinforcing the use of PINs - 'prior information notices' (and 'periodic indicative notices' for utilities) - through legislation and/or policy guidance. These contain CPV codes and are searchable through electronic platforms.
- § Compiling annual procurement plans, published normally on the website of the procurer. These are not broken down into CPV codes but provide a very useful, comprehensive picture on the organisation's purchasing plans early in the year

*ii. Training activities*

- § Briefing sessions on how to do business with the procurer and on the general tender procedure
- § Organising training courses or workshops on subject like successful bid writing, prequalification
- § Workshops on themes such as new environmental standards, equal opportunities and corporate social responsibility expectations, where the knowledge and skills of SMEs may be improved

*iii. Support tools*

- § Making forms, templates and checklists available that ensure that bids will be in accordance with formal eligibility requirements

*iv. Reducing administrative burden*

- § Requesting only documents that are an integral part of the evaluation of tenders, and clearly indicating these in the terms of reference
- § Retrieving certain documents from partner authorities instead of requesting them from the bidder
- § Deploying simple, easy-to-use eMarketplace and other online systems that can streamline the process
- § Offering telephone or online video conferences with bidders instead of meetings during the procedure to avoid the unnecessary costs and time need of travels

*v. Reducing financial burden*

- § Reducing the financial guarantees in general, for certain contracts, or accepting – in line with regulations – financial guarantee and performance warranty at 50% for SMEs
- § Paying suppliers earlier than the usual contractual terms (the voluntary UK Prompt Payment Code envisages the reduce the time from the regulatory 30 days to 10 days)
- § Setting out clearly in the national law that the supplier is entitled to charge interest if the procurer is in delay with the payment, and that public contracts can not exclude this possibility. This protects SMEs from 'unfair' clauses and – even if not invoked by the

supplier to preserve business contacts – puts a pressure on public sector to pay on time

*vi. Quasi-quotas and tender design*

- § Introducing 'community benefit clauses' in contracts, that could require the bidders to employ local trainees or unemployed persons, or engage in some form of community building
- § More emphasis on framework agreements where several suppliers are selected, rather than one-supplier contracts. This allows small companies who otherwise would not have sufficient capacities to cover the whole contract to be included and receive orders from the public sector
- § Using negotiated procedures more often. This might – in some sectors – help SMEs to convince the procurer of their capabilities, the quality of the good or service offered and their strong client focus
- § Using a reserved contracts procedure, which may be only accessible – depending on legislation – by SMEs<sup>26</sup>

The following box briefly introduces some concrete activities procuring bodies are undertaking to enhance SMEs' chances in successfully participating in public procurement. Some of them correspond to the activities listed above, but some can't be easily fitted into one theme.

**'How to work with us' websites**

Many British municipalities (Councils) have set up sections on their website devoted to giving guidance to businesses who wish to work with them. Apart from explaining what, when and how they buy (i.e. their needs and requirements, prior information on tenders and calls launched, as well as introduction to the procurement procedure), they also give useful tips, forms and templates to help SMEs to successfully compete and deliver public contracts. For example, Sheffield City Council has published a guide on successful bidding, as well as a guide for the presentation of the tender.

**'Meet the Buyers' events**

Face-to-face meetings can considerably enhance the effectiveness of information exchange between procurers and potential suppliers. Following the example set by meetings between private sector buyers and suppliers, organised by large companies and regional enterprise development agencies alike, British local councils and other procuring bodies set up events which provide great opportunities for senior procurement officials to meet (usually pre-screened) local suppliers. These events normally include a few general presentations of needs, requirements and procurement plans and a series of one-to-one meetings with the companies.

**Tender Resource Packs**

Islington Council, a borough of London, provides interested companies with the Tender Resource Packs with an introduction to public procurement concepts and procedures, where they can find public sector opportunities, tips of how to compete successfully at the prequalification and tender stage and general Q&A. SMEs can thus access all the basic information they need to know to start their engagement with public procurement in one place, and from the most reliable source, the client directly. Additional guidance also includes e.g. templates for business continuity plans, addressing a common weakness of SMEs.

<sup>26</sup> 'Reserved contracts' may in other countries refer to tenders set aside for supported businesses employing people with disabilities (sheltered workshops)

### Practical guide for SMEs

The practical guide for the access of SMEs to public procurement is a tool created by the French Ministry of Economy, Industry and Employment with the collaboration of Order of Chartered Accountants. The main aim of this tool is to help SMEs overcoming the most important barriers to accessing public procurement, i.e. the lack of information and knowledge about the tenders, and the difficulty to get advice on them; the complexity of the application; the absence of finances of the SMEs. The guide is a user-friendly tool explaining public procurement to SMEs in details, going from the process to deadlines and funding which could be made available to SMEs who had been awarded public contracts.

### Training courses

Supply London, an initiative financed by the London Development Agency and by ERDF, organises events and workshops on a regular basis for SMEs and civil organisations to introduce them to good practice in tendering and how to compete successfully. Subjects covered include bid writing, pitching, prequalification, quality management systems etc. Events are sometimes held in individual city boroughs in cooperation with the local council.

### PactePME

*PactePME* is a French association (since 2010; it was initially launched as a programme) with the objective of improving and developing the links between innovative SMEs and large enterprises. Large enterprises act as 'mentors' for their SME strategic suppliers, helping them to grow and become more competitive. Public bodies are also involved. The *Pacte* extends to the area of public procurement, where large enterprises are encouraged to take better into consideration the potential for working together with innovative SMEs when bidding for public contracts. They also publish data on the share of SMEs participating (as consortia partners or subcontractors) in the delivery of their public procurement contracts.

### Monitoring SMEs' access to public procurement

Hungarian public procurement legislation requires bidders to declare whether they fell into the micro, small or medium-sized enterprise categories – according to the definition set out in the Hungarian law on SMEs. This is in fully line with the Commission's guidelines on the definition of SMEs. The corresponding information on the successful bidder is part of the data forwarded by the procurer to the Public Procurement Council and is aggregated there for the national level. The additional administrative burden of such a declaration on the bidder and procurer is indiscernible. Bidding companies know well which enterprise category they belong to, and for the procurer, it only an additional box to tick.



Awareness of the successful initiatives throughout Europe, as well as the legal and practical possibilities that exist leads many procuring bodies to make ambitious plans for the future to reinforce their support towards SMEs' participation in public procurement. **Altogether, 36% of the responding CAEs stated that they could (and intend to) do more in the future to facilitate SME's access.**

Government bodies at national level are less likely to see options for future initiatives (only 25% do), but utilities, large procurers (above 50 tenders per annum) and agencies that conduct procurement on others' behalf, including centralised procurement agencies do more frequently report that they could do more in favour of SMEs.

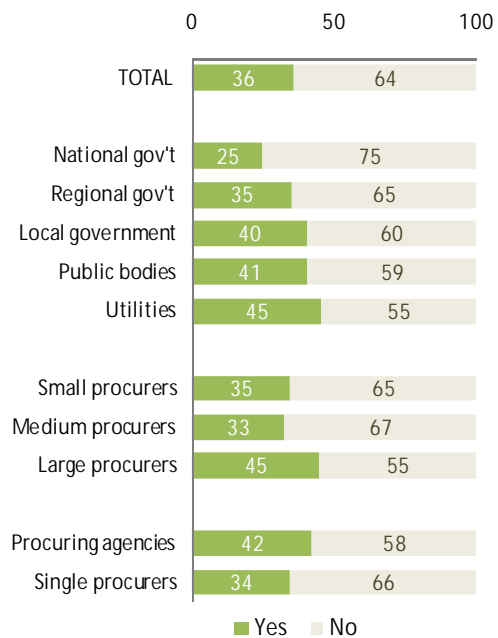
**Asking them what current barriers prevent their organisation of undertaking these additional activities, most CAEs mentioned (i) the lack of a concrete policy focus on SMEs, (ii) a lack of time and human resources, and (iii) risk-averseness.**

For many procuring organisations, as well as their political supervision, finding ways how to create equal opportunities for SMEs in public procurement is not a priority. They are under strong pressure from the public or have a legal obligation to, save costs and select the bid offering the lowest price. They mostly look for solutions that can reduce the purchasing price – e.g. through public private partnership arrangements, and through the pooling of contracts – which does not support SME participation. Also, large parts of the tender procedure is not outsourced to central procurement agencies, so that the buyers do not have many possibilities to influence the extent to which SMEs can successfully compete.

Many respondents lack the time and the necessary human resources to redesign their procurement policies and practices. Planning and implementing new procedures, preparing new guidance and tools consumes too much of the organisational resources available.

Finally, there are many procurement officials who do not want to jeopardise compliance with the legal requirements for a fair and competitive public procurement procedure. The priority for them is legal compliance (as well as value for money) – looking for innovative ways of improving SMEs' access is a risk that they prefer not to take. They are also afraid to be accused of enhancing access selectively, favouring specific small companies.

**Figure 4.16 Possibilities for doing more in the future for SMEs**



Source: GHK

## 4.4 Summary

- § 887 companies from 19 Member States participated in the survey on business views on public procurement, 60% of which were SMEs (11% micro, 23% small and 26% medium-sized). The sample was relatively balanced as of sector, prior experience and the importance of public contracts for the business strategy. 296 procurers of all sizes also participated in the survey
- § The most frequently used sources of information are national official or commercial public procurement portals. Many companies are directly notified or invited by the procurer, read paper-based procurement portals or use the TED website (for above-threshold procurement). The patterns of use did not change much since 2007, however, newspapers and professional journals lost ground, and electronic systems have increased their role
- § Procurers mostly use the mostly mandatory channels for notification: TED, the national official journal and the national eProcurement portal. They also use more additional channels than in 2007 (web portals, emails sent out to bidders)
- § Large companies use more information source than smaller ones, and the gap seems to have widened since 2007. The gaps are the widest in the use of (paper-based) government procurement publications, the TED and official national procurement portals and in receiving direct notification from the CAE. The majority of companies surveyed is content with the information they receive about tendering opportunities, but micro and small enterprises are a little less satisfied
- § Amongst the possible barriers to access public contracts, the over-emphasis on price is the most often encountered one (by 54% of companies). Long payment terms (40%), onerous administrative requirements (34%) are also relatively strong deterrents. The large size of contracts, or not allowing joint fulfilment of requirements by consortia, were only infrequently perceived as problems. Since 2007, opportunities for asking question from the procurer seem to have improved, these are less often seen as barriers
- § Most problems are perceived by small and large companies alike. In general, there is no perceivable gap between large and medium-sized companies, and only a small between large and small enterprises. Only micro-enterprises face some of the problems significant more often than the others: large contract values, disproportionate financial requirements, onerous administrative requirements and late payments. A lack of clarity in tender documents and a lack of appropriate debriefing is also seen more often as a problem by micro-enterprises. The only problem experienced more often by larger companies is an evaluation that is unfair or not objective. Mostly, the lack of transparency in designing and applying the evaluation criteria is the cause
- § Procurers have a rather favourable view on SMEs as suppliers in public procurement. Being more flexible and quicker in reacting upon their needs than large companies seem to be relevant strengths in the eyes of most procurers. Offering better prices is not so widely seen as a strength of SMEs
- § Some procurers think that SMEs may not have the technical and financial capacities necessary for their public contracts. They may also lack an adequate track record and offer sometimes only a narrow range of products. Procurers however do not believe that SMEs were unfamiliar with the latest technologies
- § The activities deemed most helpful by companies is the reduction of administrative

burden and more interaction with the bidder (predominantly to clarify requirements). Allowing the submission of certain documents at later stages of the tendering process and eProcurement solutions were also frequently cited

- § Many CAEs also try to address the likely weaknesses of SMEs in accessing public contracts. These revolve around three major initiatives: A) overcoming the limited technical financial capacities of SMEs. The most popular option here is allowing the joint fulfilment of the necessary technical or financial criteria, and many procurers also break down contracts into lots; B) improving the dialogue with SMEs. Most CAEs communicate during the tendering phase with bidders, responding to specific questions, requests for clarification. Debriefing is also often used, especially by UK procurers; C) simplifying the procurement procedure. Many procurers allow the completion of the tender after submission, so that omitting certain documents does not lead to the automatic exclusion of bids. Requesting complete documentation only when the company has been shortlisted or when the bid was selected is also frequently done by CAEs in order to ease the administrative burden
- § In addition, early market engagement initiatives and better communication with the bidder, trainings, support tools, speedier procedures and payment, 'community benefit clauses' and even some forms of quotas (reserved contracts procedure) are amongst the additional activities undertaken by some CAEs
- § Still, 36% of CAEs think they could do more in the future to facilitate SMEs' access. Currently, the barriers to do that are associated with (i) the lack of a concrete policy focus on SMEs, (ii) a lack of time and human resources, and (iii) risk averseness

## 5 SMES AND ELECTRONIC PUBLIC PROCUREMENT

### 5.1 Introduction

The use of electronic means in the public procurement process is more and more widespread amongst contracting authorities and entities, reflecting both the continued interest of the public purse in more effective and cost-efficient processes; and the increased familiarity of users on both sides with online tools, viewing the introduction of electronic means in public procurement only natural. Along with their ever higher prevalence, these electronic solutions also become more and more sophisticated, enabling closer, deeper and swifter interaction between procurers and bidders.

This section – after a brief discussion of the benefits and forms of eProcurement – explores the patterns in the use of electronic solutions amongst European contracting authorities and entities, the problems encountered and, if not using electronic means in their tendering procedures, the reasons for this. It also looks at the experience of companies with electronic public procurement tools and at their views of the importance thereof – trying to identify differences between different size classes of SMEs and large companies.

### 5.2 The benefits of eProcurement

eProcurement can be defined as the use of online electronic technologies, typically over the Internet, to conduct transactions between procurers and their suppliers.

**One of the main benefits of eProcurement for SMEs lies in the easy and timely access to information.** Already back in 2004, access to information was emphasised as a key benefit in the Commission's *eProcurement Action Plan*.<sup>27</sup> At the public consultation of the action plan, respondents thought that electronic means made it easier to find information, fastened up the public procurement process, and provided easier access to new markets. These were the three highest-rated advantages of eProcurement in the survey.<sup>28</sup>

Standardised contract notices and prior information notices/periodic indicative notices (PINs) downloadable from the Internet, searchable databases, e-mail alerts help in obtaining information on time on opportunities (SMEs often lack personnel/knowledge to monitor public tenders: they need customised, timely and easily comprehensible information). Central eProcurement portals potentially also allow SMEs to access information from a wider public procurement market, thus supporting them in their expansion from their local market. This is especially the case for countries in which public procurement is highly decentralised, conducted by individual municipalities and regional governments through many different channels, like Germany, which is difficult to follow for local SMEs.

Indeed, the results of the survey in this study show that the lack of information on opportunities is perceived often or always a problem by 23% of micro enterprises and 22%

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<sup>27</sup>

[http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/actionplan/actionplan\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/actionplan/actionplan_en.pdf)

<sup>28</sup> A survey was launched on the Commission's public consultation website (the Interactive Policy Making site – IPM) and answered by more than 400 business respondents: SMEs, large enterprises and business associations.

of small enterprises. Correspondingly, the large majority of SMEs (66%) would consider more free-of-charge information as being helpful or very helpful, ranking this option 5th out of 10 possible measures.

**Improved access for SMEs results in more competition, and is - as one can expect - likely to lead to better value for money for procurers, thus for the society.** Increased competition is not necessarily a help for incumbent SME suppliers. 42% of micro and 38% of small enterprises feel that a larger competition for public contracts, putting pressure on prices, was an important problem of eProcurement tools (see results later in this section). But incumbents are often large enterprises, and newly established companies wishing to enter public procurement markets are, by nature, almost exclusively micro and small enterprises. All in all, a higher turnover amongst public suppliers favours SMEs.

**Also, interoperable eProcurement systems can have a very positive effect on cross-border procurement, thus strengthening the Internal Market.** Bidders can enter new markets more easily – thanks to dramatic improvements in the amount and quality of information available on public contract opportunities; and to the reduced costs of tendering. They may also find it easier to follow and control the procedure, given the clarity of steps and deadlines, as well as a trend towards standardisation. Procurers benefit from significantly reduced prices.

The *Impact Assessment to the eProcurement Action Plan* reported - based on a number of case studies – an estimated 10-50% saving on the purchasing price.<sup>29</sup> Cost savings through centralisation of purchase is likely to be most significant for standardised (or bulk) products and services, procured in relatively large quantities across the public sector (e.g. office supplies and maintenance services for government agencies, catering and cleaning services for regional or local hospitals), often via framework contracts. Non-standardised specialty goods and services are much less affected.

**Also, the modernisation of information provision and tendering processes through electronic systems reduces costs.** This affects both public bodies and bidders, and the cost savings at SMEs should be disproportionately higher, considering that the costs of tendering relative to the contract size is normally higher for smaller companies bidding for smaller contracts. The administrative burden involved in public procurement was also reviewed by the *Stoiber group*.<sup>30</sup> They concluded that eProcurement tools can help businesses, e.g. through not having to re-supply the same administrative information several times (electronically stored company dossiers).

Other cost-reduction potentials lie in the reduction of time required for correcting errors or duplicating data, or for asking for clarification (use of electronic Q&A documents or FAQ). Moreover, the adoption of eProcurement tools forces bidders and CAEs to re-think, streamline and standardise their processes and to align their internal organisation accordingly. In the *Impact Assessment to the eProcurement Action Plan*, it was estimated that savings in the magnitude of 50-80% can be achieved.

Less paperwork requirements – which can be achieved through eProcurement – was seen as a helpful measure by 80% of SMEs surveyed during this assignment.

**Ultimately, dynamic, often innovative SMEs, seeking new public clients at home and abroad will benefit considerably of eProcurement tools.** Improved market access for SMEs was indeed identified as a key benefit in the public consultation to the 2004

<sup>29</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/2004-12-impact-assessment\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/2004-12-impact-assessment_en.pdf)

<sup>30</sup> [http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg\\_opinion\\_on\\_ppfinal\\_en.pdf](http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg_opinion_on_ppfinal_en.pdf)

eProcurement Action Plan. Without extensive European networks of local subsidiaries, close links with procuring agencies, lacking appropriate human and financial resources to follow procurement publications, and difficulties to master complex tendering procedures that differed from country to country, SMEs were clearly disadvantaged when trying to expand their client base in the public sector.

**On the other hand, time and cost savings may be concentrated amongst companies which submit tenders very frequently, often to different procurers.** eProcurement may be intertwined with a certain 'economies of scale'. Companies will have to invest in mastering it: acquiring the necessary IT infrastructure, knowledge and skills, and those who use the tools often will profit most from the cost and time savings. These are usually larger companies or businesses that focus on the public sector as clients.

The further promotion of eProcurement solutions and the introduction of common standards therefore enjoy a prominent place within policies at the European level (see box).

#### Key EU policies in the area of eProcurement

Acknowledging its immediate benefits and potential for future economic growth, the European Commission has included public procurement into the group of 20 basic public services that form the basis for monitoring progress in the provision of online public services throughout Europe - first under the eEurope 2005 and then subsequently under the i2010 action plans. The availability of eProcurement services is assessed since 2001 in the annual benchmarking reports.

In 2004, the **new Public Procurement Directives** (2004/17/EC and 2004/18/EC) put great emphasis on integrating the new electronic possibilities into the overall legislative framework, and set up a coherent set of ground rules for electronic tendering and advanced electronic purchasing techniques (such as electronic auctions and dynamic purchasing systems).

In the same year, the **eProcurement Action Plan** was adopted, pinning down the requirements as well as deadlines for revising national legislation in order to enable the setting up of effective and non-discriminatory eProcurement systems.<sup>31</sup> The Commission, building on previous results, continued its standardisation activities and pan-European pilot projects (such as e.g. PEPOL, see in Annex E), with the involvement and budgetary resources of several Directorate-Generals.

In 2005, the **Manchester Ministerial Declaration** required that all public administrations across Europe to be able to carry out 100% of their procurement electronically by 2010, creating a fairer and more transparent market *for all companies independent of a company's size or location* within the single market, and to ensure that at least 50% of public procurement above the EU-thresholds will be carried out electronically. The **i2010 action plan** detailed the activities to be undertaken by Member States and the Commission to achieve the relevant targets. These included, amongst others, standardisation and interoperability issues.

The potentials of eProcurement were also emphasised in the **Small Business Act**<sup>32</sup> and in the **European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts**<sup>33</sup>

<sup>31</sup> *Action plan for the implementation of the legal framework for electronic public procurement.*

[http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/actionplan/actionplan\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/actionplan/actionplan_en.pdf)

<sup>32</sup> <http://ec.europa.eu/enterprise/policies/sme/small-business-act/>

<sup>33</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/docs/sme\\_code\\_of\\_best\\_practices\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/sme_code_of_best_practices_en.pdf)

However, one should note that the uptake of electronic procurement technologies – above its benefits - may also bring some disadvantages to SMEs. **eProcurement can sometimes effect a certain degree of concentration of public contracts.**<sup>34</sup> **The technology allows the pooling of contracts and also supports outsourcing of procurement to centralised procurement agencies.** Larger contracts are often the consequence, which, correspondingly, may reduce the opportunities for SMEs of winning such contracts. Indeed, 26% of SMEs surveyed – and within, 28% of micro enterprises and 30% of small enterprises - indicated that this might be an important problem (see SMEs' views on this threat later in this section).

Even though this effect may not have been anticipated by policymakers, in practice, it is implied by the possibilities created by the new electronic technologies, combined with the ever stronger pressure from politics, control and audit bodies and the public on reducing the bid price.

### 5.3 Stages of electronic public procurement

**eProcurement technologies can infiltrate the public procurement procedure partly or in full, extending from pre-procurement over tender submission and selection to contract management.** Current European approaches studying eProcurement uptake identify six distinct stages under the main phases of the public procurement process<sup>35</sup>:

- § **eNotification**: this covers the simple publishing of tender opportunities on web portals, notification of potentially interested (registered) business partners, and more advanced forms of procurer-supplier interaction such as customisable electronic alerting systems. Many websites combine information on concrete tender opportunities with more general description of public procurement legislation, procedures, or explain the needs and requirements of the contracting authority or agency. Some portals even help SMEs to team up for larger contracts. As a subset that is sometimes mentioned separately, **eAccess** groups together access to tender documentation and support tools (e.g. calculation sheets), as well as different forms of interaction between the procurer and bidder in the tendering phase – e.g. Q&A sessions over the Internet and other forms of web-enabled dialogue.
- § **eSubmission**: this includes the electronic submission of pre-qualification information or the uploading of certificates and documentation to a supplier profile (databases storing and retrieving company data and certificates), full or partial electronic submission of the tender, secure storing of the tender and facilities for updating or amending it before the closing deadline.
- § **eEvaluation/eAward**: this contains the use of electronic tools in evaluation, the online publication of contract awards, and may also include electronic auctions or the admission to Dynamic Purchasing Systems (DPS). The latter are fully electronic systems set up for a defined timeframe, usually for commonly bought goods such as office supplies, where several suppliers who are admitted on the basis of their indicative bids (which must satisfy the general requirements set out by the procurer) can respond to simplified specific notices on the purchasing of concrete products. New

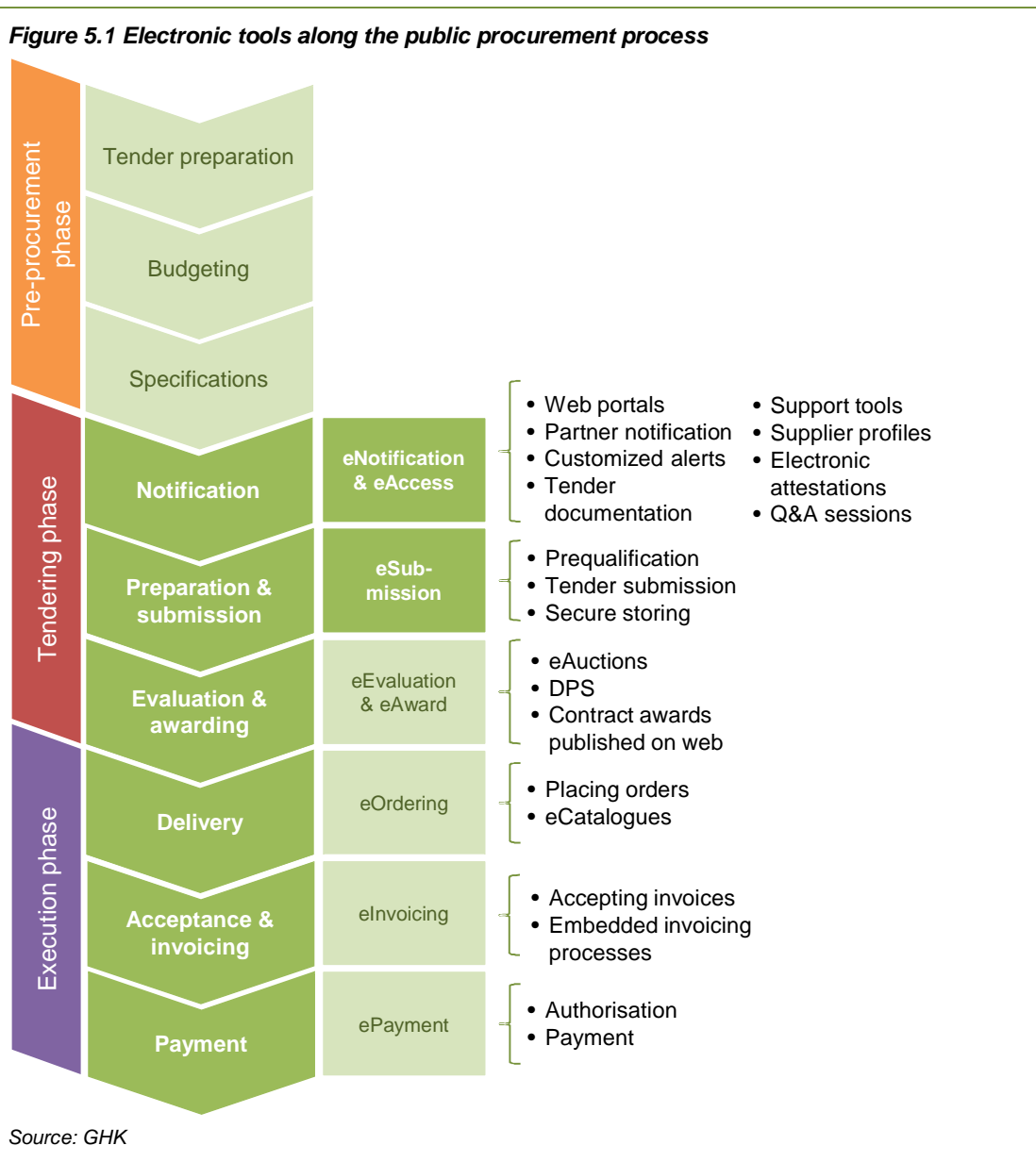
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<sup>34</sup> This effect was already highlighted in the Impact Assessment of 2004 the eProcurement Action Plan.

<sup>35</sup> Electronic means can of course also be utilised in the pre-procurement phase, e.g. when searching for and comparing technologies available on the market, or companies supplying these.

suppliers may request admission to the DPS at any time within the timeframe of operation

- § **eOrdering**: this means electronic methods in the placement of purchase orders, e.g. through eCatalogues.
- § **eInvoicing**: this includes the accepting of electronic invoices, potentially embedding it into the internal accounting processes or full-fledged ERP systems.
- § **ePayment**: this groups together electronic means for paying the supplier and the attestations and authorisation processes necessary for making the payment.





This approach is based on the taxonomy developed in the 2008 pilot study '*Benchmarking on-line Public Services - To develop and improve the eGovernment indicators*<sup>36</sup> prepared for DG Information Society by RSO s.p.a. and also used in the 8<sup>th</sup> Benchmark report on eGovernment ("*Smarter, Faster, Better eGovernment*")<sup>37</sup>, by DG Internal Market and Services in its recent survey to Member States in connection with the evaluation of the eProcurement Action Plan, and also taken into account in the PEPPOL pilot project.<sup>38</sup>

In this study, the focus was put on two concepts that are likely to have the greatest importance for SMEs wishing to compete successfully on the public procurement market: **eNotification/eAccess** and **eSubmission** (indicated in bold text in *Figure 5.1* above). SMEs' chances in accessing public contracts will be mostly shaped by these two factors:

- § the possibility to access information on, and documents in relation to, tender opportunities from everywhere within their action radius easily, cheaply and in due time, and to receive support and effective feedback during the tendering process (eNotification and eAccess);
- § the possibility to securely submit tenders easily and at a low cost, to reduce the administrative burden and to speed up the process (eSubmission).

Whilst the other four phases are equally important for the successful roll-out of eProcurement in Europe, their benefits mostly concern contracting authorities, reducing the time and costs of the public procurement procedure and of contract management.

## 5.4 Users' experience with eProcurement systems

### 5.4.1 Overall patterns of use

The use of electronic means in public procurement has undoubtedly gone a long way in Europe in the recent years. According to the 8<sup>th</sup> *Benchmark report on eGovernment*, 26 out of the 27 Member States have implemented some form of an electronic procurement system by 2009 – as compared to a mere six in 2004 (the study was not able to identify any electronic system in Greece only). On the traditional online sophistication indicator for public procurement, 22 Member States scored the maximum 100%, against only 11 in 2004.

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<sup>36</sup> Benchmarking on-line Public Services - To develop and improve the eGovernment indicators:

[http://ec.europa.eu/information\\_society/eeurope/i2010/docs/benchmarking/benchmark\\_public\\_serv\\_eprocurement.pdf](http://ec.europa.eu/information_society/eeurope/i2010/docs/benchmarking/benchmark_public_serv_eprocurement.pdf)

<sup>37</sup> Smarter, Faster, Better eGovernment:

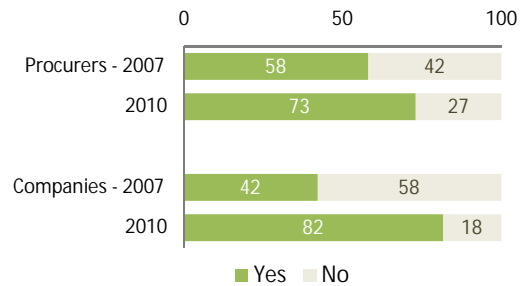
[http://ec.europa.eu/information\\_society/eeurope/i2010/docs/benchmarking/egov\\_benchmark\\_2009.pdf](http://ec.europa.eu/information_society/eeurope/i2010/docs/benchmarking/egov_benchmark_2009.pdf). The report has benchmarked for the first time eProcurement by looking at the functionalities of, and services offered on, selected central procurement sites in the Member States.

<sup>38</sup> This taxonomy has also been more or less taken up by the PEPPOL project ([http://www.peppol.eu/About\\_PEPPOL](http://www.peppol.eu/About_PEPPOL)).

These findings are confirmed by the - admittedly not representative - survey amongst procurers and companies bidding for public contracts. **In both groups, the proportion of respondents using eProcurement tools shows a clear improvement over 2007.**

Overall, 73% of the CAEs use such instruments in their public procurement procedures, compared to only 58% in 2007. For companies, the corresponding number was 82% in 2010, a marked increase over the figure three years earlier (42%) – even though there is still room for improvement.

**Figure 5.1 Proportion of respondents using eProcurement tools**

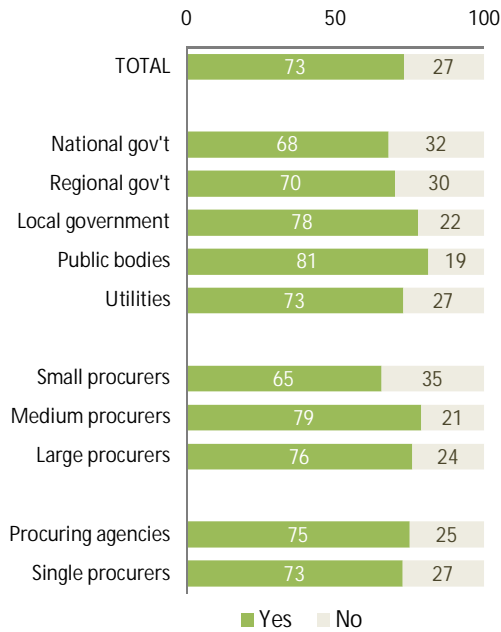


Source: GHK

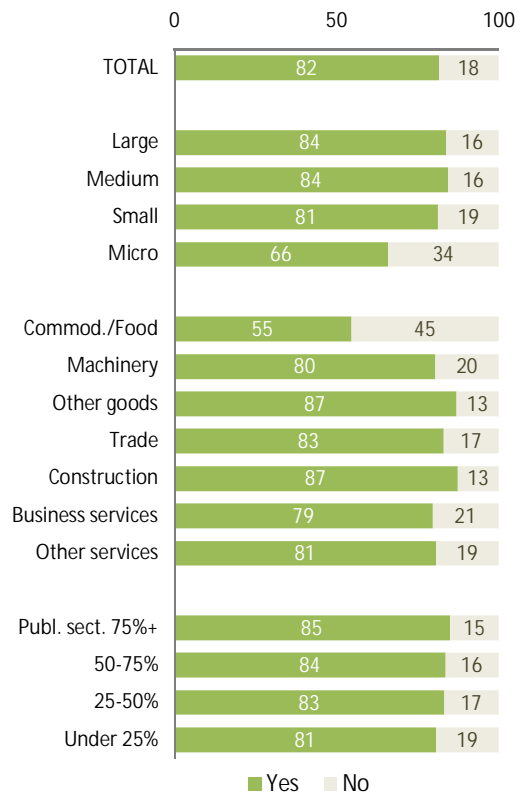
Looking into the details, it can be seen that **variations by type, size class and overall organisation of the procuring body are fairly moderate.** Bodies governed by public law use eProcurement in the highest proportion (81%), whilst regional and – surprisingly – national government authorities slightly less so (70% and 68%). Small procurers publishing less than 10 tenders per year above or below thresholds were less frequent users of electronic tools (65%) than medium (10 to 50 tenders) and large ones (above 50 tenders). The figure for entities that also procure on behalf of other organisations (a category that includes centralised procuring agencies) is more or less the same than for entities that only procure goods and services for their own needs.

Amongst **companies**, as one might have expected, electronic procurement solutions are less commonly used at micro-enterprises (only 66%). Differences between larger and smaller companies are barely perceptible. Enterprises active in the supply of commodities such as materials and energy and foodstuff seem to differ considerably from others in their propensity to use electronic means of communication in public procurement. Only 55% of them indicated the application of eProcurement tools. The differences amongst enterprises concerning the significance of the public sector in their sales are negligible.

**Figure 5.2 Proportion of procurers using eProcurement tools (by type, size and organisation of procurer)**



**Figure 5.3 Proportion of companies using eProcurement tools (by size, sector and public sector focus of company)**



Source: GHK

**Differences across Member States in the uptake of eProcurement tools are still wide.**

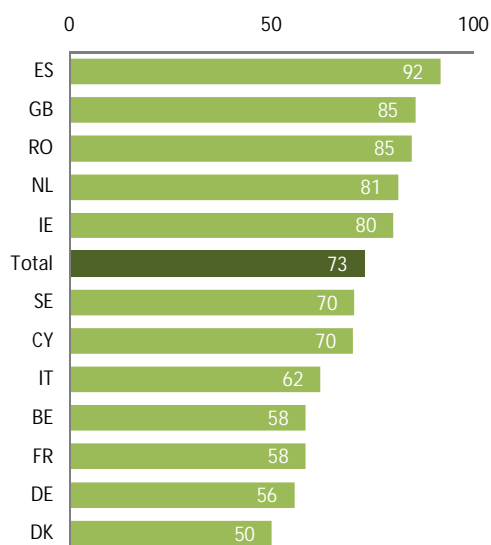
In the survey, the proportion of procurers who indicated that they take advantage of at least some electronic means in procurement – with the caveat that the sample was not truly representative – ranged from 50% in Denmark to 92% in Spain (12 Member States were assessed, as sub-samples for other Member States were too small for statistical conclusions). Intriguingly, only 60% of the companies from Spain answered that they use eProcurement tools which put them on last place out of 11 countries. On the other hand, a large number (95%) of German companies reported the use of electronic technologies, even though German contracting bodies and were penultimate in the ranking of procurers.

These conflicting results partly originate from sample bias, but partly – and this is important to note! - of different views of what constitutes “electronic” procurement tools. A lesson emerged from in-depth interviews with selected companies using eProcurement is that interpretations and expectations do indeed vary across Europe. Some companies can only collect information on tenders and specifications, others can benefit from more sophisticated solutions at later stages of the process (such as eSubmission), still they equally regard themselves as being users of eProcurement tools.

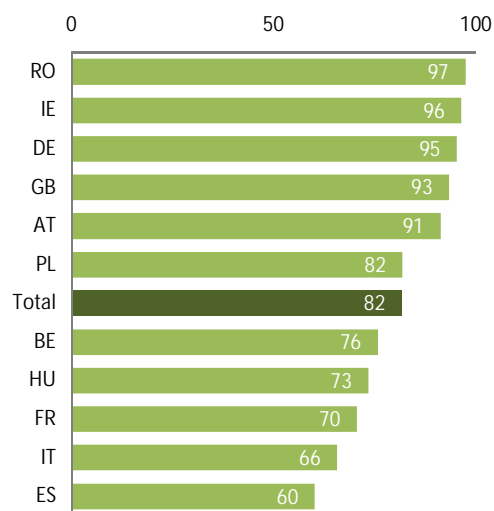
*“We are already happy that we can download tender documents from the web portal free of charge“*

*(A trading company from Hungary)*

**Figure 5.4 Proportion of procurers using eProcurement tools (by country)**



**Figure 5.5 Proportion of companies using eProcurement tools (by country)**

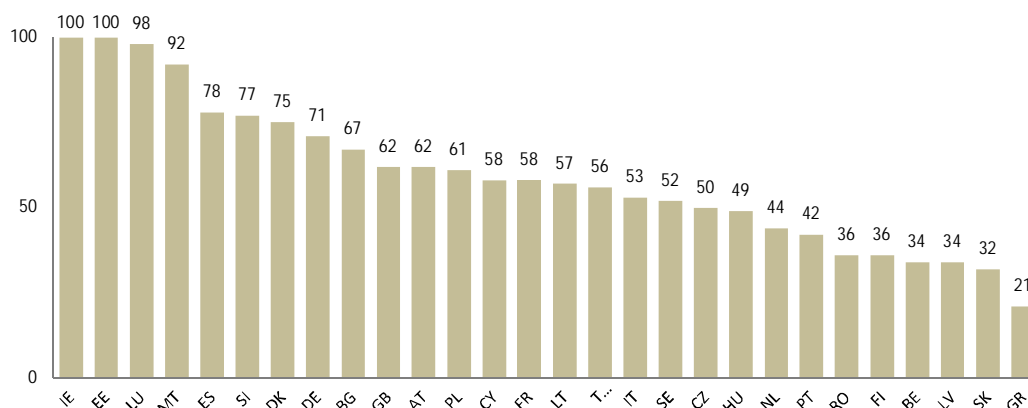


Source: GHK

A better insight into the proliferation of eProcurement tools is provided by the *eProcurement Availability Benchmark*, developed for the 8<sup>th</sup> Benchmark report on eGovernment, first published in 2009. This measures the availability and also the sophistication of various possible eProcurement tools on a relatively large – and more representative – sample of contracting authorities.<sup>39</sup>

Whilst the move away from traditional, paper-based procurement towards more efficient electronic solutions can be seen everywhere in Europe, this benchmark also shows that the positions into which individual Member States have arrived vary considerably. There are still big differences between countries in the extent they are providing (and using) eProcurement tools.

**Figure 5.6 eProcurement Availability Benchmark scores (2009)**



Source: DG INFSO, 8<sup>th</sup> Benchmarking report on eGovernment, 2009

<sup>39</sup> The survey included 746 contracting authorities (all from the public sector) at national, regional and local level.

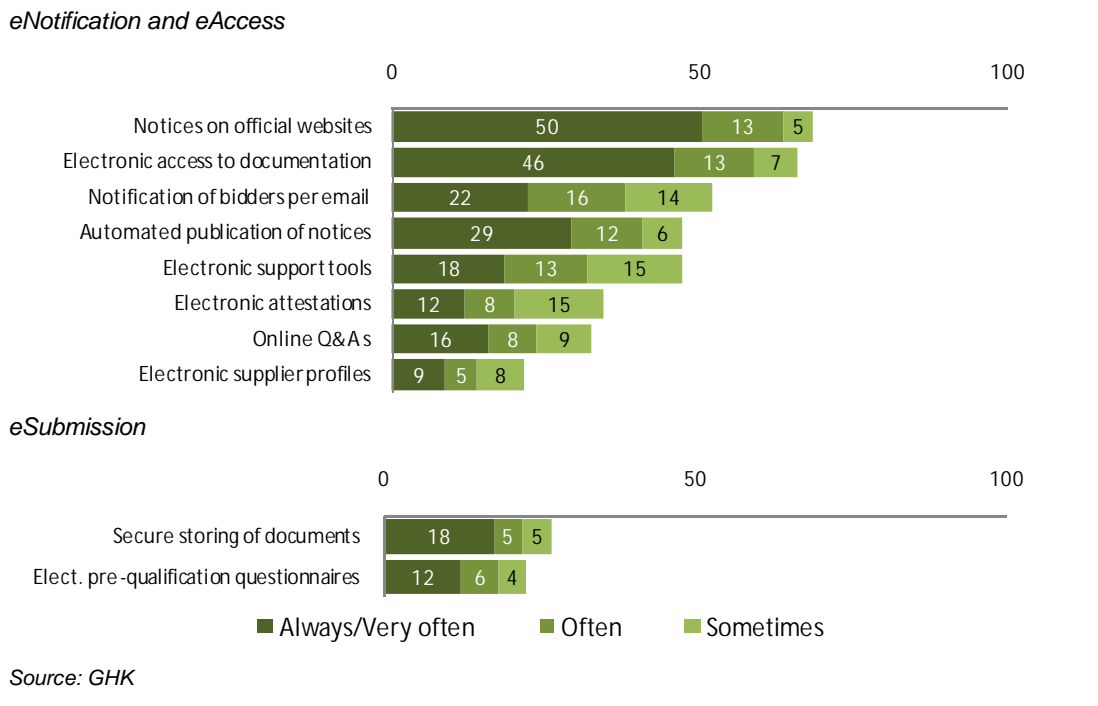
The indicator ranges from 21 for Greece to the maximum possible 100 for Ireland and Estonia, which countries seem to have achieved the Manchester target of being able to carry out all of their public procurement procedures online. The total score for the surveyed 31 European countries<sup>40</sup> is 56. Surprisingly, certain countries with otherwise very good progress in implementing electronic public services fail to reach high scores: Sweden comes in 17<sup>th</sup>, the Netherlands 20<sup>th</sup>, and Finland 22<sup>nd</sup>.

#### 5.4.2 Procurers' use of electronic tools along the procurement process

eProcurement that companies may be involved in covers of course many different systems for many different purpose. In the survey, both procurers and companies were asked about the utilisation of more specific tools, putting the emphasis on the eNotification/eAccess and eSubmission stages.

**Publishing notices on official web portals and websites is the most prevalent notification practice amongst procurers** (26 Member States have – mostly publicly operated - national electronic notice boards, and some of them have regional public procurement websites). 68% of procurement bodies indicated that they at least sometimes publish their tenders on such sites, and 50% of them do this always or very often.

**Figure 5.7 Frequency of use of individual tools by procurers using eProcurement technologies (proportion of CAEs using the options at least sometimes, in percentage)**



In contrast to the above publication practice, which also includes cases in which contracting authorities and entities send information on the tender to the operators of the web portal in a Word or similar file format (or even on paper which needs then to be typed in!), more elaborate, integrated eNotification systems allow for automated transmission and publication of notices. Considerably fewer, but still many procurers have access to such systems. In the survey, only 47% of the respondents replied that they use this opportunity at least sometimes.

<sup>40</sup> EU27 plus Croatia, Iceland, Norway and Switzerland.

Notification of possible bidders per email – whether or not these are targeted or are addressed at all companies registered – is also taken advantage of by a relatively large number of procurers: 52% of them use this option from time to time (22% always or very often).

**A large majority of procurers make electronic access to tender documentation available (63% use this at least sometimes).** The documentation may include the terms of reference, a model contract, further technical and financial documentation, previous studies (e.g. feasibility study), mandatory templates for the proposal.

46% of them also give some additional support tools, such as e.g. calculation sheets for compiling the budget or for summarizing and reviewing awarding criteria indicators (total life cycle cost, environmental performance etc.). Retrieving electronic attestations on bidders directly from public databases is an option chosen by 35% of the procurers.

Certain other options in the eNotification/eAccess stage are also used, although they are markedly less popular with procuring bodies than the ones mentioned above: around half of the respondents never used them. This concerns the following:

- § more developed supplier profiles storing company information which also often includes attestations and certifications. The basic idea behind this is to reduce administrative burden by not requesting bidders to submit the same documents again and again.
- § online Q&A sessions, that could enable a more timely and efficient communication between bidders (who may be located in a distant region or abroad) and the contracting body. Instead, procurers often only offer live Q&A sessions or email exchange. The latter has the disadvantage of being slow and not allowing for an interactive dialogue between the parties.

**As for the eSubmission stage, the integration of electronic means into the procurement process is less widespread than electronic notification or access tools.** Electronic pre-qualification questionnaires for short-listing suppliers, which are relatively easy to handle and give prompt feedback for companies on their eligibility for the upcoming tender, have been ever used by only 22% of the procurers (organisations from the UK were the most frequent users). Mechanisms for the encrypting and secure storing of submitted tenders were implemented by 28% of the procurers surveyed. Such systems enable the transparent handling of documents, key for the fairness of the procurement, and may also allow for the review, completion and amendment of the tender by the bidder (before the deadline).

#### **5.4.3 SMEs' use of electronic tools along the procurement process**

**SMEs mostly use electronic channels for accessing information on, and documentation of, tenders (eNotification and eAccess) - and the patterns of use are similar in all company size classes.** 75-76% of the companies surveyed use electronic tools for these two purposes at least sometimes, leading the league table by a large margin. The two activities in this group were:

- § **searching for information on tender opportunities** (browsing tender databases on web portals, receiving notifications). 58% of micro enterprises indicated in the survey that they use electronic channels for searching at least sometimes, whilst the corresponding proportion amongst small, medium and large enterprises was about the same, 76-78%.
- § **accessing tender documentation**, which usually means downloading them from the relevant website of the procurement agency or web portal. Micro enterprises take

advantage of this option at a lower ratio than larger companies (58% vs. 74-80%), which this is the result of the lower propensity of micro enterprises to use any electronic tool (see Figure 5.3 above).

**Electronic submission of tenders is less frequent across all company classes.** 38% of the respondents answered in the survey that they do at least sometimes submit their tender in full electronic form, and 35% submit parts of their tender electronically (this may include the technical offer, the financial offer, but often not all attestations, which are not available in electronic format). Results show only moderate differences between medium-sized and large enterprises, but a gap between micro and small enterprises, on the one side, and medium and large ones, on the other.

**Figure 5.2 Individual eProcurement technologies used by companies at least sometimes (in percentage)**

Measures	Micro	Small	Medium	Large	Total
<i>eNotification and eAccess</i>					
Accessing tender documentation	58	76	78	77	<b>76</b>
Information on opportunities	58	74	80	76	<b>75</b>
<i>eSubmission</i>					
Submitting full tender	26	37	48	36	<b>38</b>
Submitting parts of tender	29	29	40	35	<b>35</b>
<i>eEvaluation and eAward</i>					
Full electronic case handling	26	40	47	46	<b>43</b>
Information on evaluation	21	32	31	29	<b>30</b>
Electronic auction	11	12	23	17	<b>17</b>

Source: GHK

**Electronic tools are also less widely encountered by companies in the eEvaluation and eAward stage.** An electronic auction is the eProcurement solution that companies are least likely to come across: only 17% of the companies claimed that they at least sometimes participate – and the differences between company size classes are relatively small. Notices on the outcomes of the tender are accessed by 30% of the companies over the web, whereas the proportion of respondents who use electronic tools for the whole procurement procedure (i.e. full electronic case handling) at least sometimes is 43%.

**Overall, small and especially medium-sized enterprises do not seem be lagging behind significantly as concerning their access to electronic tools.** Differences in the use of individual eProcurement solutions were minor. **However, micro enterprises are less likely to use the key electronic public procurement tools.** They are mostly lagging behind in the uptake of Notification and eAccess tools, and full electronic case handling

#### 5.4.4 *The perceived benefits of eProcurement for SMEs*

**Companies find eProcurement solutions highly beneficial, judging from their responses to the questionnaire.** Most of the possible advantages asked from respondents were confirmed and considered very important. Only few companies said that

the given options were no benefits of eProcurement at all. Six of the options were rated very similarly:

- § Easier access to the tender documentation (often free of charge) was considered the most beneficial effect, with 55% of respondents seeing it very important.
- § The generally swifter access to relevant information was regarded very important by 52% of the companies surveyed.
- § The relative ease at which tender opportunities that are relevant for the company may be found and selected was rated very important by 52%.
- § Access to a larger pool of relevant tender opportunities in the respondent's country (enabled through central procurement web portals) was chosen very important by 51% of the respondents.
- § Time and cost savings in compiling and submitting the tender were rated very important by 49% of companies
- § The easier communication during the tendering phase between bidder and the procurer was also considered an asset, with 42% holding this for very important.

The two benefits that were somewhat less highly rated – but still important – were the availability of electronic tools supporting bidders in compiling their tenders, with an emphasis on quality control tools (very important benefit for 28%) and the access to a larger pool of European tender opportunities (22%). This latter is slightly more important for large enterprises with a larger action radius, and less so for the smallest ones that focus more on local opportunities.

**Figure 5.3 Companies' views on the benefits of eProcurement (proportion of companies regarding the benefit 'very important' by enterprise size class, in percentage)**

Measures	Micro	Small	Medium	Large	Total
Easier access to documentation	48	62	52	55	<b>55</b>
Swifter access to information	56	56	47	53	<b>52</b>
Easier to find relevant tenders	54	54	48	52	<b>52</b>
More national tender opp's	54	53	50	50	<b>51</b>
Less time and costs	41	54	43	52	<b>49</b>
Easier communication	38	42	39	45	<b>42</b>
Support tools	28	28	25	29	<b>28</b>
More EU tender opportunities	22	26	18	22	<b>22</b>

Source: GHK

**The views on the above potential benefits of eProcurement were remarkably similar within all company size classes. Differences between micro, small, medium-sized and large enterprises were mostly minimal.**

Additional benefits mentioned by companies covered technical, organisational as well as wider sustainability aspects of eProcurement. The most frequent advantages highlighted were the following



- § **avoiding duplications:** through supplier profiles or similar electronic databases, company documents (legal identification form and supporting documents, financial data, attestations and certifications) can be stored so that bidders are not burdened with re-submitting them each time a new tender is launched. Also, eProcurement systems can be in theory designed to be able to link directly to the databases of tax authorities or other relevant public bodies and request the necessary attestations. These would be more up-to-date than if the bidder has to supply them and will save the participating companies considerable time and effort.
- § **higher transparency of the process:** this involves the disclosure of all necessary information, the strict deadlines and clear rules of the procedure that do not allow for ad-hoc exemptions favouring certain companies, and the easier traceability of the communication with the procurer (an 'audit trail' of procurer-bidder interactions is automatically put in place). This reduces the scope for possible corruption and mistrust between parties, companies (and especially small companies) will be more eager to compete.
- § **better organisation of the process:** a well-designed eProcurement system can itself shape the practical execution of the procurement process. A series of built-in automated checks can safeguard that rules and deadlines are observed at the procuring agency. It can prevent unnecessary time delays and inefficient human resource allocation. For participating companies, the system might facilitate the preparation of the tenders (e.g. through templates) and be enhanced with helpful features such as automated reminders on next steps in the tendering procedure, or on renewing supplier profile (if the validity of attestations are soon to expire).
- § **swifter interaction:** electronic means shorten response time for businesses if a completion of documents or clarification is needed. Traditional correspondence via post takes days (fax may be a suitable for submitting requests and questions but not for submitting tender or technical documents), not to talk about travel times in case the tender is delivered to the procurer by hand, or the costs and risks involved with commissioning a courier service. Also, letters to the bidder are sometimes not correctly addressed and will not reach the responsible persons within the company on time. Electronic channels are more reliable – they are able even to provide feedback on receipt of the message.
- § **reduced paper consumption:** electronic communication reduces the need for paper and printing dramatically. This is clearly an environmental benefit, but a further positive effect is that bidders can avoid the sometimes very onerous and time-consuming task of printing and binding the documents.
- "I am a bit more confident that all deadlines and eligibility requirements are respected. We had cases before where the procurer has extended the deadline for submission without any plausible reason or has allowed completion of tenders without clear prior indication of the rules"*  
(A trader of machinery and equipment, Romania)
- "We use much less paper, which gives a boost to our sustainability efforts. We also save precious time and don't have to face the always smouldering risk of last-minute printer failure"*  
(A small consultancy firm from the UK)

### 5.4.5 Barriers to implementing eProcurement tools

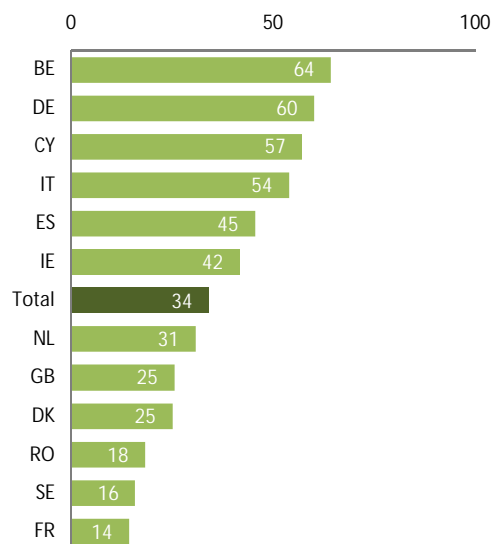
Despite the dynamic spread of its use and an overall overwhelming business support for eProcurement tools, there are still a number of procuring agencies who do not use electronic tools, or do not use more of them.

**34% of the CAEs surveyed admitted to experience some barriers to the use of electronic public procurement solutions.** Variation between Member States is apparent: 64% of Belgian and 60% of German procurers indicated problems, whereas only 14% of French agencies reported the presence of barriers (sub-samples from other Member States were too low to be included in the chart). Interestingly, the extent of problems in introducing electronic means in procurement appears to be also low in Romania, which is still lagging behind in terms of the *eProcurement Availability Benchmark*, according to the findings of the *8<sup>th</sup> Benchmarking report on eGovernment*.

Looking into the details, one can discover from the data that **entities who procure more and should have more experience in electronic procurement feel the barriers the most.**

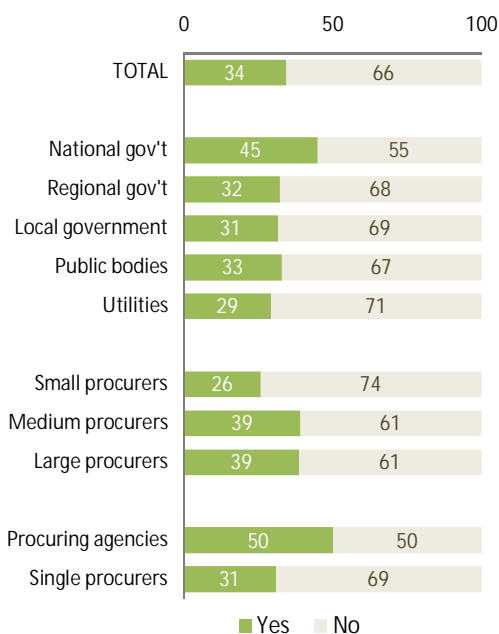
- § Government bodies at national level experience barriers in a higher proportion (45%) than those at regional or local level (32% and 31%).
- § Large and medium-sized procurers (with above 50 or 10 tenders per annum, respectively) report problems at considerably higher rates (39%) than small ones (26%).
- § CAEs that also procure on behalf of other organisations, including centralised procurement agencies are more likely to experience problems (50%) than single procurers who purchase goods and service only for their own consumption (31%).

**Figure 5.4 Existence of barriers for procurers to use eProcurement tools**



Source: GHK

**Figure 5.5 Barriers for procurers to use eProcurement tools (by type, size and organisation of procurer)**



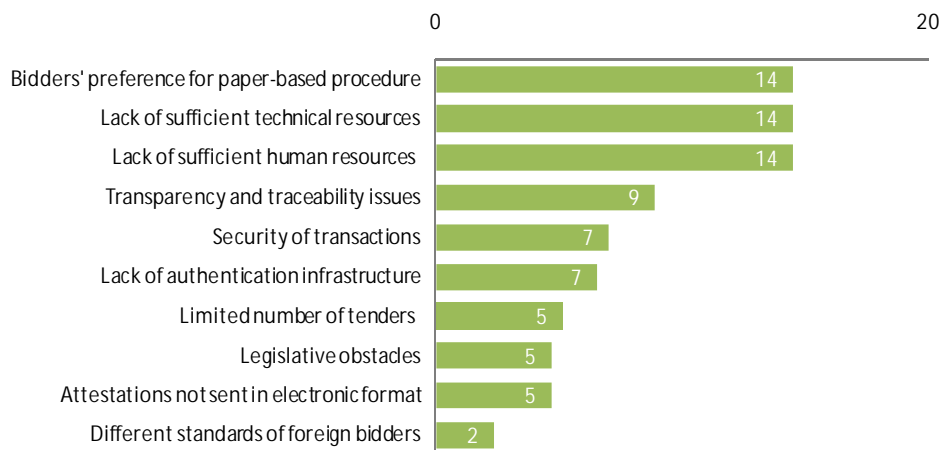
Source: GHK

These somewhat intriguing results seem to originate paradoxically from the fact that the larger and more experienced organisations tend to be more advanced users of

eProcurement. They have implemented or are about to implement more sophisticated systems and technologies, which come with many obstacles, whilst smaller contracting authorities often stay at more basic solutions which are easy to put in place and operate.

Survey findings show that the **most crucial problems in connection with the introduction of eProcurement solutions are connected to the lack of adequate internal resources, as well as their perception that their bidders would rather opt for the continuation of traditional procurement practices.** The lack of both sufficient technical and human resources was mentioned by 14% of procurers. The proportion of CAEs indicating that their bidders would rather prefer a paper-based procedure was equally 14%.

**Figure 5.6 Main types of barriers for procurers to implementing eProcurement (percentage of answers)**



Source: GHK

The remaining possible options described in the questionnaire were selected by fewer respondents:

- § 9% of procurers perceive problems with the **transparency and traceability** of the process - even though appropriate eProcurement systems could enhance transparency of the procedure to the outside world, and also create an efficient 'audit trail' (an advantage confirmed by many companies).
- § Solving the **security of online procurement processes**, with an emphasis on the encrypting and safe storing of tenders, was seen as a barrier to 7% of the procurers.
- § The lack of a domestic **electronic authentication infrastructure** to accept eSignatures were also indicated by about 7% (by one respondent less than for the preceding question).
- § 5% of CAEs said they were too small and launch **too few tenders** per annum to invest in electronic procurement systems. Apart from the costs of hardware and software licence (or the costs of teaming up with an existing public procurement portal), a major effort would be required to redesign procedures and train staff accordingly. A small procurer will probably not standardise its procedures to an extent suitable to electronic processes.
- § Around 5% of procurers mentioned that in their country, **legislation does not allow electronic case handling**. This answer was also selected by CAEs from countries

where eProcurement is in fact fairly advanced (e.g. Spain or Germany, both of which scored relatively well in the *eProcurement Availability Benchmark*), so reference may be made here by respondents to barriers to specific, more sophisticated electronic solutions. E.g., storing attestations and certificates, or retrieving them from relevant authorities' databases may not be permitted.

- § No possibility to receive **attestations and certifications in electronic format** (because they are not available electronically, and/or accepting scanned copies accompanying a tender are not permitted) was seen as a problem by 5% of the respondents.
- § The difficulties to cope in public procurement with the **different systems and standards of foreign bidders** who might answer the tender was only highlighted as a problem by 2%.

Some further barriers were mentioned by respondents, covering legal, technical issues and problems on the user side.

Refining the legal framework governing eProcurement is an ongoing process throughout Europe, and **in some countries, legislation is seen to be changing too frequently by some survey participants**. Procurers that are in course of a gradual implementation of electronic

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*“There are too many changes in systems and laws every year. The organisation is a little tired of having to adapt all the time.”*

(A Belgian local government)

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technologies may face marked changes in the regulatory environment all too often, disrupting their medium or long-term eProcurement strategy. **Procurers also may not have a technologically fully reliable system at their disposal**. One Belgian procurer noted that the federal eProcurement platform is still prone to technical breakdowns, so they would not take the risk of launching a tender there. Also, sending tender documents through over the Internet is not always straightforward: they are too big, complex or need special printing.

However, the most emphasised problem is that bidders, in specific **SMEs are not fully equipped to use eProcurement**. Small enterprises lack the skills (and the time to learn these) to handle electronic procedures. Nor do they have eSignature, necessary for the submission of tenders. This is an even more persistent problem with foreign bidders, which can not easily apply for an eSignature abroad.

The survey amongst companies more or less confirms the above. **The main reasons for not using (advanced) eProcurement tools for companies, especially SMEs, is – apart from the obvious problem concerning the lack of such electronic tools in their country or region - that responsible staff is not sufficiently familiar with electronic tools and procedures**. Some additional potential barriers were experienced but not generally seen as very important:

- § Concerns about the security arrangements on e-procurement platforms
- § Lack of necessary technical resources to use e-procurement (e.g. IT facilities, electronic signature etc...)
- § A general lack of trust in the confidentiality of e-Procurement procedures
- § Lack of trust in the reliability of the electronic submission of tenders

**These results lead to the conclusion that the historical bottlenecks of inadequate ICT capacities and the lack of trust seem to be mitigated – but knowledge and skills deficits do still hinder small companies to use electronic tools in public procurement.**

#### 5.4.6 **Problems with the use of eProcurement tools as perceived by SMEs**

The majority of SMEs takes advantage of eProcurement tools, but even they experience problems from time to time – some of them quite frequently. **The adverse effects felt mostly by companies revolve, perversely, around the economic impacts of eProcurement which are considered most beneficial for new entrants and for purchasers:**

- § Easier access to tenders through the use of electronic means may increase competition, which puts a pressure on the prices bidders can offer. This has been already experienced by the majority (77%) of the respondents. 43% of them (42% of SMEs) regarded it a very important problem, putting it in first place amongst all of the options. Competition is of course not helpful for incumbent suppliers – even though the impact are usually very positive for the procurer, thus for taxpayers.
- § A similar indirect adverse effect is the better possibility created by electronic procurement to pool contracts together. eProcurement may come hand in hand with the centralisation of public procurement. This means larger contracts, which could exceed the technical or financial capabilities of SMEs, and more attention from competitors. This was already experienced by 69% of the respondents, and 26% think (SMEs and large enterprises alike) that this is an important issue.

**Figure 5.7 Problems of eProcurement tools (proportion of companies seeing the problem 'very important' or 'important' by enterprise size class, in percentage)**

Measures	Micro	Small	Medium	Large	Total
Increased competition, price pressure	42	38	46	43	<b>43</b>
Different templates and procedures	29	27	33	42	<b>36</b>
Procurements pooled together	28	30	22	27	<b>26</b>
Too difficult to use	24	13	24	27	<b>23</b>
eSignature not accepted in own country	12	12	17	14	<b>14</b>
eSignature not accepted abroad	8	11	14	12	<b>12</b>
Concrete security problems	13	17	4	12	<b>11</b>

Source: GHK

**Also, the lack of harmonisation and the complexity of such systems are seen as a considerable burden:**

- § 73% of the respondents had experienced that different eProcurement portals use different templates and procedures and 36% considered this a very important problem. This is often a cross-border procurement issue. National eProcurement systems have been traditionally using different technologies and file standards – not to mention the different administrative requirements and certification systems which are a barrier to cross-border tendering in paper-based public procurement as well. Standardisation and harmonisation of eProcurement is an area where the Community is active and its efforts have already helped to tackle the problem. Micro and small enterprises are

somewhat less likely to regard this problem an important burden (29 and 27%, versus 43% for large enterprises) – as they are less likely to compete abroad.

- § Electronic procurement tools are sometimes simply too complex and difficult to use. This was experienced by 71% of the companies – and 23% thought this to be an important issue, whereby the difference is minimal across SMEs and large enterprises.

The other three problems given in the questionnaire – with the acceptance of the company's eSignature at home or abroad, and concrete security problems at submitting, storing or opening the tender – were less widely reported by survey participants.

**Altogether, the above problems were perceived by all company size classes, and mostly at a similar level.** The only answer indicated more frequently as a difficulty by large companies than SMEs was linked to problems arising from working with different templates and procedures. Large enterprises, being often active on a wider geographical market and having more opportunities to work with different (national) systems, are normally more exposed to this obstacle.

Apart from the pre-defined options, about a third of the respondents indicated further problems:

- § **When using eProcurement, companies do inevitably encounter various technical issues**, such as problems with the secure connection when working on or transferring the bid, system crashes or slow connections (especially when too many users are online), or the small but irksome errors of the systems (e.g. automated logouts without saving the work done in the session, incomprehensible error messages, file compatibility and formatting issues, erroneous closing of electronic auctions).
- § **Some companies have also reported that the contracting authorities are not always able to correctly operate the system.** The procedures are prone to errors, it takes extra time and effort to clarify the resulting problems. When they engage private third-party operators, the communication between the parties is not adequately organised.
- § **eProcurement is not always a suitable solution for companies who need to present their bid in a specific setup.** Some miss the personal touch of a face-to-face dialogue to convince the client of the quality of the offer. Others complained about problems when presenting bids which rely on high-quality images. Electronic means are simply not adequate for this purpose.
- § Finally, many of the respondents emphasised here again the need for the harmonisation of templates and procedures on various platforms, as well making the process and the interface more user-friendly. eProcurement as it is implemented in some places is very cumbersome, more a burden than a benefit.

## **5.5 Initiatives on the ground**

### **5.5.1 Case studies**

Several eProcurement systems deployed throughout Europe (and a pan-European pilot project) have been reviewed in order to distil important common features or success factors. These are provided in the box below. Furthermore, detailed case study descriptions providing the background, policy and legal context, functionalities, implementation characteristics and the results, are given for the majority of them in the Annex.

 Basque Government's eProcurement System (BGePS)

<http://www.ogasun.ejgv.euskadi.net/r51-3712/en/>

The eProcurement solution covering the entire procurement process, introduced in 2005, is used by Basque public authorities to launch and conduct public procurement with suppliers (SMEs and large enterprises) from every region in Spain. BGePS offers a high level of security that places it among the most secure solutions in Europe.

The portal covers the entire public procurement process, from eNotification through ePayment. Various modules help SMEs participating and reducing their costs: plenty of information, an eNotification system, supplier profiles, possibilities to tender through consortia and joint ventures, and electronic tender submission. SMEs can also benefit from a user support service.

(Detailed case study in Annex €)

 The e-bourgogne platform

<http://www.e-bourgogne.fr>

E-bourgogne is a regional platform for public procurement activities for the French Burgundy region. A main objective is to facilitate the participation of SMEs to public procurement markets. This free-of-charge platform focuses on the eNotification/eAccess, eSubmission and eEvaluation/eAward stages, providing prior information notices, tender notices, award notices, electronic 'safes' (supplier profiles). A business directory is integrated in the platform, facilitating easy registration of new bidders.

(Detailed case study in Annex €)

 E-Licitatie

<http://www.e-licitatie.ro>

E-Licitatie is a central Romanian public procurement electronic platform. Its aim is to facilitate public procurement activities for suppliers and contracting authorities by providing an online service easily accessible and up-to-date. The services focus mostly on the eNotification phase. E-Licitatie was selected as a good practice at European level, using a well-developed customised notification interface and different alert options to choose from.

(Detailed case study in Annex €)

 CPO.It

<http://www.cpo.it>

The CPO.It initiative is an electronic catalogue solution for public and private sectors to arrange and manage their orders of products, services and works online, which takes into account SMEs' interests - especially the possible adverse impacts originating from the pooling together of public contracts that is enabled by eProcurement tools.

The objectives were minimising paperwork, simplifying procedures, saving time, reducing the cost of the procurement process and the price of the goods, services and works that are purchased under framework agreements.

(Detailed case study in Annex €)

 MEPA and Supplier Training Desks

<http://www.acquistinretepa.it>

The initiative is aimed at informing the SMEs about the existence of the Electronic Marketplace for Italian Public Administration (MEPA) and at providing technical assistance in connection with its use. MEPA is a virtual electronic marketplace where the Italian public bodies can purchase goods and services below the European thresholds. Under STD, a network of „virtual desks” has been set up, with the support of the Italian trade associations. The mission of this network is to inform SMEs about the existence of the MEPA and to support them in the correct use of this eProcurement solution.

(Detailed case study in Annex €)

### Welsh National Procurement Portal

The Welsh National Procurement Portal (NPP) consists of two portals. Sell2Wales ([www.sell2wales.co.uk](http://www.sell2wales.co.uk)) is a popular free electronic notification service that informs registered suppliers about opportunities that match their profile, and allows suppliers to review the details of procurement organisations (buyer's profiles) and engage in basic Request for Quotation (RfQ) processes. Buy4Wales ([www.buy4wales.co.uk](http://www.buy4wales.co.uk)) is a sophisticated 'back office' procurement tool that procurers use to create and manage electronic notices, search for suppliers, locate best practice resources and conduct RfQs.

The portals focus on customized notification of potential suppliers using an user-friendly supplier profile based matching tool. Contracting authorities use the portals to set up and electronically publish procurement notices, whereas bidders (after completing a basic registration process) receive personalised alerts of notices that match their preferences.

(Detailed case study in Annex €)

### CompeteFor

CompeteFor ([www.competefor.com](http://www.competefor.com)) is a website originally developed for the London 2012 programme. Its aims were to inform businesses on the tender opportunities in connection with the Olympic Games, and in specific to create a platform enabling buyers at various stages in the supply chain to find suitable suppliers. The platform is now also used by London boroughs for other purchases. Businesses registered on CompeteFor can have access to thousands of public tenders, find companies to team up to for consortia or supply prime contractors.

### Inter-ministerial tendering platform

<https://www.marches-publics.gouv.fr>

The *Place de Marche Interministerielle* is a platform providing access to tenders from all French ministries. SMEs can use it with a login and password and can look for relevant tenders by key words, dates or ministry requesting it. The platform gives access to on-going tenders as well as to closed ones. Such a platform is very successful as it combines the tenders of all the French ministries on a single platform which makes access to them easy for SMEs as well as cost efficient for ministries in reducing the management costs of their own platforms.

### Label dem@PE

dem@PE is a label to award public procurement electronic platforms meeting a set of criteria based upon user feedback. In developing interoperability, security and interchange of electronic data and documents, the label helps promoting confidence in electronic tendering and fosters good practices.

### Pan European Public eProcurement onLine (PEPPOL)

PEPPOL is a Large Scale Pilot on Public eProcurement, funded by the Commission under the ICT/PSP programme under the monitoring of the Commission, Directorate for Information Society and Media (DG-INFOS) with the objective of setting up a pilot solution that facilitates the interoperable, cross-border procurement between European countries, without substituting but, rather, integrating, national systems and infrastructure.

Its vision is that any company and in particular SMEs in the EU should be able to communicate electronically with any European governmental institution for the entire procurement process. The final outcome of PEPPOL will be an interoperational environment build upon national systems and infrastructures supporting the full cycle of eProcurement activities.

(Detailed case study in Annex €)



### **5.5.2 Lessons learnt**

The eProcurement systems implemented in Europe cover various stages and many solutions. All portals offer services linked to the eNotification stage, but not all allow eSubmission or post-award functionalities yet. eProcurement can facilitate SMEs' access to new markets, but the centralisation of procurement and pooling of contracts is also often facilitated by eProcurement and can be detrimental for the opportunities and SMEs (especially micro enterprises) to win public contracts. Many eProcurement initiatives acknowledge this and try to support SMEs to counteract this problem and achieve a level playing field.

The factors that seem to be common in the successful solutions are the following:

- § For initiatives at national level, a clear policy and legislative background is needed. The projects need a stable legal environment and clear commitments from politics and the national eGovernment strategy. Often, public authorities are obliged to use the platform (including also eCatalogue systems). This obviously provides a necessary critical mass to make it successful. Even in the absence of mandatory arrangements, some campaign to recruit users (both CAEs and bidders) may be necessary.
- § The policy and legal background should be explicit about the objective of enabling SMEs' access to public contracts and about the ways (better notification and communication, lots etc.) through which this should be achieved
- § To ensure buy-in from public procurers, the cost and time savings potential of the eProcurement solutions should be ensured. If it is only felt a burden, they may not actively participate in the elaboration and setting-up of the system, nor will they be willing (if not mandatory) to launch their tenders online, purchase online, or promote the eProcurement opportunity amongst their suppliers
- § Bidders' organisations, business associations and chambers may also be involved in the preparation phase to integrate requirements and views of business users
- § Thorough efforts need to be made to train users. Various types of media can be used for training material (e.g. online videos). In public administration, a change management approach, analysing resistance to change, problems and expectations, is advisable.
- § Especially in the early phases of implementation, support desks may be put in place to help users (these do not need to be expensive)
- § The solutions need to be very user-friendly to accommodate users at all experience levels
- § The use of several platforms confuses bidders: a one-stop shop solution seems to be the most successful. Depending on which stages are covered by eProcurement in the country, this could be the single place to access reliable information on contract notices, or the national electronic tendering website or electronic marketplace
- § High levels of customisation is required so that bidders can access the information that is really of relevance for them easily
- § The system should give prompt feedback on the tasks performed and on progress within the tendering process, and send alerts on potential errors
- § Several possibilities can be considered to reduce the administrative burden for SMEs: through simplified procedures, (common) templates, supplier profiles storing company documents and certificates

- § If eProcurement is coupled with centralisation and pooling of lots, than the use of lots or framework agreements can be promoted (eCatalogues can be successful in helping SMEs)
- § Open source software can be used to ensure easy accessibility
- § Interoperability must be ensured to keep the solution easily accessible, also for cross-border procurement
- § Reliable encrypting and secure transmission tools should be implemented to increase trust
- § Central EU activities in eProcurement are helpful - these may include the sharing of best practice (though many public bodies may struggle in taking on board solutions 'not invented here'), but the key areas for intervention is standardisation (projects such as STEPPIN and PEPPOL, results to be rolled out).

## 5.6 Summary

- § The main benefits of eProcurement are the easy and timely access to information, more transparency and competition and better value for money for procurers, and reduced costs. Dynamic SMEs wishing to enter new public sector markets are likely to benefit most, however, time and cost savings may be concentrated amongst companies which tender frequently
- § 73% of the surveyed contracting authorities and entities use eProcurement tools, and 82% of companies – both figures are markedly above the data from 2007 (58% and 42% respectively). Variations by type and size class are moderate
- § Differences across Member States in the uptake of eProcurement are still wide, and especially in the sophistication of tools
- § Simple eProcurement tools (publication of notices on websites and electronic access tender documentation) are used the most frequently. More ambitious systems such as supplier profiles, online Q&A are less widely implemented. Electronic submission and secure storing is done by less than 50% of the procurers surveyed
- § SMEs use electronic means mostly for accessing information on tenders (58-78% at least sometimes) and tender documentation (58-80%). 26-48% of the SMEs surveyed submit their tenders fully electronically at least sometimes. Electronic auctions are even less widespread: only 11-23% of SMEs participate. The patterns of use are very similar across all company size classes: small and medium-sized companies do not lag behind, and micro enterprises are using the electronic tools only moderately less frequently than larger entities
- § Companies – SMEs and large companies alike - find eProcurement solutions highly beneficial. The key positive factors are (i) swifter access to information, (ii) access to a larger pool of tender opportunities, (iii) ease of search for relevant opportunities, (iv) easy access to tender documentation, (v) time and cost savings during tendering, and (vi) easier communication in the tendering phase. Additional benefits mentioned included the avoidance of duplications, higher transparency, better organisation of the process, swifter interaction and reduced paper consumption
- § 34% of the CAEs surveyed reported the existence of barriers to the use of eProcurement solutions. The proportion was slightly bigger amongst larger, more experienced organisation. The main barriers indicated are the bidders' preference for paper-based procedures, the lack of sufficient technical and of human resources (all 14%), and concerns with transparency and traceability (9%). Additional problems are the fast changes in the national legislative context, issues with the reliable functioning of the systems and the limited capabilities of SMEs to cope with eProcurement
- § The main barrier to SMEs not using the tools is that responsible staff is not sufficiently familiar with electronic tools and procedures. Concerns about the security of the systems, and problems originating from the lack of technical resources seem to be rare
- § Problems to companies who already use eProcurement originate from the increased competition (important or very important problem for 43%) and the improved possibilities to pool contracts together (26%), which should however benefit procurers and the taxpayer. Problems with the lack of harmonisation amongst different platforms are also reported (36%), as well as with the overall complexity of the systems (23%). In addition, a series of irksome technical problems were mentioned by many companies. SMEs and large enterprises see similar problems. SMEs face slightly less frequently

the obstacles arising from different templates and procedures used

- § Successful eProcurement initiatives on the ground seem to build on a solid legal and policy base and ensure adequate buy-in from public procurers and business. Trainings and support desks are also useful. Good practice involves one-stop initiatives offering highly customisable eProcurement services, constant feedback, solutions reducing the administrative burden (simplified procedures, templates, supplier profiles etc.)
- § The EU is active in eProcurement, especially in standardisation

## 6 SMES AND INNOVATION IN PUBLIC PROCUREMENT

### 6.1 Introduction

As shown in recent studies, public procurement could be a great contributor to the aim of fostering innovation in Europe – if its role would be recognised in the future more than it currently is. This is well acknowledged in the *'Europe 2020 strategy'*, which specifically mentions public procurement as a demand side policy of innovation promotion, of which full use will need to be made.<sup>41</sup> Under the "Innovation Union" strategy, one of nine recent flagship initiatives, the EU might announce a European scheme following the trend to support public procurement of innovation.

#### Key papers on innovation and public procurement

The use of public procurement to drive demand for innovative goods, while at the same time improving the level of public services is emphasised in the *Aho Report* of 2006 *'Creating an Innovative Europe'* ([http://ec.europa.eu/invest-in-research/pdf/download\\_en/aho\\_report.pdf](http://ec.europa.eu/invest-in-research/pdf/download_en/aho_report.pdf)). Previously, the 2003 policy report by DG RTD *'Raising EU R&D intensity'* ([http://ec.europa.eu/research/era/result\\_en.cfm?cat=&src=3&y=2003](http://ec.europa.eu/research/era/result_en.cfm?cat=&src=3&y=2003)) and the *Wilkinson Report*<sup>42</sup> from 2006 have provided an in-depth exploration of the topic, issuing a set of concrete policy recommendations. The *Fraunhofer Institute* report, published in December 2005 ([http://cordis.europa.eu/innovation-policy/studies/gen\\_study13.htm](http://cordis.europa.eu/innovation-policy/studies/gen_study13.htm)) gives a good oversight of key issues and practice on the ground.

Acknowledging the importance of the matter and the need of a common understanding of the concepts, the European Commission has issued a series of guides on innovation and public procurement, including the *Guide on Dealing with Innovative Solutions in Public Procurement* SEC(2007) 280 ([http://www.proinno-europe.eu/doc/procurement\\_manuscript.pdf](http://www.proinno-europe.eu/doc/procurement_manuscript.pdf)), the communication *"Public procurement for a better environment"* SEC(2008) 2124 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0400:FIN:EN:PDF>) and a corresponding toolkit ([http://ec.europa.eu/environment/gpp/toolkit\\_en.htm](http://ec.europa.eu/environment/gpp/toolkit_en.htm)), as well as the guide *'Buying green: how public authorities can help save the environment and taxpayer's money'* ([http://ec.europa.eu/environment/gpp/pdf/buying\\_green\\_handbook\\_en.pdf](http://ec.europa.eu/environment/gpp/pdf/buying_green_handbook_en.pdf)).

Innovation in public procurement is a manifestation of a 'market pull' approach, often considered more effective and efficient than the more traditional 'technology push' approaches, given that procurers have an existing need to be satisfied by the new solutions to be developed. The procured solutions, tested in real life, may also penetrate other markets later, creating additional value for the economy.

**Three separate strands of how to create innovation through public procurement have been addressed by this study:**

- § **innovative elements** in 'traditional' public procurement, most of which can be used under open, restricted or negotiated procedures
- § the new **competitive dialogue** procurement procedure
- § **pre-commercial procurement** schemes.

<sup>41</sup> <http://ec.europa.eu/eu2020/>

<sup>42</sup> [http://ec.europa.eu/invest-in-research/pdf/download\\_en/edited\\_report\\_18112005\\_on\\_public\\_procurement\\_for\\_research\\_and\\_innovation.pdf](http://ec.europa.eu/invest-in-research/pdf/download_en/edited_report_18112005_on_public_procurement_for_research_and_innovation.pdf)

The fieldwork within this study has focused on the first strand, the latter two are discussed more briefly. The findings here are supported by literature review, results of the survey of European procurers and companies and mini case studies.

## **6.2 Innovative elements in public procurement**

### **6.2.1 Description of the key innovative elements**

**The repository of potential concepts or practices in public procurement that can promote innovation is very large and continuously expanding.** It contains procedural alignment, organisational changes, new evaluation criteria, practical guides and many more. They do not necessarily concern 'hard' technological innovation. In the service sector, the importance of 'soft' innovation – pushing sometimes the limits of what is considered to be innovation beyond the OECD's latest *Oslo Manual* of 2006 or the *Frascati Manual* of 2002 – is continuously increasing. New organisational, management and client relationship solutions are offered to answer new needs and requirements.

In this study, the emphasis was put on 12 elements, which are regarded as a set of key practices – featuring in several good practice guides and studies – of how to enable and encourage innovative solutions in 'traditional' public procurement procedures.

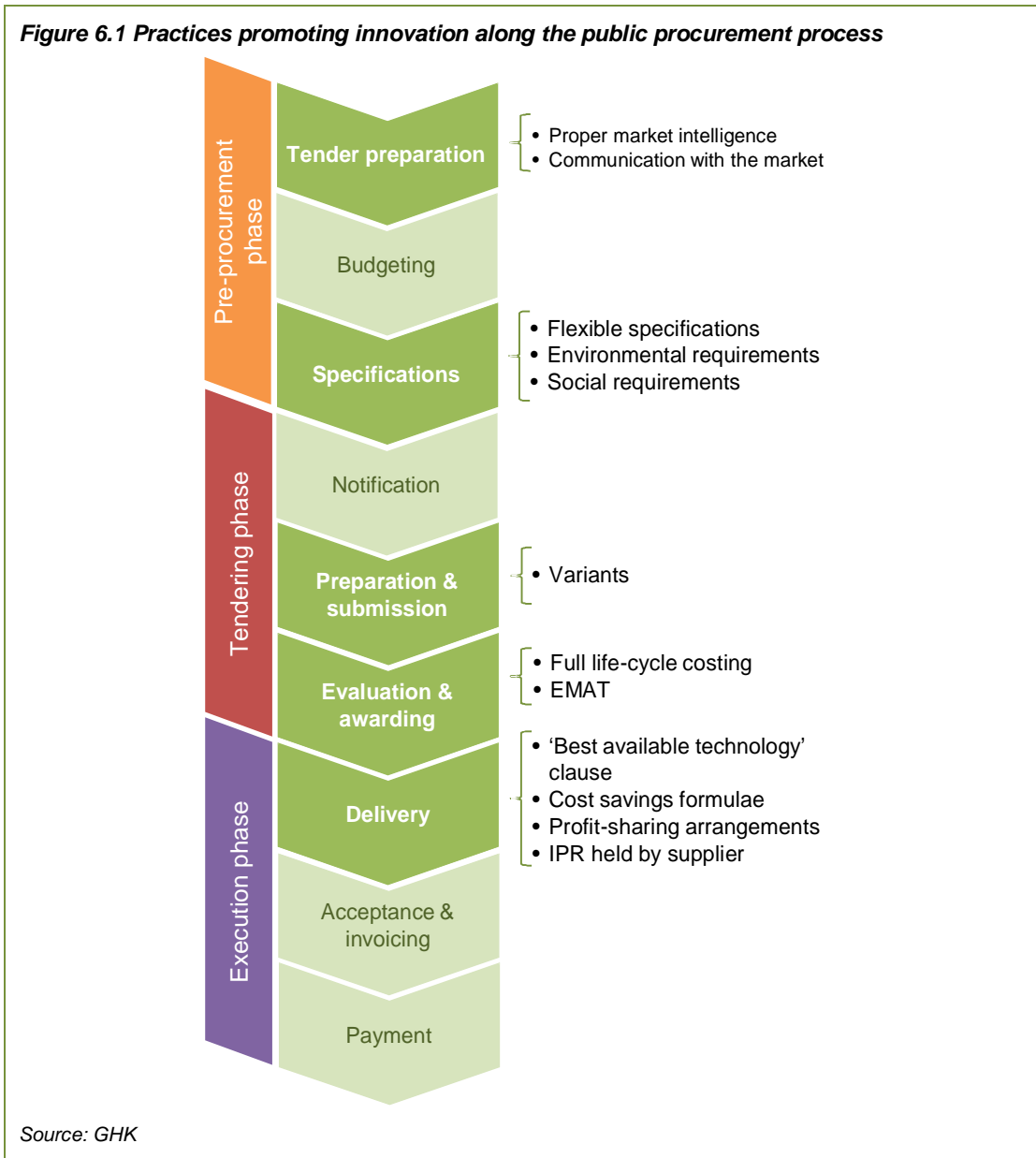
These are, grouped under the three main phases of public procurement, presented in Figure 6.1 on the next page.

#### *The pre-procurement phase*

1. **Proper market intelligence:** the procurer puts efforts in investigating what new products or technologies are available on the market, which can be potentially of interest, and also, in case of a restricted or negotiated tender, which companies are able to supply it.
2. **Communication with the market, engaging potential suppliers:** This can be part of a systematic and strategic approach to maintaining close contacts with the supply markets. A crucial part of such strategy is engaging with the market players at an early stage of the public procurement. Earlier Supplier Involvement (ESI) is defined as a form of vertical co-operation in which manufacturers involve suppliers at an initial stage such as during policy formulation, or programme or project inception. It is a key element of public procurement of innovative solutions in order to capture expertise and inform innovative solutions. The practice enables selected candidate suppliers to participate in strategy formation and assess potential options to achieve the desired outcome. Moreover, such practice creates an opportunity for the suppliers to create alliances for more complex procurements. The Forward Commitment Procurement methodology, developed mainly in the UK, could be mentioned as an interesting example in this respect.<sup>43</sup>
3. **Broad functional requirements/outcome specifications:** Instead of detailed technical specifications, broader functional requirements are set out. These focus on the outcome to be achieved, not on the inputs (techniques or material to be used), thus enabling different solutions. Whilst they give flexibility to suppliers to submit innovative bids, the procurers should also specify compliance with standards where appropriate, for example to ensure compatibility with existing systems, infrastructure or operations. A balance between creativity/innovation and fundamental non-negotiable elements has to be created.

<sup>43</sup> <http://www.bis.gov.uk/policies/innovation/procurement/forward-commitment>

**Figure 6.1 Practices promoting innovation along the public procurement process**



Source: GHK

4. **Emphasis on sustainability requirements:** Public tenders may put emphasis on sustainability requirements (e.g. specific environmental standards, or indicators in evaluation). These elements form in several countries part of a more comprehensive and strategic *Green Public Procurement* (GPP) concept. As the sustainability requirements may require new processes and material, they put pressure on businesses to engage in 'green' innovation, including e.g. environmental performance indicators as evaluation criteria, but also more traditional approaches such as more environmental standards defined for delivery, or 'retrospective' requirements on environmental certifications and similar that the company tendering should have (one should note however that the latter retrospective requirements are disliked by SME organisations).

5. **Emphasis on social requirements:** Public procurement tenders may put emphasis on social requirements (e.g. employment of disadvantaged groups). These could require new procedures and policies from companies.<sup>44</sup>

*The tendering phase*

6. **Variants:** Normally, only one tender from one bidder is allowed in public procurement. When variants are permitted, this restriction is lifted so that the bidder can offer different solutions that may perform better under specific requirements. According to directives 2004/17/EC and 2004/18/EC, where the criterion for the award is that of the economically most advantageous tender, contracting bodies may authorise the submission of variants. The procedure opens up the bids to alternative ideas. The directives leave it to the discretion of contracting authorities to decide whether they wish to authorise or prohibit variants and to establish what type of variants they are prepared to consider and the conditions for the submission of such variants. The authorisations of the variants should be indicated explicitly including minimum criteria to be met by the variants and any specific requirements for their presentation.
7. **Full life-cycle costing:** The full life-cycle cost of the good or service is evaluated, rather than the purchasing price only. Shifting emphases in clients' cost awareness can easily have an impact on the market, encouraging technologies that were previously not competitive. Of course, accurate information on life-time costs can be difficult to obtain. It is worth mentioning that the recent *Clean Vehicle Directive* requires – with some exceptions – contracting authorities and entities to consider at the purchase of road transport vehicles the total lifetime cost of energy consumption, the internalisation of external costs of CO<sub>2</sub> and pollutant emission. These are considered (together with the purchase cost) to make up the lion's share of the full life cost of vehicles.<sup>45</sup>
8. **Economically most advantageous tender (EMAT):** Rather than the bid with the smallest price tag attached, the 'economically most advantageous tender' is selected. This is a concept closely related to the 'value for money' (VfM) concept, which is defined as 'the optimum combination of whole life costs and quality to meet the user requirement', popular in the Anglo-Saxon world. The procurer is not obliged to accept the lowest (eligible) bid, but allows him to take into consideration other important criteria, such as aesthetics and functional characteristics of the good or service, technical merit, after-sales service and technical assistance, commitments with regard to parts, security of supply etc. Article 55 of directive 2004/17/EC and Article 53 of directive 2004/18/EC cover the notion of EMAT (it is called the 'most economically advantageous tender' in the directives).

Innovative solutions may score very well on quality and other criteria, but are maybe a bit more expensive than the goods and services already on the market, which benefit from economies of scale and of R&D costs already recuperated.

*The contract execution phase*

9. **'Best available technology' clause:** The supplier is required, especially under longer-term contracts, to migrate to better technologies (the 'best available technology') once these were introduced to the market. This is an additional incentive for market innovation, as many public contractors will automatically emerge as clients once a new

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<sup>44</sup> Note that environmental and social considerations in public procurement are subject of exemption since the 2004 Directives on public procurement.

<sup>45</sup> [http://ec.europa.eu/transport/urban/vehicles/directive/directive\\_en.htm](http://ec.europa.eu/transport/urban/vehicles/directive/directive_en.htm)



technology process to be successful. The concept is particularly emphasised in Green Public Procurement, but also in the more traditional procurement of ICT systems.

10. **Apportioning cost savings:** The procurer may offer the sharing of gains from future cost savings under a longer-term contract. The supplier is thus encouraged to search for innovative solutions as soon as these are developed to reduce costs.
11. **Profit-sharing arrangements between the procurer and the supplier:** The procurer may allow the supplier to allow the use of the good/infrastructure or service procured by third parties (other public or private users), capitalising on utilising otherwise idle capacities or on reduced average cost due to improved economies of scale, whilst sharing the profit between the supplier and the procurer. Such agreements may also lay at the heart of certain public-private partnership (PPP) investments.
12. **Ownership of the Intellectual Property (IP) in connection with the solution developed:** The strategy for dealing with the protection and the assignment of IP Rights are agreed at very early stages of the procurement of innovative solutions. Letting intellectual property rights partly or fully with the supplier is another aspect of public procurement of innovative solutions. The strategy facilitates further development of the innovative products and the introduction to other markets.

More precisely, in traditional public procurement since the contracting authority is paying for the development and is bearing the development risk, it also owns the respective IPR. The supplier transfers all the relevant IPR to the contracting authority. The IPR in tradition public procurement prevents the supplier from re-assigning people involved in the contracts to related projects because of the risk of unintentionally breaking IPR. As a result, the approach does not allow the supplier to re-use the developed products/services to other (potential) clients.

As explained in Expert Group Report on public procurement for research and innovation<sup>46</sup>, in public procurement for innovative solutions the IPR procedure includes 1) selected firm to declare own rights to background (pre-existing property know-how technologies) necessary for the development of new products/services and declare from third parties that may be necessary; 2) grant public authorities rights to use and modify the background brought by the project; 3) collaborate in getting extension of licenses from third parties to public authorities; 4) award intellectual property rights of new goods and technologies to the firm that developed them for further exploitation of the products in the market; 5) in return, expect a lower price to reflect the fact that development expenditures can be written off against higher expected returns; 6) ensure that the purchaser (and, in certain circumstances, its other suppliers) has rights to use and modify the new goods and developed technologies under the most favourable conditions, and that these should be updated to equal the most favourable granted to other customers in the future; 7) for rights to modify software, access to the source code should be ensured;

**Introducing these innovative elements into public tenders – depending on the context, the sector, the company etc. - may or may not be beneficial for SMEs.** They may be beneficial because innovation in public procurement opens the ground for dynamic, innovative SMEs: client-focused, eager to enter the public sector market and offering flexible, non-standard solutions. They may not be beneficial because some of the innovative procedures require a high level of knowledge (going beyond the already very

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<sup>46</sup> [http://ec.europa.eu/invest-in-research/pdf/download\\_en/edited\\_report\\_18112005\\_on\\_public\\_procurement\\_for\\_research\\_and\\_innovation.pdf](http://ec.europa.eu/invest-in-research/pdf/download_en/edited_report_18112005_on_public_procurement_for_research_and_innovation.pdf)

demanding 'normal' public procurement procedure) of the legal base, the client and the specific procedure chosen; and dedicated specialists and teams to master them.

### 6.2.2 Overall patterns of use

The survey amongst procurers and bidders concentrated on the use of the 12 key practices introduced in the previous section:

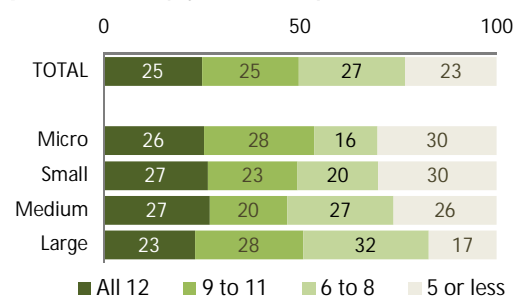
- § Proper market intelligence
- § Communication with the market
- § Flexible specifications
- § Emphasis on sustainability requirements
- § Emphasis on social requirements
- § Variants
- § Full life-cycle costing
- § Economically most advantageous tender
- § 'Best available technology' clause
- § Cost saving formulae
- § Profit-sharing arrangements
- § IPR held by supplier

**Most of the above innovative practices seem to be relatively widespread throughout Europe.** In the survey, only 7 companies (1.5%) responded that they haven't come across any of the key practices, whereas 114 companies (25%) have already encountered all of them.

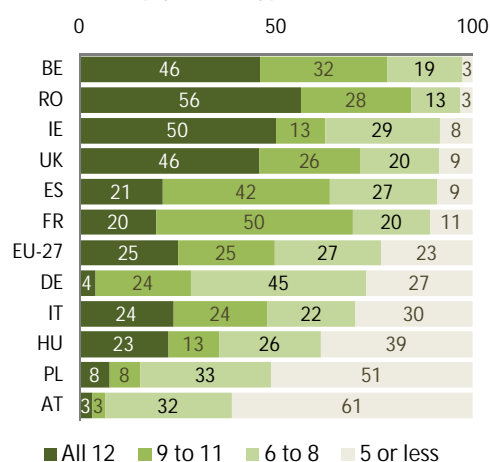
**There are no visible gaps between company size classes.** Large enterprises are slightly more experienced – the proportion who has had experience with maximum 5 of the elements listed in the questionnaire is only 17% - but not much more, and differences between micro-, small and medium-sized enterprises are almost negligible.

**However, the results reveal broad gaps between individual Member States.** From amongst the countries with a sufficiently large sample, companies from Belgium and Romania seem to be mostly experienced with procurer practices encouraging innovation in public procurement. Only 3% of them have encountered 5 or less such practices, but 45-56% claimed to have come across all 12 elements highlighted in the questionnaire. On the other end, the exposure of Austrian and Polish businesses surveyed to these new procurement methods was rather weak.

**Figure 6.1 Number of innovative elements companies have already encountered in public procurement (by size class)**



**Figure 6.2 Number of innovative elements companies have already encountered in public procurement (by country)**



Source: GHK

The sample of procurers reported on average a more frequent use of innovative practices than companies. Over half of the organisations surveyed use at least 9 of the twelve pre-defined innovative elements – although only 2% have implemented all of them.

From amongst the different types of procuring organisations, government bodies or agencies at national level reported the lowest number of practices, whilst utilities were most active in spurring innovation.

Interestingly, small procurers (those with less than 10 tenders a year) were not doing much less than large procurers (above 50 tenders a year). A wider gap might have been expected, given that small organisations tend to lag behind in terms of experience and resources dedicated to innovative practices.

Utilisation patterns differ only slightly between procuring agencies and single procurers. Organisations that also purchase goods and services on others' behalf tend to capitalise on a larger number elements of innovative procurement.

The differences are larger however between Member States: contracting authorities and entities in the Netherlands, the United Kingdom and take the lead when it comes to embedding innovative elements in public tenders. This is also the case of some European Regions like Flanders (BE) and Észak-Alföld (HU). Cypriot, Romanian and Italian authorities seem to be less active.

### 6.2.3 Use of practices encouraging innovation along the procurement process

The survey results point to marked variations in the use of individual practices promoting innovation. Some of the tools have already permeated the organisation and operation of most procuring contracting authorities and entities in Europe, whilst others – because of legislative obstacles, lack of knowledge or experience, lack of resources or risk-averseness – are less frequently implemented.

In the pre-procurement phase, the most popular activity amongst procurers encouraging innovative solutions is an emphasis put on social requirements in the tender specifications (as eligibility or selection criteria). This is done 18% always or very often, and an additional 30% often. Efforts to review which (new) technologies are available on the market and flexible tender specifications that focus on broad

Figure 6.3 Number of innovative elements procurers offer in public procurement (by typology of procurer)

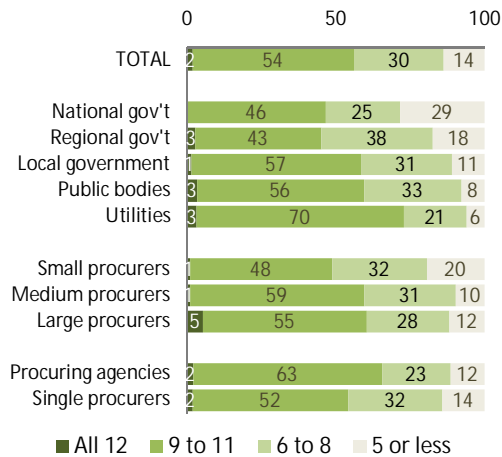
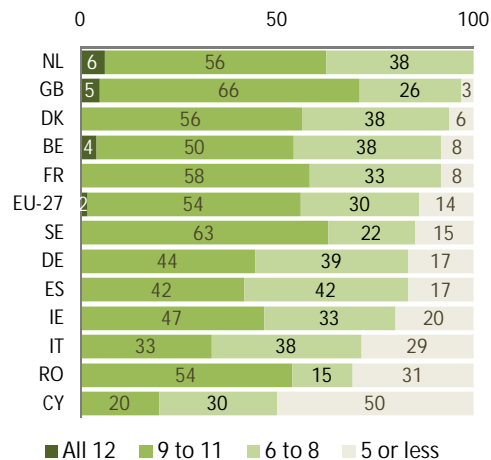
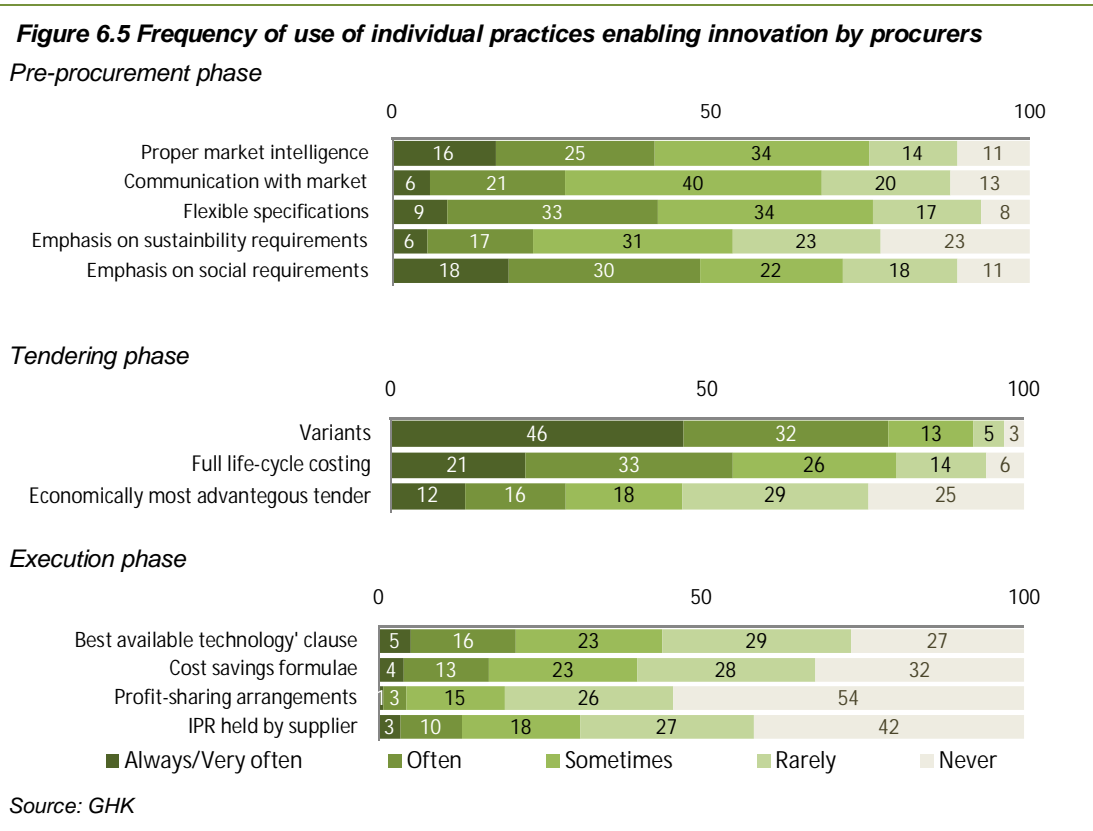


Figure 6.4 Number of innovative elements procurers offer in public procurement (by country)



Source: GHK

functional/output requirements and not on narrow technical specifications have similar popularity. However, a dialogue with potential suppliers in the pre-procurement phase to refine specifications is a little less often used (by 6% always or very often). Putting an emphasis on sustainability requirements seems to be the least often applied innovative tool currently.



**Amongst tools to be applied in the tendering phase, allowing the submission of variants is by far the most frequently used solution.** 46% of procuring bodies accept variants for their calls for tender always or very often, and a further 32% do this often. As the second most popular tool, many procurers ask bidders for calculating the full life-cycle cost and evaluate the tenders on this basis. Interestingly, choosing the 'economically most advantageous tender' option for the evaluation of bids is less popular with CAEs: only 28% use it always or often – even though this option is equally open for supplies, services and works contracts.<sup>47</sup>

**In the contract execution phase, a range of advanced innovative solutions are available, but these are taken advantage of only to a relatively smaller extent.** Introducing a 'best available technology' clause is always or often done by 21% of the procurers. Cost-saving formulae where the savings from migrating to cheaper solutions over the duration of the public procurement is shared between the client and the supplier are similarly popular. Letting intellectual property rights resting fully or partially with the supplier is used less frequently, whilst the least often used practice involves the sharing of profits from allowing access to the solution procured to third-party users.

<sup>47</sup> The possibility of respondents misinterpreting this question can not be excluded.

**Taking on innovative solutions in public procurement is of course not everywhere a priority, sometimes not even a preferred action.** This may reflect a genuine risk-averseness at the procurer or pressures put upon them to minimise the purchasing cost – or bad experience with suppliers. Companies sometimes make promises in their bid which they can not deliver at the end. If it had never been tested, there is a risk that it will fail, costing the taxpayer money that could have been effectively spent on another, workable solution.

*“Innovation in the eyes of some SMEs would involve the public purchaser taking on tried and untested prototype solutions, and effectively acting as a test bed whereby the SME can climb the learning curve at taxpayers' expense. This is a major concern for public sector organisations which are strictly and publicly accountable for funds spent on projects.”*

(A contracting authority from the Baltic states)

As for the companies surveyed, the findings were similar on the extent to which the pre-selected innovative solutions are used in Europe. **All methods of the pre-procurement and the tendering phase have already been experienced by the large majority of companies surveyed.** But experience with cost-saving formulae, profit-sharing arrangements and the transfer of IPR to the supplier – all solutions in the contract execution phase - were limited: less than half of the companies answering the questionnaire has ever come across these in public tenders.

**Figure 6.6 Proportion of companies who had already encountered innovative solutions in public procurement (by size class)**

Measures	Micro	Small	Medium	Large	Total
<i>Pre-procurement phase</i>					
Emphasis on sustainability requirements	63	74	82	83	<b>79</b>
Flexible specifications	83	88	71	79	<b>79</b>
Communication with market	79	71	79	78	<b>77</b>
Proper market intelligence	73	72	69	74	<b>72</b>
Emphasis on social requirements	54	71	68	73	<b>69</b>
<i>Tendering phase</i>					
Economically most advantageous tender	80	76	88	90	<b>86</b>
Variants	64	71	76	82	<b>77</b>
Full life-cycle costing	65	64	68	74	<b>70</b>
<i>Execution phase</i>					
Best available technology' clause	51	63	62	65	<b>63</b>
IPR held by supplier	47	46	41	47	<b>45</b>
Cost savings formulae	39	47	39	41	<b>41</b>
Profit-sharing arrangements	38	40	36	36	<b>37</b>

Source: GHK

**The survey did not find significant gaps between micro, small, medium-sized or large enterprises as concerning their experience with innovative solutions in public tenders – with some notable exceptions.** Larger companies are more likely than small and especially micro enterprises to have experienced in their public procurement activity an emphasis on sustainability or social requirements in tenders, and allowing the submission of variants. Also, fewer micro enterprises encounter an obligation to migrate to the 'best available technology' in public procurement than companies from other size classes.

The relatively small differences between the experience level of SMEs and large enterprises may not be surprising. On one hand, it is true that smaller and larger companies do normally not compete for the same contracts: some projects might be too large and complex for an SME, whilst others too small and requiring the use of non-standardised solutions, thus not commercially viable for a large enterprise. But the contracting authorities or entities they work for are often the same, and so are the innovative methods these procurers introduce in their procurement procedures.

**Differences across business sectors were slightly larger.** Companies engaged in manufacturing of machinery and equipment and providers of 'other services' (i.e. excluding business services) were the most likely to encounter innovative practices: on average, 73-74% of them had some experience with these. Businesses in construction, business services, and manufacturers of other goods were less experienced (64-66% had experience), The wholesale and distribution sector was least exposed to innovative practices. Only 61% of them had ever encountered innovative solutions in public procurement.

#### **6.2.4 SMEs' views on innovative practices**

**From amongst the innovative practices included in the survey, businesses regard early communication with the potential suppliers, the use of the EMAT criteria, and an emphasis on sustainability requirements as the most important ones.** Around 60-70% of the businesses surveyed see them as 'important' or 'very important'. On the other hand, the implementation of profit-sharing arrangements when allowing access to the good or service provided by third parties, the sharing of cost savings, and the integration of social requirements in public procurement are not seen as priorities by most enterprises (held important by less than 40% of the companies). It is interesting to note that the inclusion of social requirements in tenders was identified as the most often used innovative practice in the same survey.

**For most innovative elements in public procurement, the views of micro, small, medium-sized or large enterprises on their importance do not differ much.** Companies seem to embrace these practices in public procurement irrespective of their size class, and one may also conclude that innovative elements do not as such favour or disfavour SMEs. There are some exceptions though: large companies assigned significantly greater importance to good market intelligence, i.e. the effort undertaken by the procuring agency to assess what latest technologies (and potential suppliers) are available on the market, and allowing the submission of variants in public tenders. Interestingly, micro-enterprises (from various countries and sectors) were more in favour of emphasising sustainability requirements in public procurement, and especially of profit-sharing arrangements than larger companies.

**Figure 6.7 The importance of innovative solutions in public procurement as perceived by companies (by size class)**

Measures	Micro	Small	Medium	Large	Total
<i>Pre-procurement phase</i>					
Communication with market	61	66	63	64	<b>64</b>
Emphasis on sustainability requirements	72	57	55	62	<b>60</b>
Proper market intelligence	52	48	49	66	<b>57</b>
Flexible specifications	39	50	46	40	<b>43</b>
Emphasis on social requirements	32	36	32	38	<b>36</b>
<i>Tendering phase</i>					
Economically most advantageous tender	59	76	71	68	<b>69</b>
Full life-cycle costing	54	57	52	58	<b>56</b>
Variants	40	43	45	58	<b>51</b>
<i>Execution phase</i>					
Best available technology' clause	40	54	51	48	<b>49</b>
IPR held by supplier	44	46	45	47	<b>46</b>
Cost savings formulae	33	27	35	35	<b>33</b>
Profit-sharing arrangements	53	13	19	19	<b>21</b>

Source: GHK

Apart from the pre-defined answers, respondents also mentioned a couple of additional innovative solutions they came across in public procurement or that they consider important. This group includes:

- § various eProcurement tools which would help companies putting together and submitting their bid, and reducing the administrative burden involved
- § meetings with bidders at various stages of the procurement process (not only the early stage, to refine specifications); this could be especially important for SMEs who – lacking maybe prior contacts - would have the opportunity to learn more about the needs and requirements of the procurer
- § sophisticated scoring systems and specific methods on how to select the 'economically most advantageous tender' in the evaluation of bids, e.g. evaluating unique selling proposition (which, by its nature, cannot be grasped by a standard evaluation criterion/indicator)
- § the use of price indices for contracts spanning a certain period of time (e.g. for ICT equipment). If the prices have to be fixed for a longer period, the supplier will have to anticipate the price development on the market, which involves a risk (and a corresponding risk premium). Unforeseen market movements may however generate considerable losses for the supplier, which could be fatal for SMEs with limited financial reserves. Paying the risk premium and the inability to profit from falling market prices may also not be in the best interest of the procurer.

### 6.3 Competitive dialogue procedure

**The competitive dialogue (CD) is a new procedure that was introduced to European public procurement legislation in 2004.** Its use should be limited – as foreseen in Directive 2004/18/EC, Article 29 – to particularly complex contracts, if the open or restricted procedure is not likely to be successfully applicable, because the solution to be applied or the legal or financial makeup of the project can not be objectively specified in the preparation phase.

The competitive dialogue procedure normally follows a staged approach. First, the contracting authority publishes its needs and (functional) requirements, without specifying technologies/solutions to be used – the core idea of this type of procurement is to elicit different, often innovative approaches from bidders. These early proposals are then assessed and a dialogue is opened with suitable bidders to further discuss requirements and the suitability of the proposed approach. Information on the solutions elaborated by individual companies are kept confidential, whilst the procurer must also ensure that all participants are treated and informed in a non-discriminatory way. There can be more than one round of negotiations, and the number of participants invited may be reduced from phase to phase. Once the preferred approach or approaches, the legal and financial aspects are identified, participants are invited to submit their final tender addressing these final negotiated specifications. The winning tenders will be chosen based on the EMAT criteria.

**So far, the competitive dialogue procedure is not widely used in Europe.** In 2008, altogether 679 contracts (lots) were awarded using the CD procedure – this is to be compared to more than 340,000 awarded contracts. Slightly more than three quarters of these were concentrated to only two countries: the United Kingdom and France, with 261 and 257 cases, respectively. Most other countries only launched a couple of competitive dialogues, and 9 Member States (Belgium, Cyprus, Greece, Hungary, Italy, Luxembourg, Malta, Portugal and Sweden) did not award one single contract under this procedure in 2008.

**The majority of contracts awarded under CD procedure are service contracts:** 477 out of 679 (70%), mostly various business services (such as complex IT projects or consultancy services where the exact needs are not yet clear). From the remainder, 113 involved supplies and 89 public works. For the latter, many PPP constructions fall into this category, with the procurer discussing the possible legal and financial solutions with several bidders.

*Figure 6.8 Number of above-threshold contracts awarded under competitive dialogue procedure (2008)*

Member State	Contracts awarded
United Kingdom	261
France	257
Slovakia	31
Germany	21
Estonia	16
Poland	14
Latvia	13
Netherlands	13
Denmark	10
Ireland	10
Finland	7
Czech Republic	6
Slovenia	6
Romania	5
Austria	4
Spain	3
Bulgaria	1
Lithuania	1
<b>TOTAL</b>	<b>679</b>

Source: GHK



Despite the obligatory use of EMAT, 73 of the contracts were awarded on the basis of the lowest price offered, according to the data contained in the TED database.

**Competitive dialogue is normally associated with large projects.** The average contract size in 2008 was above €25 million (for public works projects, the average contract value was about €85 million). This conceals however very marked country differences: the average contract size in the Netherlands was about 8 times larger than the figure for the EU, whilst the value of Latvian CD contracts were a mere 0.5% of the European average!

Although CD procedures normally have a high value, one can find several cases where the projects are rather small (sometimes below €100,000). A recent case in Poland, for example, involved the delivery of a research study, the scope, maximum budget and methodological approach of which was not specified by the procurer. Rather, research institutes and consultancies were invited to think about how to best address the policy issues at stake.

Information on SMEs' views on the competitive dialogue procedure was not specifically collected in this study, this topic was not raised in the business questionnaire. **However, the statistical analysis of contract notices published on TED revealed that SMEs manage to win about the same proportion of such tenders than under other procedures (see Section 3). This proves that SMEs can successfully participate in CD procedures.** SMEs' share in the total contract value secured, on the other hand, is very low, around 6%. This is a consequence of a number of very large size projects awarded under a competitive dialogue procedure. The correspondingly high technical capacities and financial strength required do not allow SMEs to bid for it.

## 6.4 Pre-commercial procurement

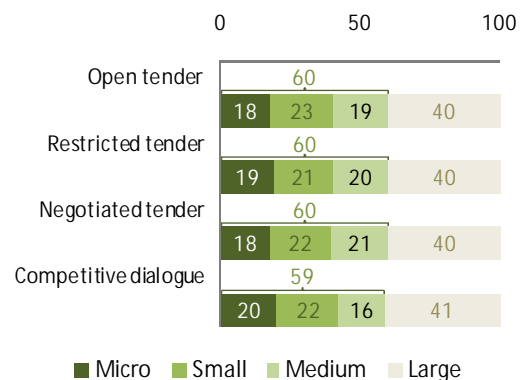
Current economic and social challenges such as climate change, ageing population, rising energy costs, increasing health related needs and associated costs, etc. pose the question of how public authorities can adequately tackle these challenges. There is consensus that public authorities need to tackle a wide range of issues ranging from health and

**Figure 6.9 Average value of above-threshold contracts awarded under competitive dialogue procedure (2008)**

Member State*	Average value (million EUR)
Netherlands	203
United Kingdom	55
Denmark	27
Slovenia	23
Poland	18
France	12
Germany	7
Ireland	3
Estonia	1.2
Latvia	0.1
<b>EU-27</b>	<b>26</b>

Source: GHK \*Only Member States with at least 10 CD contracts are included

**Figure 6.10 Proportion of SMEs amongst successful bidders, by type of procedure (2006-2008)**



Source: GHK

environment to transport, security, government operations and infrastructures. Finding solutions to these problems requires public authorities to make use of innovative solutions.

**Pre-commercial procurement (PCP) is a mechanism whereby public authorities can support the development of innovative services/products in markets where no suitable commercial solutions exist.** PCP concerns the Research and Development (R&D) phase before commercialisation. As such, PCP only deals with the early R&D stages to pre-commercial products.

PCP allows public authorities to develop innovative services/products. As highlighted by the Commission, PCP is an approach for procuring R&D services *'other than those where "the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority" and that does not constitute State aid.*<sup>48</sup>

This approach entails that public authorities procure R&D services with sharing the risks and benefits at market conditions, whilst several companies propose and develop innovative solutions that address the needs of the public sector in a competitive environment. Public authorities use PCP for supporting the development of solutions because a) no such solutions exist yet on the market (i.e. the solutions are technologically demanding); or b) the solutions which are commercialised are not viable or have serious shortcomings.

#### 6.4.1 **Characteristics of pre-commercial procurement**

The main features of PCP are the following<sup>49</sup>:

- § **The scope of PCP is R&D services/products only:** R&D covers activities spanning various stages such as exploration, design, prototyping and development of a limited number of products/services. It should be noted that R&D does not include commercial related activities, such as production in relevant quantities, further improvement of the test product/service, etc;
- § **Risk-benefit sharing principle:** contracting authorities and suppliers share both risks and benefits of the R&D activity. This means that the contracting authorities do not retain the R&D results for their exclusive use but share the R&D results with other public authorities and enterprises notably through publication and standardisation activities and through the commercialisation of products/services. With a view to ensuring that the risk-benefit sharing is done in according to market conditions, R&D benefits shared by the contracting authority with the supplier needs to be compensated by the company to the public purchaser at market price;
- § **Competitive procurement designed to exclude State aid:** public procurement mechanisms do not favour certain companies at the expense of other companies. The tendering procedure allows contracting authorities to identify the best possible solutions on the market in a competitive, transparent and fair environment. Indeed, whenever a PCP contract is awarded through a tender procedure in line with the EU public procurement Directives and according to market conditions fixed in advance for

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<sup>48</sup> *Pre-commercial procurement :driving innovation to ensure high quality public services in Europe*, Information Society and Media, European Commission, 2008

<sup>49</sup> *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Pre-commercial Procurement: Driving innovation to ensure sustainable high quality public services in Europe*, Brussels, 14.12.2007, COM(2007) 799 final

each pre-commercial development phase covered by the contract, then no state aid is involved<sup>50</sup>;

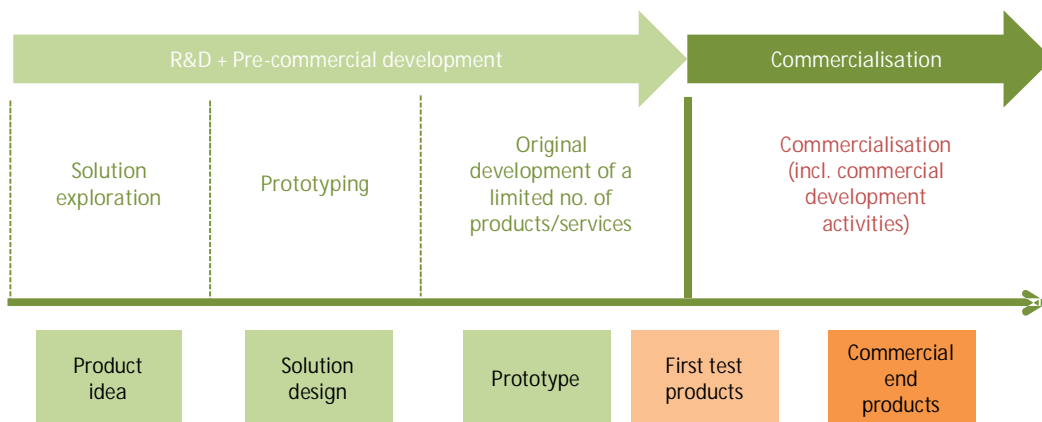
**PCP is allowed under the current EU Public Procurement Directives.** The sharing of risks and benefits between procurers and suppliers and the restriction of the pre-commercial tender to bidders from the European Internal Market is allowed under current regulations.

Within the framework of PCP, public procurers do not prescribe a specific R&D solution to be developed. Different suppliers are invited to submit different solution proposals to address a problem of public interest. Accordingly, each supplier's proposed solution is assessed in light of other suppliers' solutions, thus allowing a competitive environment; and each solution is assessed along the different stages of pre-commercial development. This allows the emergence of the most "fitted" solution according to public sector's needs, whilst avoiding the single supplier lock-in phenomenon.

#### 6.4.2 The pre-commercial procurement cycle

PCP intervenes in the first stage of the product development, i.e. during the R&D and pre-commercial development phase.

**Figure 6.2: R&D and commercialisation phases of an innovative product/service**



Source: European Commission, 2007

PCP can be a single public procurement framework contract broken down into 3 phases, which are implemented as specific contracts: the solution exploration phase, the prototyping phase and the test series phase. In the first phase, a number of offers from competing suppliers are selected. Then, the number of suppliers developing in parallel is progressively reduced after each phase. In the final phase, at least two suppliers should remain to ensure a future competitive market.

The phased PCP process can be described as follows<sup>51</sup>:

- § **Phase 1 (solution exploration phase):** the aim of this phase is twofold: to verify the technical, economic and organisational feasibility of each supplier's proposal against the pros and cons of potential alternative solutions and to check the ability of each supplier's solution design to solve the problem of public interest. The expected

<sup>50</sup> Draft Preliminary Paper on the Community Law applicable to Pre-commercial Public Procurement, September 2006, Version of 29/9/2006, European Commission

<sup>51</sup> Draft Preliminary Paper on the Community Law applicable to Pre-commercial Public Procurement, European Commission, September 2006

outcomes are: a technology evaluation, a first solution design, an organisational plan (i.e. R&D plan for phase 2) as well as a costs/benefit analysis of the proposed solution;

§ **Phase 2 (prototyping):** the aim of this phase is to carry out R&D and to realise a first prototype. The expected outcomes are as follows: prototype specification, demonstration of the tested prototype, a plan for limited first product development and testing and an updated cost/benefit analysis;

§ **Phase 3 (original development of a first batch of products validated through field tests):** the aim of this last phase is to continue R&D beyond the first prototype and to develop a first sample of pre-products/services. The expected outcomes are as follows: product/service specification, demonstration of the field test of the first sample of pre-products/services as well as an updated cost/benefit analysis.

This threefold cycle designed to ensure the competitive development of products/services. By breaking down PCP into several phases, public authorities ensure that a) R&D risks and costs are reduced b) fair competition takes place amongst companies; thus leading to c) a range of innovative solutions that adequately address the problem.

## **6.5 The benefits of pre-commercial procurement**

**Public authorities can act as key drivers for innovation.** With public procurement representing 17% of European GDP, public authorities can foster and “tap into” the R&D potential of EU economies with a view to stimulating the development and commercialisation of innovative solutions. **However, as highlighted by the Commission, the current lack of sufficient demand for innovative services from public authorities negatively impacts on the R&D potential and prospects of the EU private sector.**<sup>52</sup>

Moreover, international comparisons also show that the EU public procurement market is not sufficiently encouraging innovation. Countries such as the US and Japan have used public procurement of R&D as a tool for tackling a public need for which no solution was readily available on the market. China has also introduced public technology procurement as a means to encourage innovation. For instance, the US public sector spends on average 50 billion US dollar per year in PCP. This is 20 times higher than in Europe and represents approximately half of the overall R&D investment gap between the US and Europe. Examples of innovative (and successful) solutions supported by PCP include the Global Positioning System, the Internet Protocol technology, high performance computing, innovative aspects in the semiconductor technology, soil pollution treatment, Alzheimer disease diagnosis and new markets for biotechnology and nanotechnology applications.<sup>53</sup> The US and Japanese authorities have also used PCP solutions to significantly reduce the cost of fuel cell stations, thus facilitating fuel cell powered buses, which are now viable energy-efficient public transportation.

As highlighted by the Commission, the benefits of PCP are important and can be clustered as follows:

§ **Better products at lower price:** the involvement of public authorities in the early phase of R&D fosters dialogue between procurers, users and suppliers. This dialogue is conducive to exploring the needs on the demand side and the capabilities and limitations of new technological developments on the supply side. Moreover, the involvement of several suppliers in the first phases of PCP ultimately encourages the development of the best solutions at a lower price;

<sup>52</sup> *Draft Preliminary Paper on the Community Law applicable to Pre-commercial Public Procurement*, September 2006, Version of 29/9/2006, European Commission

<sup>53</sup> The example of biotechnology and nanotechnology is to be found in the US.

- § **Reduced risks and cost of failure** at the deployment stage: by aligning R&D activities according to public authorities' needs and by assessing the performance of prototypes and pre-product field tests, procurers can avoid purchasing products which may be costly and do not fully respond to their needs. The costs of adapting design at early stage R&D remain limited, whilst core modifications of the product/service at later stages (i.e. commercialisation stage) can significantly drive up the overall risk of failure and the cost of product;
- § **Increase the competitiveness of the European economy:** PCP allows innovative enterprises to explore new opportunities and become leaders in a new market. As procurement of R&D services can be limited to European companies, PCP can consolidate European enterprises' position in the global economy. This means that PCP can contribute to creating long lasting growth and jobs and new sectors of industrial leadership through planned innovation of public services<sup>54</sup>. Moreover, pooling demand

## 6.6 Practical implementation of pre-commercial procurement

### 6.6.1 Small Business Innovation Research (SBIR): the US example

SBIR is a US program coordinated by the Small Business Administration<sup>55</sup> and aims at providing financial support for innovation ideas, which are too risky to be funded by private investors or venture capital firms. Overall, SBIR aims at increasing the commercialisation of innovative services/products designed and produced by the private sector and derived from federal R&D. By using small businesses to meet federal R&D needs, SBIR stimulates small business innovation in technology<sup>56</sup>. It is interesting to note that fostering and encouraging the participation by minority and disadvantaged persons in technological innovation is also one of the key objectives of SBIR<sup>57</sup>.

Set up in 1982 within the framework of the Small Business Innovation Development Act, SBIR reserves a specific percentage of federal R&D funds for small business, thus protecting small businesses and enabling them to compete on the same level as larger companies<sup>58</sup>. Agencies must set aside 2.5% of their R&D budgets for small business awards and all federal agencies with an annual extramural R&D budget greater than 100 million US Dollar are required to participate in SBIR<sup>59</sup>. Each year, this amounts to eleven federal departments and agencies which reserve a share of their R&D funds for small business. The total budget of SBIR is estimated at 1.6 billion US Dollars per year.

It should be noted that SBIR funds **the start-up and development stages**. The SBIR project is a three-phase programme broken down as follows:

- § Start-up/feasibility phase (Phase I): exploration of the technical merit or feasibility of an idea or a technology. Awards of up to 100,000 US dollars for approximately 6 months.

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<sup>54</sup> *Pre-Commercial Procurement, "Public sector needs as a driver of innovation"*, September 2006, European Commission, 04/09/2006

<sup>55</sup> <http://www.sbir.gov/about/index.htm>

<sup>56</sup> National Institute of Standards and Technology, US, <http://www.nist.gov/ts/otp/sbir/>

<sup>57</sup> National Institute of Standards and Technology, US

<sup>58</sup> [http://www.sba.gov/aboutsba/sbaprograms/sbir/sbirstir/sbir\\_sbir\\_description.html](http://www.sba.gov/aboutsba/sbaprograms/sbir/sbirstir/sbir_sbir_description.html)

<sup>59</sup> *Improving Government-SME Partnerships for the Development of New Technologies, The U.S. Small Business Innovation Research Program, The U.S. Advanced Technology Program*, 6 Countries Programme Conference, Vancouver, Canada, Charles Wessner, Innovation and Technology National Research Council 6 June 2003, [www.6cp.net/downloads/03vancouver\\_wessner.ppt](http://www.6cp.net/downloads/03vancouver_wessner.ppt)

This phase is highly competitive as only 12 to 14% of submitted proposals receive Phase I awards<sup>60</sup>;

- § Prototype phase (Phase II): R&D work is performed and the developer evaluates the commercialisation potential. The emphasis in the selection process is put on research projects with strong scientific merit and commercial merit. Only Phase I award winners are considered for Phase II and the maximum awards is 750,000 US dollars for a maximum period of 2 years. This phase remains competitive as only 40% of Phase I firms receive Phase II awards;
- § Commercialisation phase (Phase III): innovation moves from the laboratory into the marketplace with the development and commercialisation of the product/service. There are no SBIR funds to support this phase, as the small business must find funding in the private sector or other non-SBIR federal agency funding.

The US Small Business Administration acknowledges that since its launching in 1982, has helped thousands of small businesses to compete for federal research and development awards. Small businesses have participated in areas such as defence, environment, advanced health care, information management. In particular, SBIR helps a) catalysing the development of new ideas and new technologies, b) capitalises on substantial federal R&D investments, c) tackles the gaps in early-stage funding for promising technologies and d) acts as a certification effect, with public authorities endorsing technical standards<sup>61</sup>.

### 6.6.2 Initiatives in Europe

#### UK Small Business Research Initiative (SBRI)

The UK SBRI is a voluntary measure whereby participating government departments aim at reserving up to 2.5% of their R&D requirements for SMEs. Launched in 2001, SBRI is administered, marketed and delivered by the Technology Strategy Board<sup>62</sup>, which is a public body reporting to the Department for Business, Innovation and Skills.

SBRI is a two phased process as follows<sup>63</sup>:

- § Phase 1: proposals concentrate on proving the scientific, technical and commercial feasibility of the project. The results of this phase determine whether the solution goes further to Phase 2. This phase is generally limited to 6 months with a maximum contract of 100,000 GBP;
- § Phase 2 include the research and development effort, aiming at producing a well-defined prototype. Successful projects can then be commercialised and offered to government departments. This phase is limited to up to 2 years with a maximum contract of 1 million GBP.

Data from 2007/2008 show that civil R&D contracts funded through SBRI and awarded to SMEs represented 47.7 million GBP, which amounts to 11% of the baseline R&D budget<sup>64</sup>. Although these

<sup>60</sup> *Improving Government-SME Partnerships for the Development of New Technologies, The U.S. Small Business Innovation Research Program, The U.S. Advanced Technology Program*, 6 Countries Programme Conference, Vancouver, Canada, Charles Wessner, Innovation and Technology National Research Council 6 June 2003, [www.6cp.net/downloads/03vancouver\\_wessner.ppt](http://www.6cp.net/downloads/03vancouver_wessner.ppt)

<sup>61</sup> *Improving Government-SME Partnerships for the Development of New Technologies, The U.S. Small Business Innovation Research Program, The U.S. Advanced Technology Program*, 6 Countries Programme Conference, Vancouver, Canada, Charles Wessner, Innovation and Technology National Research Council 6 June 2003, [www.6cp.net/downloads/03vancouver\\_wessner.ppt](http://www.6cp.net/downloads/03vancouver_wessner.ppt)

<sup>62</sup> <http://www.innovateuk.org/>

<sup>63</sup> [http://www.innovateuk.org/\\_assets/pdf/Corporate-Publications/SBRI%20intro%20brochure.pdf](http://www.innovateuk.org/_assets/pdf/Corporate-Publications/SBRI%20intro%20brochure.pdf)

data may look encouraging, it is acknowledged that the success of this programme remains limited. Existing research shows that amongst all SBIR contract advertised, very few represented a genuine technology development opportunity for a business<sup>65</sup>. One of the key barriers is that public procurers are inherently risk-averse, which is incompatible with the associated risks involved in the R&D phase.

#### Dutch Small Business Innovation Research (SBIR) programme

The Dutch Ministry of Economic Affairs has also launched in 2004 its pilot version of the US SBIR. The pilot scheme is managed by SenterNovem, which is an agency of the Ministry of Economic Affairs). Other Dutch Ministries joined this scheme and a total number of six calls for proposals were published.

The Dutch scheme is organised around a three phase process<sup>66</sup>:

- § Phase 1: the technical, economic and organisational feasibility of a project idea is analysed. This phase has a maximum duration of six months;
- § Phase 2: consists of an R&D development up to the first non-commercial prototype. This phase is limited to two years;
- § Phase 3 consists of the development of a product/service which can be marketed.

The Dutch SBIR scheme has been deemed successful. The Ministries involved were satisfied with the number of tenders received as well with the quality of the proposals. Similarly, all SBIR contracts were awarded to SMEs and 40% of the businesses that submitted proposals were less than five years old and 75% were less than 15 years old (a similar profile is to be found with companies which were awarded the contracts)<sup>67</sup>.

#### The Broadband Content Initiative

The Broadband Content Initiative was launched in 2007 by the Department of Enterprise, Trade and Investment<sup>68</sup> in Northern Ireland as a pilot project. The initiative aims at encouraging innovative enterprises to develop new commercial broadband content. Public authorities would then purchase four samples of broadband content which would be used to promote Northern Ireland creative sector in external markets.

This PCP entailed a three step process: an initial selection procedure where 20 enterprises were chosen. In the second phase, the selected companies would develop their business plans, intellectual property rights, etc. A selection panel would eventually select four projects which are purchased by public authorities (maximum purchasing price of 250,000 euro per product).

The timeframe of this initiative is relatively short (18 months in total) with a modest budget. It is foreseen that several public agencies in various sectors (i.e. health and care sector, public safety, agriculture, environment) could use this scheme to procure innovative solutions.

<sup>64</sup> <http://webarchive.nationalarchives.gov.uk/+http://www.dius.gov.uk/policy/SBIR.html>

<sup>65</sup> *Public procurement of innovative science and technology solutions*, Matrix, vol.7, 10/2008

<sup>66</sup> *Public procurement of innovative science and technology solutions*, Matrix, vol.7, 10/2008

<sup>67</sup> *Public procurement of innovative science and technology solutions*, Matrix, vol.7, 10/2008

<sup>68</sup> <http://www.detini.gov.uk/>

## 6.7 Summary

- § Innovative elements in public procurement may or may not be beneficial for SMEs. The main possible benefit is better market access for dynamic, innovative SMEs. Possible detriments cover the high level of knowledge required and the need for specialists
- § The 12 selected innovative practices are already relatively widely used in Europe. 25% of the companies surveyed had already come across all of them, and only 1.5% had never encountered any of the practices. The overall results are similar for all company size classes: large companies do not encounter more innovative practices in their work than small ones. The variation by country is however high: Belgian and Romanian companies reported, on average, the largest number of innovative practices they have experience with; Austrian and Polish were the least experienced
- § Procurers also report using most of the 12 selected innovative practices. Government bodies or agencies at national and regional level are involved in slightly less practices; and utilities are the most fervent users. Small procurers do not seem to be using less innovation in their procurements than CAEs issuing many tenders a year. Procurers from the Netherlands and the UK are using the most of the practices on average, whilst Cypriot, Romanian and Italian authorities are less active in exploiting opportunities for innovation in public procurement
- § In the pre-procurement phase, the most widely used innovative practice is the emphasis put on social requirements (as eligibility or selection criteria), followed by flexible tender specifications, focusing on functional requirements rather than technical specifications, and market intelligence activities. A dialogue with potential suppliers in the pre-procurement phase, or emphasis on sustainability requirements are less frequently used
- § In the tendering phase, allowing the submission of variants is by far the most popular innovative practice. Full life-cycle costing and, interestingly, the use of the EMAT criteria, is less widespread. The innovative practices in the pre-procurement and the tendering phase had widely been experienced also by companies
- § Possible innovative practices in the contract execution phase are not widely taken advantage of by CAEs, and most were encountered only by a minority of companies. Best available technology clauses and the sharing of cost-savings are a little more; whilst profit-sharing arrangements in connection with allowing access to third parties to the good or service, and letting IP rights resting with the supplier are a little less used options
- § Some procuring bodies do not necessarily see innovation in public procurement as a benefit – which may be explained by risk-averseness, pressures to minimise purchasing costs or bad experience with suppliers
- § The survey did not find any significant gap between micro, small, medium-sized or large enterprises as concerning their experience with innovative solutions in public tenders. As notable exceptions, larger companies are more likely to encounter an emphasis on sustainability or social requirements, allowing the submission of variants, the use of the EMAT criterion and an obligation to migrate to the 'best available technology'
- § Companies regard early communication with the potential suppliers, the use of the EMAT criteria, and an emphasis on sustainability requirements as the most important innovative elements (seen as important by 60-70% of respondents). Profit-sharing



arrangements, the sharing of cost savings, and the integration of social requirements in public procurement were not seen as priorities (<40%). Additional innovative solutions emphasised by companies include various eProcurement tools, meetings between procurers and bidders at various stages of the procedure, sophisticated scoring systems, or the use of price indices for longer-term contracts

- § The views of micro, small, medium-sized or large enterprises on the importance of individual innovative practices do not differ much. As an exception, large companies assigned significantly greater importance to good prior market intelligence and allowing the submission of variants. Micro-enterprises, on the other hand, were more in favour of emphasising sustainability requirements in public procurement, and especially of profit-sharing arrangements than larger companies
- § Competitive dialogue, a new procedure that was introduced to European public procurement legislation in 2004, is so far not widely used in Europe (in 2008, only in 679 cases out of more than 340,000 awarded contracts). The UK and France seem to be the pioneers in taking it up. Competitive dialogue is normally associated with large (and complex) projects, but some countries (including Latvia, Estonia, Ireland) seem to predominantly use it for small lots. The average contract value in Latvia was 0.1 million EUR, a mere 0.5% of the European average (26 million)
- § SMEs – and all its three sub-groups: micro, small and medium-sized enterprises – are equally successful in competitive dialogue (by the number of contracts won) than under any of the other procedure categories (open tender, restricted and negotiated tender)
- § Pre-commercial procurement is a relatively new approach, through which CAEs can support the development of innovative services or products in markets where no suitable commercial solutions exist. It covers the procurement of R&D services, it is based on the sharing of risks and benefits, and on a competitive procedure. The benefits of PCP are: obtaining better products or services at a lower price; a reduction of risks and the cost of failure through the staged approach; and increasing the overall innovation potential of the European economy, thus its competitiveness
- § Current PCP initiatives in Europe include the UK Small Business Research Initiative (SBRI) programme, the Dutch SBIR programme and the UK Broadband Content initiative. Typically, most or all of the projects under the European PCP initiatives are awarded to SMEs

## 7 CONCLUSIONS AND RECOMMENDATIONS

### 7.1 Key conclusions

Four key evaluation questions were outlined in the Task Specifications for this study, concerning the effectiveness and efficiency of SME policy considerations in relation to European public procurement policy. These questions are answered on the basis of evidence from literature, the statistical analysis of the TED database, survey results of companies and procurers, and a set of case studies undertaken.

#### 7.1.1 *The impact of specific procedures*

"To what extent have specific procedures like cutting into lots, tenders looking for innovative solutions and eProcurement practices helped to address market gaps in SMEs' access to public procurement?"

SMEs won 58% to 61% of public procurement contracts above the EU thresholds in the period between 2006 and 2008, which correspond to 31% to 38% of the total contract value. This is less than their overall weight in the economy would warrant: their share in total turnover or gross premium written was 52%. These recent estimates on the share of SMEs in public procurement are not directly comparable to those of the preceding study, although it can reasonably be judged that this share has not changed markedly over the last years.

However, SMEs should be seen as a heterogeneous group. Medium-sized enterprises are performing relatively well, securing a 15-19% share of public procurement above thresholds, which is comparable to their share of 19% in the real economy. Small and micro-enterprises are lagging behind, accounting for only 9-11% and 5-6% of public contracts, but 16% and 17% of total company turnover, respectively. Also, there was barely any difference in the survey results amongst large and medium-sized companies. It seems that micro and, to a lesser extent, small enterprises are the companies facing specific problems in accessing public contracts.

SMEs performance depends strongly on features of the national or even the regional context that can not be explored through the means that were at disposal. Nevertheless, there is some statistical evidence, as well as relevant findings from the survey, that confirm that certain practices have indeed an effect on SMEs' success rate. The regression analysis identified two major practices as statistically significant explanatory factors:

- § evidently, contracts of lower values are more accessible for SMEs, especially micro- and small enterprises. Breaking down tenders into lots may facilitate SMEs' access. This is also confirmed by the detailed analysis of TED statistical, which set the threshold above which SMEs' share starts to diminish at around 300,000 euro
- § irrespectively from the contract value, breaking down tenders into lots does help in increasing SMEs' participation. Specifying partial tasks in a tender rather than opting for a general contractor, or setting up individual geographical service areas addresses SMEs' potentially more restricted skills base, technical capacities or action radius

The regression also confirmed that SMEs tend to secure a larger share, in terms of value, of public procurement launched by local governments, and are less successful in tenders launched by utilities and central government bodies. Also, SMEs rarely win contracts concerning pharmaceuticals or commodities and food, but are successful in business services and the supply of manufactured goods (other than machinery and equipment).

Evidence sources from the survey and from case studies point to following areas that are deemed helpful in improving SMEs' access to public contracts:

- § supplying more and better information. Procurers often try to use more information channels, additional to the mandatory ones, to publish tender opportunities. This is supported by customisable electronic means such as web portals, emails or other notification systems. They also often make general information available on their procurement practices and requirements, on the legislation and procedures, on good practice how to compile a bid. Especially micro-enterprises are dependent on good notification. They tend to use less sources of information than larger companies, so it is more important for them to find an authoritative, customisable, easy-to-use source of tender opportunities and know-how
- § overcoming the limited technical financial capacities of SMEs. This includes the use of lots, and allowing the joint fulfilment of the necessary technical or financial criteria. This is a major problem area for micro-enterprises, and rated amongst the most important actions
- § improving the dialogue with SMEs. Most CAEs now communicate during the tendering phase with bidders - more than in the past – responding to specific questions, requests for clarification. Debriefing is also often used, especially by UK procurers. This again is an area which is in line with what SMEs' ask for
- § simplifying the procurement procedure and relieving administrative burden. This is the third major concern of SMEs. Many procurers allow the completion of the tender after submission, so that omitting certain documents does not lead to the automatic exclusion of bids. Requesting complete documentation only when the company has been shortlisted or when the bid was selected is also frequently done by CAEs in order to ease the administrative burden.

Contracting authorities and entities seem to use most of these practices more often than three years ago. Still, 36% of CAEs think they could do more in the future to facilitate SMEs' access. Currently, the barriers to do that are associated with (i) the lack of a concrete policy focus on SMEs, (ii) a lack of time and human resources, and (iii) risk averseness

In eProcurement, many new initiatives have been put in place throughout Europe. Simple eProcurement tools (publication of notices on websites and electronic access tender documentation) are the most frequently used solutions. These are in use almost everywhere in the EU. More ambitious systems such as supplier profiles, online Q&A are less widely implemented.

Companies use electronic means mostly for accessing information on tenders (95% have experience) and tender documentation (96%). This often means simply downloading them from the procurers' website or from the relevant web portal. 72% of companies submitted their tender fully electronically at least once. Electronic auctions are not yet widespread: only 44% of companies have ever participated.

Successful initiatives on the ground seem to build on a solid legal and policy base and ensure adequate buy-in from public procurers and business. Trainings and support desks are also useful. Good practice involves one-stop initiatives offering highly customisable eProcurement services, constant feedback, solutions reducing the administrative burden (simplified procedures, templates, supplier profiles etc.). Activities of the EU are indispensable in eProcurement, especially in the area of standardisation.

eProcurement is generally found to be beneficial for companies – SMEs and large companies alike. The key positive factors are (i) swifter access to information, (ii) access to

a larger pool of tender opportunities, (iii) ease of search for relevant opportunities, (iv) easy access to tender documentation, (v) time and cost savings during tendering, and (vi) easier communication in the tendering phase. However, companies that tender frequently (i.e. often larger companies) will benefit most, as the gains will have to accumulate during several tender procedures to offset the investment in terms of time and money (acquiring the necessary skills, applying for eSignature).

### **7.1.2 Suggestions for other initiatives**

“What other measures could be envisaged?”

A range of further action with the aim of simplifying procurement – and of enhancing SMEs' access to public tenders – is already undertaken on the ground by procurers, or are endorsed by companies who participated in the survey to this study:

- § Information and communication activities: designing permanent contact persons, informing potential bidders directly on tender opportunities, holding supplier events prior to finalising the tender specifications or after pre-selection to explain and discuss requirements, communicating as short and simple as possible in general to facilitate comprehension (as SME owners, especially of minorities, are not necessarily familiar with the legal-bureaucratic language often used)
- § Training activities, including briefing sessions on how to do business with the procurer, workshops on successful bid writing or on specific topics (done usually by larger procurers or centralised procurement agencies)
- § Support tools offered to help bid writing, such as forms, templates and checklists
- § Actions to reduce the administrative burden: retrieving documents and attestations from partner authorities instead of requesting them from the bidder, putting in place easy-to-use eMarketplace and other eProcurement systems that streamline the procurement process, and leading telephone (or online) conferences with bidders instead of requesting them to travel
- § Actions to reduce the financial burden: reducing financial guarantee requirements especially for SMEs, and efforts to pay the suppliers earlier than legal payment terms (such as the UK Prompt Payment Code)
- § Quasi-quotas and tender design: whilst explicit quotas for, or tenders restricted to, SMEs are rarely used (although not unheard of in the policies of some Member States), other, more subtle activities with similar objectives are sometimes undertaken, including the introduction of 'community benefit clauses' in contracts, requesting usually local sourcing/employment or some community building outcome, and an emphasis on framework agreements with several suppliers included (this helps SMEs that would not have the necessary capacities to satisfy the full demand in case a framework contract would be chosen). The use of negotiated procedures may also help, allowing SMEs to convince the procurer of their capabilities, the quality of the good or service offered and their strong client focus

### 7.1.3 Effectiveness and adaptability

"Are there any aspects/means/actors that render certain aspects of the practices described in point 1 more or less effective than others, and – if there are – what lessons can be drawn from this?"

Small and especially micro enterprises are the two size categories of companies that need support to reach a level playing field with large companies in public procurement. So any successful measure would focus on their needs and be based on their capabilities and capacities – this would be in effect the correct application of the 'Think Small First' principle, but emphasising micro and small enterprises.

The areas where small companies face barriers are the following:

- § **Access to quickly available, relevant and comprehensible information at low cost in terms of both time and money.** This means that the best solution would probably be official websites acting as authoritative sources (one-stop shops) for all national tenders, highly customisable and still user-friendly systems, with automatic alert functions. The Internet will probably be the key channel of information, and relevance of other channels will decrease over time. In addition, procurers will need to better focus on filling in the electronic forms correctly (e.g. CPV codes, the use of which sometimes elicits some criticism from companies) and potentially to supply slightly more (searchable) information in the contract notices that would allow bidders to quickly select the most relevant opportunities. Tender documentation should be accessible (downloadable) free of charge or at a low cost and be written in simple and clear language.
- § **Too large contracts and disproportionate financial requirements.** Procurers should be encouraged to break down tenders into lots (by sub-task or by service area), not necessarily opting for employing a general contractor (even if this may be perceived as an additional burden and risk factor by the CAE), and consider – if relevant – using framework agreements which is open for several suppliers instead of framework contracts. They should also lower the requirements for financial guarantees if the nature of the project does not require it.
- § **Limited options for the dialogue with the procurer.** Communication with (potential) bidders should be pursued in all phases of the procurement. This helps SMEs to understand the procurers' requirements, they can provide feedback which may contribute to refining the specifications. SMEs may also gain some confidence after consulting the procurer face-to-face that they understand the context and can successfully submit a bid. Debriefing, explaining companies not being awarded the contract why their bid was not chosen, should be the norm.
- § **High administrative burden and complex procedures in general.** The procurer should try to reduce paperwork, and – if possible – ask for the presentation of attestations and certifications at later stages of the public procurement procedure (after pre-selection/shortlisting or maybe even after awarding the contract). Allowing for the correction of minor technical errors or omissions in the tender may be considered – but with caution only, as this option might be exploited by bidders who would not complete their bid in order to render the procurement unsuccessful if they see they can not win it (if legislation requires at least two or three valid bids)

#### **7.1.4 Efficiency**

"What aspects of the practices described in point 1 are the most efficient or inefficient, especially in terms of resources that are mobilised by stakeholders during the different phases of the process? What does this represent in terms of administrative burdens on stakeholders and/or other actors?"

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. Many of the measures described do not require additional resources (lowering financial guarantees, allowing for later submission of attestations etc.) or only minor ones (better dialogue and communication activities, breaking down tenders into lots). On the other hand, trainings and eProcurement tools are associated with considerable time and financial inputs. Both would be best done at a reasonably centralised (maybe national) level to make best use of resources and skills.

## **7.2 Recommendations**

The statistical analysis of contracts awarded reveal that SMEs, in particular micro and small enterprises are, on average, under-represented in public procurement above the EU-thresholds. Therefore, the European Union and Member States alike are advised to implement measures - and to urge procurers and other stakeholders to take steps within their respective areas of responsibility - to create a level playing field in public procurement, which would enable SMEs to secure a 'fair share' of public contracts.

Also, procurers are encouraged to take up electronic public procurement which leads to more and better information on tenders, increased competition, as well as savings in terms of cost and time. Most of these benefits are especially valuable for SMEs.

Finally, the use of innovative practices and more elaborate procedures such as pre-commercial procedure could contribute - through its market-pull approach, and considering the large weight of public procurement in the economy – to the exploitation and the further increase of the innovation potential of European SMEs.

In the light of the above, and on the basis of the analysis, companies' and procurers' views, as well as case study findings, European policymakers and procuring bodies should take steps to:

- § dismantle unnecessary and unjustified barriers to SMEs in public contracts
- § further reinforce the use of eProcurement solutions
- § promote innovation in public procurement and procurement of innovation to support the development of dynamic, competitive SMEs
- § exchange experience, organize training and encourage peer learning activity amongst Member States, regions and local authorities procurers and the business community
- § enhance the information base that would allow better future measurement of SMEs' access to public procurement

These recommendations are detailed in the following box:

#### Steps to dismantle barriers to SMEs

1. Simplifying tendering procedures and reducing the administrative burden. This can be done by allowing the presentation of certain administrative documents only when the offer was shortlisted or selected, storing company documents in 'supplier profiles' or retrieving them from partner authorities instead of requesting them from the bidder. The procurers can support the tendering process by publishing templates, checklists or similar tools helping the companies to compile their tender.
2. Further efforts should be undertaken to widen the amount of, and improve the quality of information on public procurement available for bidders and potential bidders, using various channels of communication (with an increasing emphasis on electronic means). General information on the requirements of the procurer, annual procurement plans and prior information notices on upcoming tenders, as well as notification on published tenders are amongst the activities that help SMEs to be informed in a timely manner. Making available guidance on the legislation procedure, or on how to prepare successful bids will contribute to improving the quality of offers from SMEs. Communication should be done in a simple language, comprehensible for all.
3. Strengthening the dialogue between SMEs and procurers, involving face-to-face meetings on supplier events, interactive communication at early stages of the public procurement process - even before the launch of the tender - to clarify requirements, and timely responses to bidders' questions in the tendering phase, and Q&A sessions. Debriefing of unsuccessful bidders is important to help them understand why they have not won and how they can submit better offers in the future.
4. The use framework agreements by procurers – especially in centralised procurement – more frequently, enabling SMEs to take part in the delivery of goods or services that would otherwise be tendered in a package far too large for them to access.
5. Measures helping to overcome the limited technical and financial capacities of SMEs, allowed by the Public Procurement Directives should be further encouraged. These include the breaking down of tenders into lots (by task or by geographical service area), avoiding disproportionate technical or financial requirements in the specifications, and allowing the joint fulfilment of these requirements by consortium partners or subcontractors.
6. Procurers should pay always suppliers in time, and – if possible – reduce the contractual payment terms voluntarily below the mandatory deadlines. Legislation should clearly set out that suppliers are entitled to charge interest if the procurer is in delay with the payment, and that public contracts can't exclude this possibility.

#### Steps in the area of eProcurement

7. The further promotion and adoption of eProcurement tools should be encouraged, supported by a clear policy and legislative background, making explicit the objective of enabling SMEs' access to public contracts and about the means leading there, and achieving buy-in from public procurers through ensuring that the cost and time savings potential is exploited.
8. The appropriate training of users both in the public sector and amongst bidders, as well as the creation of support desks to ensure take-up and efficient use. This should come in conjunction with efforts to ensure that the electronic tools deployed are user-friendly, appropriate for users at all sophistication levels.
9. The use of central procurement platforms, to avoid confusion arising from several information sources or from different electronic tendering procedures and templates. The platform should be able to provide customised information on tender opportunities, support the tendering process (if eSubmission is possible) through feedback and checks and should ensure a high level of interoperability.
10. The EU should be further active in standardisation and the sharing of best practice in eProcurement.

#### Steps to promote innovation in public procurement and procurement of innovation

11. On *how to procure*? Member States should better exploit the possibilities of public procurement to spur innovation in Europe, through introducing certain elements that can encourage innovation and allow innovative SMEs to develop. These include a thorough review of new technologies available on the market, communication with potential suppliers to specify needs and possibilities, the application of function requirements rather than technical specifications, or allowing the submission of variants.
12. On *how to procure*? The take-up of Green Public Procurement should be reinforced. This brings, apart from environmental benefits, a possible reduction in the long-term financial costs and supports the development of the 'green economy'. Procurers are encouraged to introduce full life-cycle costing methods and explore opportunities to include environmental requirements in their tenders. The requirements are advised to relate to the good or service to be tendered, and not retrospectively to the procedures or organisation of the bidder.
13. On *what to procure*? The introduction of pre-commercial procurement (PCP) to promote innovation should be considered by Member States. The Commission could play a major part in this by investigating the potential and options for PCP schemes in Europe, and to provide advice and potentially financial support for those wishing to implement it. In that respect, it would be also worth encouraging any US SBIR scheme types at European level.

#### Steps to encourage the exchange of experience

14. The Commission could reinforce its efforts to promote new findings and good practice on how to create a level playing field for SMEs in public procurement amongst high-level policymakers from the Member States. The agenda should link and group the results of various EU-sponsored activities, studies, pilot projects and networks together, and include the topics of eProcurement and innovative practices.
15. Cooperation activities and networks at expert level, under the aegis of the EU, should be continued. New Peer Learning Activities (PLA) should be encouraged to increase the effectiveness of information exchange between national (and regional) stakeholders.

#### Steps to improve the information base

16. Procurers should be required to forward contract award notices, appropriately filled in, on all of their above-threshold tenders to the Commission (to be published on TED). The quality of the information contained in the notices needs to be improved; especially information on the price and the companies being awarded the tender are often missing, incorrect or incomplete.
17. The introduction of an SME marker (broken down into the micro, small, or medium-sized enterprise category) in the SIMAP contract award notices should be considered. This would be filled in upon a simple declaration from the winner of the contract. This mechanism already exists in some Member States and does not put any conceivable administrative burden on the actors. The marker would allow for a sufficiently reliable, easy and cost-efficient monitoring of SMEs' access to above-threshold procurement in regular intervals.