

Feedback channels for economic operators

Summary

Feedback channels for economic operators represent a formal and structured mechanism by which economic operators can – either anonymously or not – express their concerns to contracting authorities or to a specific unit in charge of managing the feedback channel, on poor practices and processes or issues encountered when participating in procurement procedures and make suggestions for improvement.

Implementing a feedback mechanism contributes to continuous qualitative monitoring of procurement processes through the lenses of economic operators. Namely, economic operators can raise deficiencies and/or inefficiencies in the procurement system, as well as flagging unfair treatment by contracting authorities. Economic operators can also use feedback channels to make suggestions for improvements to the way in which public procurement procedures are conducted, which further helps monitoring authorities.

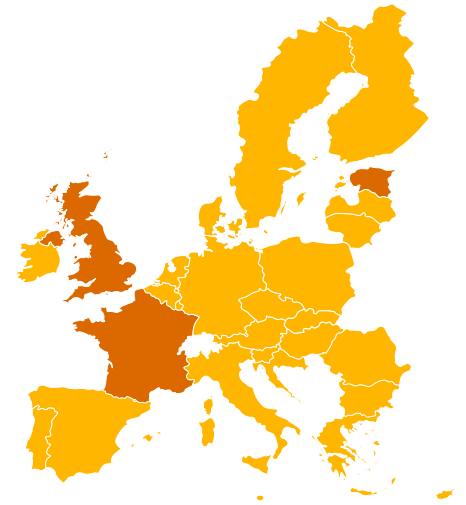
Feedback channels can take different forms. In their simplest form, they can be dedicated mailboxes set up by contracting authorities to which economic operators can send their concerns and suggestions. Simple feedback mechanisms can also take the form of questionnaires prepared by contracting authorities and sent out to existing and potential suppliers. Questionnaires are then completed on a voluntary basis. This type of feedback mechanism is rarely a unified practice adopted by all contracting authorities, but instead occurs on the initiative of a single contracting authority.

In their most advanced form, feedback channels can be part of a broader MS policy initiative. In this case, the government establishes a dedicated service unit whose sole task is to receive complaints and suggestions from economic operators, analyse them and suggest corrective follow-ups to contracting authorities. In addition, the unit can conduct on-the-spot checks of contracting authorities' practices.

The main objective of feedback channels is to improve the quality and efficiency of public procurement procedures. This results in increased transparency in procurement procedures, greater accountability for the contracting authorities conducting them and ultimately a larger number of small businesses bidding for public tenders.

Good Practice Examples

- ✓ Estonia
- ✓ France
- ✓ United Kingdom



Impact

Improve accountability



Contracting authorities are held accountable if feedback channels give the opportunity to flag unfair behaviour or simply inefficient working methods. This is particularly the case if the feedback channel is outside the contracting authority's organisational structure.

Increase competition



Economic operators have a greater incentive to participate in public procurement if they know that there is a simple way to provide feedback about the process that does not involve lengthy and costly litigation. In addition, contracting authorities can improve their practices by taking into account the suggestions of economic operators.

Increase transparency



In an advanced form of feedback channel, the feedback records provided by economic operators are often published online and increase transparency in the way in which contracting authorities conduct procurement. Moreover, feedback from economic operators can help identify potential areas for improvement in the transparency of public procurement.

Input

Cost – €€

- Low set-up and operation cost for a feedback mailbox
- Low set-up and medium operation cost for an advanced service



Time – Less than 6 months



Complexity – High

- Establishing the scope and remit of the feedback channel
- Staff resources to manage the mailbox, compile and review the feedback comments, synthesise and report on major issues (for a feedback mailbox)
- Full-time staff resources (for a more advanced service)



Key success factors and potential pitfalls

Raise awareness and make the service accessible

Promotion and dissemination activities must be conducted so that economic operators are aware of the feedback mechanisms' existence. In addition, potential benefits must be clearly highlighted to encourage the use of available feedback channel(s) and ensure sufficient uptake. Political support for such initiatives contributes to raising awareness, in addition to regular communication channels. Furthermore, the service must be easy for users to find.

Guarantee anonymity and manage the fear of retribution

Economic operators' uptake of a feedback channel will be higher if they can be certain that their identity will remain anonymous and that contracting authorities have no means of retribution later in a tender procedure or during contract management.

Secure resources, define the scope and prioritise

Having sufficient resources to ensure speedy complaints-handling can be a challenge for the feedback channel, particularly because it is difficult to anticipate the number of requests. Thus, defining the feedback channel's scope of action and prioritising cases are key to providing an efficient service.

React to feedback

Feedback channels must have a concrete impact in affecting the behaviour of contracting authorities. If the perception from economic operators is that their feedback is not taken into account, they will not spend time and resources in providing it.

Introduce a statutory footing

To be authoritative, the feedback channel must have the right to investigate cases, and compliance with its recommendations must be mandatory.

Monitor results of feedback channels

To ensure that feedback channels provide useful support to economic operators and their recommendations are taken into account, it is important to regularly monitor and evaluate their effectiveness.

Related Good Practices

- Helpdesk for contracting authorities
- Facilitate payments to economic operators
- Mediation between contracting authorities and economic operators

Case Studies (1)

France – Qualitative monitoring of public procurement in the Rhône-Alpes Regional Council

Since 2006, the Rhône-Alpes Regional Council has performed qualitative monitoring of procurement procedures by collecting feedback.

Feedback is collected via dedicated questionnaires that are completed on a voluntary basis and target the viewpoints of both economic operators and the internal operational services of the administration. To do so, input from stakeholders is collected at three different stages of the procurement cycle. A first input is received from bidders on their experience in participating in a tender once the contract has been awarded. A second input from the operations level of the Regional Council's directorate in charge is collected during the management of the contract. Thirdly, suppliers are requested to provide their feedback once the contract has been implemented.¹

Approximately 10% to 20% of the Regional Council's annual procurements are qualitatively assessed.

United Kingdom – Mystery Shopper Service

In 2011, the Prime Minister and the Ministry for the Cabinet Office implemented a series of measures to increase and facilitate the participation of SMEs in public procurement. One of these measures is a Mystery Shopper Service established within the Crown Commercial Service.²

The purpose of the Mystery Shopper Service is to provide public procurement suppliers with a structured channel at central level that economic operators can use to report on the quality of the contracting authorities' practices and escalate issues that they may have experienced when participating in a procurement procedure. In particular, the Mystery Shopper Service helps in detecting practices that are unfriendly to SMEs, provides recommendations to contracting authorities and monitors their implementation. The Procurement Policy Note – Requirements for contracting authorities to assist with procurement investigations³ states that all contracting authorities subject to the Public Contracts Regulation 2015 and the Small Business Enterprise and Employment Act 2015 (the "SBEE Act") must cooperate with the Mystery Shopper Service if they are subject to investigation, with the exception of certain bodies such as schools, healthcare services and bodies with devolved functions.⁴ Not all procurements fall within the scope and remit of the Mystery Shopper Service and can benefit from it. Some eligibility requirements have to be met to make use of the service:

- The procurement procedure is no more than two years old and has been conducted by the UK Government or an English contracting authority;
- The procurement procedure clearly highlights poor practices;
- The issue is of a late-payment nature; and
- The issue concerns a situation between a supplier and a contracting authority or between a supplier and another supplier located upstream in the supply chain.

To make use of the Mystery Shopper Service, an economic operator must send a request that is first analysed by the Mystery Shopper team. If the request is deemed eligible, it constitutes a case that will be investigated. Once the investigation has started and depending on the seriousness of the case and whether the case is located at central or local government level, the service will aim to help within two or three months. Since the team is rather small, in peak periods it must prioritise cases according to the urgency or relevancy of the matter.

As regards the nature of the help that can be expected from the Mystery Shopper Service, it will depend at what stage of the procurement cycle the case stands. For ongoing procurement, the service usually provides recommendations to the contracting authority on how to address the matter, but cannot impose a delay or suspend the procurement. For an awarded contract and if the matter is not related to late payments, the service will advise the contracting authority on future steps to take. However, if the case concerns late payments, the service advocates on behalf of the economic operator in order to obtain payment.

In addition to educating contracting authorities through recommendations, the service conducts on-the-spot checks to verify whether a previously investigated contracting authority is properly applying the advice that it committed to respect.

Results of cases investigated are evaluated and published on the Mystery Shopper Service webpage. The main issues during the 2015/2016 year related to the procurement process (64%), followed by procurement strategy (16%), contract management (9%), tech systems (9%), payments (1%) and transparency (1%) which all tackle barriers that impact on SMEs' participation in procurement.

The service received more cases during the years 2013 and 2014 than during any other year since it began operating. From then onwards, the service has experienced a reduction in cases.⁵ This supports evidence that contracting authorities are changing their current practices towards economic operators and are using more SME-friendly practices.⁶ Bearing witness to this, the target of a 25% increase in SME participation in procurement was reached in 2015.

Contact

Rhône-Alpes Regional Council, **France**

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¹ Based on the interview with the Head of Directorate of the Rhône-Alpes Regional Council during PwC's stock-taking study of public procurement systems in the European Union for DG REGIO

² See: <https://www.gov.uk/government/publications/mystery-shopper-scope-and-remit>

³ Crown Commercial Service, "Procurement Policy Note – Requirements for contracting authorities to assist with procurement investigations" (2015), see: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431540/ppn-mystery-shopper.pdf

⁴ *Ibid.*

⁵ Crown Commercial Service, "Mystery Shopper Service progress report 2015-2016" (2016), see: <https://www.gov.uk/government/publications/mystery-shopper-progress-reports>

⁶ Crown Commercial Service, "Mystery Shopper Service publication table January 2017 to March 2017" (2017), see: <https://www.gov.uk/government/publications/mystery-shopper-results-2017>