Public Procurement

Is open competition good for small and medium enterprises?
Is open competition good for small and medium enterprises?
# TABLE OF CONTENTS

---

## Introduction

1. **Small business and public procurement market**
   1.1 What is public procurement?  
   1.2 Public procurement markets  
     1.2.1 Supply of goods, services or construction  
     1.2.2 Small and high value and aggregated procurement  
   1.3 What private sector small business is considered a Small and Medium-sized Enterprises (SME)?

2. **Small businesses in the domestic economy and the public procurement market**
   2.1 Small business in domestic economy  
   2.2 Small business in public procurement market  
   2.3 Challenges that affect SMEs access to public tenders

3. **Supporting SMEs access to public tenders**

4. **Without quotas and preferences – leading examples of non-disruptive SME support instruments in public procurement**
   4.1 e-Marketplace (MEPA) in Italy  
     4.1.1 Public procurement market in Italy  
     4.1.2 Enterprise structure  
     4.1.3 Factors influencing SMEs’ winning public procurement contracts  
     4.1.4 Creation of e-Marketplace (MEPA)  
     4.1.5 Findings  
   Annex 1. e-Marketplace (MEPA) business model
   4.2 e-Agora in Cyprus  
     4.2.1 Public procurement market in Cyprus  
     4.2.2 Enterprise structure  
     4.2.3 SMEs participation in public procurement in Cyprus  
     4.2.4 eAgora – online purchasing of small value goods and services  
     4.2.5 Findings  
   Annex 2. e-Agora business process
   4.3 Prozorro in Ukraine  
     4.3.1 Public procurement market and thresholds  
     4.3.2 SMEs participation in public procurement in Ukraine  
     4.3.3 Findings  
   Annex 3. Prozorro micro and small value procedures business model

5. **Lessons learned**

---

**Bibliography**

**Acknowledgements**
INTRODUCTION
INTRODUCTION

Technological progress is creating a global economy more and more, with intensive competition driven by innovations. This global economy is highly competitive but, surprisingly to many, the most dynamic part of it constitutes small business. The role of the small business is critical in terms of its contribution to GDP and employment for developed countries and emerging economies alike.

Globally, it is estimated that the taxpaying small business sector contributes up to 45 percent of employment and up to 33 percent of GDP in developing economies, and nearly 64 percent to the GDP and 62 percent to employment in developed countries (IFC: Scaling-Up SME Access to Financial Services in the Developing World 2010). In the European Union (EU) the majority of firms in 2014 (99.8% of all enterprises, except financial businesses) were small business, and more than 20 million small businesses accounted for 66.7% of jobs and for 58.6% of the value-added in the European Single Market. In particular, 92% of businesses were micro firms with less than 10 employees.

With such high numbers of small business in domestic and regional markets, small business should enjoy a substantial share of the economy and participate in equal measure in business-to-business and business-to-government transactions. But this is not the case. All over the world public contracts funded with taxpayer’s money are principally awarded to large companies, with small business share of business-to-government transactions typically well below half of the value of their general market standing. Given the value of public purchasing in domestic markets, in particular in emerging economies, it is of vital importance to secure more balanced access to public procurement for local small business.

With this disproportion in mind several governments worldwide embarked on adopting public procurement policies emphasising that their national public procurement system should be transparent and deliver value for money in business-to-government transactions, as well as ensuring proportional participation from local small business. In some cases these policies result in the reappearance of domestic preference, general or sector specific, subsidies for small businesses to participate in public tenders, or procurement quotas restricted to small business suppliers and contractors.

This publication presents findings from the first phase of a research project of the Legal Transition Programme and the SME Finance & Development Programme of the European Bank for Reconstruction and Development. The research team explored different types of policies and measures employed by governments of Cyprus, Italy, and Ukraine to promote participation of small business in public tenders in the context of the general principles of public procurement with regard to transparency, open competition and non-discrimination.

To find evidence that special policies and measures employed to support small business participation resulted in increased levels of small business bidding for and winning public tenders, the research team sought to review policies for micro, low and high value public procurement and relevant implementation measures including, e-government and electronic procurement tools.

Whenever data was available, the research pursued an analysis of the impact of measures implemented to support small business on the primary objectives of public procurement systems, namely: transparency, competition, and savings in public spending.

In particular the research investigated how reforms undertaken in Ukraine accounted for increasing transparency, competition and general accessibility to public procurement for local small businesses in order to comply with the standards of the revised 2014 text of Agreement on Government Procurement of the World Trade Organisation affect local small business.
CHAPTER 1
SMALL BUSINESS AND
PUBLIC PROCUREMENT MARKET
1. SMALL BUSINESS AND PUBLIC PROCUREMENT MARKET

This chapter discusses a notion of small business and its industrial structure. It also introduces the concept of diverse public procurement markets, differentiated by value and complexity of procurements. Moreover, the chapter presents a hypothesis that small business should be most confident while bidding for public contracts that are designated for domestic suppliers and contractors under international trade agreements. These markets may be closed to international bidders and thus excluded from exposure to international competition. If open competition in public procurement is discriminating small business, these closed public procurement markets should demonstrate higher market share for small business.

1.1 What is public procurement?

Everyday expenses of governments as well as major public infrastructure projects are commissioned as public contracts. Currently, the challenge for governments is to develop a regulatory regime that balances the transparency safeguards and efficiency instruments in public procurement processes appropriate to the requirements of the local market structure and international trade agreements. Each national public procurement system has to provide a predictable legal environment, modern electronic online tools to effectively implement legislation in local practice, and to retain qualified procurement officers capable of delivering a public procurement function in an accountable manner. The efficiency of public contracts is strictly related to the public procurement legislation in force, capacity of the regulatory and enforcement authorities and professionalism of procurement officers. Fundamental principles of transparency and fair competition in public procurement play an important role in ensuring the achievement of the best results while spending public money.

Efficiency of public procurement is crucial as globally public spending is accounting for between 10 to 20 per cent of GDP and almost 45 per cent of government spending. In the European Union Single Market the total value of expenditure by general government and utilities on public works, goods and services for 2011 was recorded at EUR 2.406 bn, some 19 percent of the EU’s GDP, and a large part of this purchasing is subject to either national or EU public procurement rules.
1.2 Public procurement markets

1.2.1 Supply of goods, services or construction

Due to nature of legal contracts, different levels of procurement complexity and diverse selection methods, public procurement policies are usually separately prescribed for goods, services and works agreements. This regulatory approach has created national public procurement markets of suppliers, service providers and contractors participating in public tenders. Therefore, public procurement market penetration is also assessed with regard to goods, services, works or construction contracts.

1.2.2 Small and high value and aggregated procurement

From an international trade perspective, national public procurement markets are divided between small and high value markets. Traditionally, thresholds between what is considered small and high value public procurement are outcomes of trade and market access negotiations and established by bilateral, regional and global trade agreements.

In the World Trade Organisation system, to ensure open, fair and transparent conditions of competition in the government procurement markets, a number of WTO members have negotiated the Agreement on Government Procurement (GPA). Today in its 2014 text, the Agreement has 19 parties comprising 47 WTO members. Another 29 WTO members participate in the GPA Committee as observers. Out of these, 9 members are in the process of acceding to the Agreement. Resulting from this binding international treaty, basic GPA thresholds are established between 130,000 and 400,000 SDR for goods and services contracts and 5,000,000 SDR for construction contracts. These thresholds are building on assumptions shared by parties of the Agreement regarding what presently constitutes a government-funded contract of potential commercial interest to cross-border trade. As a result of this trade threshold, binding governance standards of the GPA convening fundamental principles of transparency, open completion and non-discrimination apply directly to public procurement policies regulating high value procurement of GPA parties. To accommodate potential needs of transition economies, the 2014 text of the Agreement introduced transitional measures – an instrument permitting retention of market protectionist measures such as price preference for domestic suppliers – for a limited period of time, as agreed during GPA accession.

Public procurement policy standards of GPA do not apply to small value procurement below the GPA threshold. Regarding small value procurement markets, the GPA parties maintain the freedom to adopt public procurement policies as best suited to their public governance values and domestic market circumstances.

From a public finance management perspective and resulting from application of the principle of proportionality, public procurement policies shall be developed to enable aligning complexity and value of the public contract with formality of selection method to identify supplier, service provider or contractor. This approach has typically resulted with establishing cascading value thresholds in national public procurement policy that differentiate public procurement into micro, low, and high value contracts and aggregated or centralised procurement.
Micro value contracts have resulted from public spending below the thresholds of application of national public procurement legislation and are typically regulated only by public finance procedures. These may require some competition or will permit direct awarding to preferred suppliers or contractors without any competition. This is why the basic procurement threshold is a minimum value threshold starting from which public procurement procedures apply and the competitive selection of a supplier or contractor is required for awarding a public contract.

As such, low value procurement is procurement of public contracts valued between minimum thresholds for competitive selection and thresholds established in international trade agreements. Therefore, micro and low value constitute what international trade agreements consider small value public contracts where rules of international trade agreements do not apply.

High value procurement is procurement of public contracts above the thresholds of international trade agreements, where procurement rules on international bidding shall apply.

Aggregated or centralised procurement is procurement of selected categories of common use goods and services repetitively purchased by the governments during a budget year and for this reason strategically aggregated to centralised purchasing to achieve better value for money and lower transaction costs for the public purse. When aggregated, these procurements in terms of value shall typically fall into high value procurement but frequently specialised procurement procedures will be used, such as framework agreements to organise the procurement process of aggregated goods and services.

Thresholds for competitive selection differ between countries and may be enacted from the equivalent of 1 US dollar to 100,000 US dollars in some cases. If direct awarding is permitted for contracts of relatively high value, there will be very little public procurement regulation of low value contracts, covering the area between minimum value threshold for competitive selection and high value procurement, starting from thresholds prescribed by international trade agreements. In some countries direct awarding is permissible for all public contracts below thresholds of international trade, where competitive selection needs to be undertaken for awarding a public contract.

In this research public procurement of micro, low and high value contracts is considered as separate, not overlapping groups.

Whenever available, data on aggregated procurement is included, but the research focuses on public procurement of small and high value contracts within an understanding of international trade agreements.

In particular, the research investigated respective SMEs market share of micro, low and high value decentralised procurement which should be normally of the biggest interest to local small business.
1.3 What private sector small business is considered a Small and Medium-sized Enterprises (SME)?

While it differs globally, small business is typically defined as a private sector, independently owned and operated company that is limited in size and in revenue depending on the industry. For this study the EU classification of the small business has been adopted that differentiates between micro, small and medium-size enterprises.

The current EU policy definition of small business is set out in a Recommendation of the Commission adopted on 6th May 2003, which came into effect as from 1st January 2005¹. This definition establishes that an enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

As a rule, an enterprise cannot be considered an SME if 25% or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies².

---

2. However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25% threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:
   (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses ("business angels"), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
   (b) universities or non-profit research centres;
   (c) institutional investors, including regional development funds;
   (d) autonomous local authorities with an annual budget of less than EUR 10 million and fewer than 5 000 inhabitants.
The small business category of SMEs is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million\(^3\). Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

SMEs are further broken down to **micro, small and medium-sized enterprises**, forming three nested categories, with the larger categories including the smaller ones. The respective thresholds are the following:

<table>
<thead>
<tr>
<th>Size class</th>
<th>Employee number</th>
<th>Annual sales (euros)</th>
<th>or</th>
<th>Balance sheet total (euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>&lt; 10</td>
<td>≤ 2 million</td>
<td></td>
<td>≤ 2 million</td>
</tr>
<tr>
<td>Small</td>
<td>&lt; 50</td>
<td>≤ 10 million</td>
<td></td>
<td>≤ 10 million</td>
</tr>
<tr>
<td>Medium-sized</td>
<td>&lt; 250</td>
<td>&lt; 50 million</td>
<td></td>
<td>&lt; 43 million</td>
</tr>
</tbody>
</table>

In this research micro, small and medium-sized enterprises are considered separate, not overlapping groups.

Where available, data on micro, small and medium-sized enterprises participation in national public procurement markets in Cyprus, Italy and Ukraine is provided. However, the research focuses on micro and small enterprises participation in public procurement markets of small and high value contract within an understanding of international trade agreements.

Also, where available, SMEs participation in aggregated procurement is discussed. However there is a noticeable disproportion of information on public tenders between decentralised and centralised public procurement.

---

3 This category also includes the so-called “microenterprises”- microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.
CHAPTER 2
SMALL BUSINESSES IN THE DOMESTIC ECONOMY AND THE PUBLIC PROCUREMENT MARKET
This chapter contains an overview of the market relationship between commercial and public procurement markets and small business participation in a domestic economy. To address the question of small business participation in a public tender market situation, procurement volumes, and the level of competition are reviewed and discussed. Considering the high level small business support policies introduced in the EU, these policies should result in high level participation of small businesses in public tenders under regulation of the EU acquis. Similarly, the EU Member States actively promoting small business support policies in public procurement should be enjoying a higher market share of small business in tenders public procurement markets affected by such policies.

2.1 Small business in domestic economy

Globally the small business sector contributes up to 45 percent of employment and up to 33 percent of GDP in developing economies and nearly 64 percent to the GDP and 62 percent to employment in developed countries (IFC: Scaling-Up SME Access to Financial Services in the Developing World 2010).

In the EU the majority of firms in 2014 (99.8% of all enterprises, except financial businesses) were small business and more than 20 million of small businesses accounted for 66.7% of jobs and for 58.6% of the value-added in the European Single Market. In particular, 92% of businesses were micro firms with less than 10 employees.

In summary, SMEs constitute the biggest market group and providing two out of three private sector jobs and contribute to more than half of the total value-added created by businesses in the EU Member States.
2.2 Small business in public procurement market

The public procurement market is of significant economic importance for European business. Estimates put the total value of expenditure by national governments and the utilities sector on public works, goods and services for 2011 at EUR 2.406 billion, some 19 percent of the EU’s GDP. A large part of this public purchasing is high value public procurement, subject to GPA rules and public procurement rules established in compliance with the EU regime. High value public contracts accounted for about EUR 425 billion in 2011 (3.4 percent of GDP), showing a steady growth over the past decade.

Considering the importance of the public procurement market for the European small business community the European SME policy extends over the public procurement market. Creating an even playing field for SMEs, and facilitating their access to high value public contracts regulated by the EU directives on public procurement is an explicit policy objective prescribed since Directive 2004/18/EC and Directive 2004/17/EC and retained in 2014/23/EC and 2014/24/EC directives on public procurement. EU policies promote creating a level playing field in public procurement for all enterprises to have equal access and enjoy equal opportunities in high value public procurement.

Regardless of this encouragement at the EU policy level, the EU Member States statistics show that SMEs remain underrepresented in public contracts and account for a different share of the public procurement market from country to country.

EU Member States may implement the EU SME policies by adopting specific measures to support this category of enterprises. However, even for countries where the share of SMEs in the total number of enterprises is comparable (Poland – approx. 99.8%; Denmark – approx. 99.7%; Latvia – approx. 99.6%) and nears the EU average (approx. 99.8%), SMEs have a markedly different share in the public procurement market. For example approx. 29% of public procurement in Poland, approx. 45% in Denmark and approx. 64% in Latvia of the value of awarded contracts, with the EU average running at approx. 56%.

Special measures adopted by these nations include legislative or regulatory (Poland), related to promoting best practice solutions arising from local market experience (Denmark), or the combination of the two instruments (Latvia). Poland introduced legally binding solutions in respect to relying on the capacities of other entities, subcontracting, awarding contracts in the form of separate lots and the possibility of tendering for lot(s), advance payments to economic operators, and decreased tender guarantees, and the introduction of guaranteed periods for payment in public contracts. Denmark adopted a best practice approach and focused on promoting subcontracting and the possibility of joint bidding for a contract via a consortium, the possibility of using electronic bidding in public procurement and encouraging negotiated procedures and technical dialogue between contracting authorities and suppliers and contractors. Latvia introduced some regulatory changes, such as the possibility of awarding contracts in the form of separate lots, the possibility

---

of relying on the capacities of other entities, joint bidding for a contract via a consortium, direct payments in subcontracting, and electronic availability of information about awarded contracts and the focus on promoting good practices.

### 2.3 Challenges that affect SMEs access to public tenders

Recent research in the EU as well as globally intensive discussion regarding public procurement policy features that may be causing a disproportionately small representation of SMEs in domestic and regional public procurement markets has taken place. For instance, it is argued that small business faces higher costs in terms of regulatory compliance and unequal conditions in financial markets, and therefore in public tenders competes on unequal terms compared to large companies.

This section lists the most frequently discussed barriers faced by small businesses in participating and winning public sector contracts in the Chilean public procurement market. These barriers were published as part of a review of Chile SMEs by Chile Compra, the Chilean central purchasing body, and include:

1. **Very Large Contracts**: This is a capacity problem for small companies to bid and manage the implementation of big public contracts, in particular with respect to technical capacity, access to working capital and the level of contract performance guarantees typically requested by government. One of the most significant barriers faced is a conservative approach adopted by contracting authorities when defining the subject of the contract and its value, as they tend to combine supplies and services or works they intend to purchase. The broader spectrum of contract the higher the value of the contract; meanwhile, the capabilities of small business are limited. By specifying a broad range of services in one contract public buyers may actually effectively eliminate small business from public tenders.

2. **Insufficient Access to Information on Business Opportunities in Public Procurement**: One of the frequent market failures of public procurement regulation is information asymmetry. If information is not easily accessible and available free of charge, only large companies with resources to scout specifics of the public procurement market may obtain the commercial information necessary to effectively participate in these markets.

3. **Lack of Knowledge Regarding Public Procurement Procedures**: Small businesses have fewer resources (employees, time and money) to understand a highly regulated market with procedures, terms and concepts that are alien to commercial transactions and only used within the public procurement system. The inability to understand the overregulated market may diminish interest in participating in this market for reasons different from efficiency or quality of products and services offered by small businesses.

4. **Excessive Bureaucracy**: The existence of procedures that involve knowledge or procedures forcing providers to incur transaction costs undermines the possibility that small suppliers and contractors can compete in the public procurement market.

5. **Limited Experience in Bidding**: Small business usually has a shorter lifespan compared to large enterprises, frequently below 5 taxable years. Therefore small enterprises have less experience in tendering, and in public bidding in particular.
6. **Expensive Standards and Certification Requirements:** It is very difficult for small business to have quality certifications, not only due to the direct and indirect costs they generate, but also because obtaining them takes long periods of time, almost the half-life of a typical small business.

7. **Disproportionate Levels of Technical Qualification:** It is reasonable that small suppliers and service providers entering established markets do not possess the technical qualifications set by the market. To enable their participation, public buyers should be requesting only qualifications that are strictly mandatory to comply with their purchasing objectives and preferred functional requirements, rather than solutions in order to allow competition, innovation and renewal of providers.

8. **Disproportionate Levels of Financial Qualifications and Incompatible Payment Terms:** Levels of liquidity typically requested by government to allow responding in case of breach of public contract are normally unattainable for small business. Also, one of the essential issues is the period for payment of amounts due. In the EU, regulation on payment periods in commercial transactions was adopted to combat delayed payment. A maximum period for payment in commercial transactions of 60 days from the date of invoice confirming the delivery of goods or the provision of a service has been introduced.

9. **Unclear Tender Requirements:** Vagueness of tender technical requirements implies difficulty for new entrants from the small business community to submit a valid bid with their best offer.

10. **Lack of Time to Prepare Bids:** Due to reasons already mentioned above (lack of resources and in experience) small business is likely to need more time to prepare and submit valid bids compliant with expectations of public buyers.

11. **Preference for Lowest Price Tenders:** It is possible that an emphasis on price creates an advantage to large and more efficient companies, but not small businesses.

12. **Centralisation of public procurement contracts:** With centralised purchasing closing markets for certain periods of time, it gradually becomes more and more difficult for SMEs to take part in public tenders in these markets.

13. **Lack of Feedback from Public Buyers:** Limited dialogue with public buyers may create a steeper learning curve for small businesses, with regard to understanding and learning procurement requirements and to rectify recurring errors in the bidding process.

In summary, the challenges faced by small business in public procurement can be divided into the following categories:

1. **Public procurement market barriers to entry imposed by public procurement regulation (legal barriers);**
2. **Knowledge asymmetry between large and small enterprises (complexity barriers)**
3. **Insufficient transparency of information on public procurement (access barriers)**
4. **Excessive financial and technical requirements imposed by public sector buyers (capacity barriers).**
CHAPTER 3
SUPPORTING SMEs ACCESS TO PUBLIC TENDERS
3. SUPPORTING SMEs ACCESS TO PUBLIC TENDERS

This chapter explores SMEs support measures differentiating between regulatory and best practice as well as measures that support SMEs with or without a distortion to the public procurement market. The ‘Buy American’ programme introduced by the United States of America is a case in point of quotas and preferences in public procurement is well known. Therefore an example of Chile and Denmark is brought forward to describe SMEs support measures as non-disruptive for competition on the market.

There are a number of arguments that could be held in support of the idea of helping SMEs to achieve a higher market share in public procurement. In this respect governments may decide on measures that are supporting SMEs with or without a distortion to the public procurement market. Frequently, establishing subsidies, quotas and set-asides in public procurement for SMEs is justified by an argument that small businesses are identified as a relatively weaker class of bidder in public contracts.

While politically popular, there is no data supporting the effectiveness of these measures for the SME sector without consequences to the domestic economy and a negative impact on the cost of public purchasing. The question remains whether subsidies and set-asides for SMEs are in fact supporting their development and enabling the growth of small enterprises. There is no clear answer to the question whether, in particular, quotas and set-asides in public procurement are economically justifiable as a long term SME sector support strategy.

On the other hand, several governments abandoned populist quotas and a preference approach, and are now implementing reforms targeting market failures of public procurement regulation, insufficient access to public procurement business opportunities, complexity of procurement procedures, and excessive red tape.
In Latin America and in Chile in particular, the government focused on encouraging such solutions as free of charge access to online procurement opportunities, a decrease or elimination of tender guarantees, removing financial eligibility from public tenders and promoting open access to public procurement market information for local business and civil society to reduce information and knowledge asymmetry faced by small business.

ChileCompra was launched in 2003, as part of a reform process to modernize Chile, and was given a mission to bring about a change in public procurement, as the previous public procurement system was neither responding to market needs nor offered transparency and accountability as demanded by its citizens. The objective of ChileCompra was the creation of an accessible, efficient and transparent public procurement system, with equal business opportunities to enterprises of all sizes, especially for micro and small business.

Through the electronic platform [www.mercadopublico.cl](http://www.mercadopublico.cl), now the biggest electronic marketplace in the country, public buyers are connected to suppliers within a transparent system based on a solid regulatory framework whose governing principles are universality, accessibility, and non-discrimination.

In Latin America and in Chile in particular, the government focused on encouraging such solutions as free of charge access to online procurement opportunities, a decrease or elimination of tender guarantees, removing financial eligibility from public tenders and promoting open access to public procurement market information for local business and civil society to reduce information and knowledge asymmetry faced by small business.

Historically, popular SME support measures distorting public procurement markets (and thus not favoured under international trade agreements) include:

**Dedicated assistance for SMEs participating in public tenders**

Governments may target procurement-related assistance towards SMEs to enable their participation in public tenders. This assistance may be focused on capacity building and does not take the form of subsidy or it may be subsidized, in which case the SMEs support policy is providing an advantage for SMEs but will also introduce a distortion into the public procurement market.

**Price preferences to SMEs**

Providing for price preferences to SMEs is in essence a particular form of subsidy. The price preference is providing an advantage for SMEs but also resulting in distortion to the public procurement market.

**Quotas for SMEs**

Government agencies may mandate procurement quotas or targets for SMEs in specific public procurement markets or set-aside procurement exclusively for SMEs involvement.

To achieve accessible and SMEs-friendly public procurement system, ChileCompra has introduced fully electronic public procurement process and several best market practice solutions.

The most successful instruments include:

1. Free of charge public procurement training for SMEs delivered regionally provided face-to-face, and distance learning training programmes on bidding for public contracts

2. Specialized help desk offers three levels of service and high standards of user satisfaction

3. Online register of pre-qualified suppliers and contractors, ChileProveedores, simplifies submission of necessary administrative documents to sign a public contract
4. Mandatory online publication of the up-to-date annual public procurement plan
5. Minimum 5-days bid submission deadline for standardised goods and services
6. Online monitoring of published tenders to give instruction and improve performance of public buyers
7. Online forum for questions regarding public tenders in progress
8. Official online supplier rating system
9. Online tenders, electronic bidding and participation based on sworn declaration are standard for all public procurement

Chilean experience has also provided useful statistical support to two critical questions regarding SMEs participation in public tenders.

Firstly, ChileCompra examined whether permitting bidding by lots will increase market share of SMEs in public procurement. Based on historical data of the Chilean electronic procurement system it has been demonstrated that the probability to award an SME in a public tender diminishes with an increase of the tender value. The results of this dedicated analysis recently published shows that the probability to increase SME awards is higher if the value of a contract awarded is kept low.

Secondly, ChileCompra investigated how more awards to SMEs in public tenders will affect the level of savings in public procurement. This analysis demonstrated that there is a clear dependence between price weighting in tender evaluation criteria and savings, as well as the probability to award SMEs in public tenders. The electronic procurement data model revealed that the probability of savings increase as price weighing in tender evaluation criteria increases, but it is enough to increase price weighing by 1 per cent to decrease probability of an award to an SME. However, if controlled/balanced price selection is applied, participation by SMEs is actually increasing the probability of savings in public tenders.

In the EU, the leading example comes from Denmark where government first focused on raising the legal awareness of accessibility of public procurement opportunities, and on promoting electronic tendering and actively managing the procurement market to reinforce good market practices in public procurement.

**Joint bidding for a public contract**

Special prominence in the Danish public procurement system is given to the legal concept of consortium, that allows a group of enterprises to jointly bid for a public contract. Joint bidding for public contracts is an opportunity to award contracts to enterprises that, acting alone, are unable to reach sufficient levels of capacity and competitiveness, and in particular in the EU public procurement market. Since 2011, Denmark has had in place special policies which aim to further facilitate better access to domestic and international public procurement markets for SMEs, and promoting the idea of a joint bidding/consortium gained considerable traction. To encourage collaboration in the SME sector, the Danish government developed comprehensive guidance, standardised legal templates for establishing a consortium, and offers free of charge training sessions for the SME sector on how to bid jointly for domestic and EU public contracts.
Promoting electronic public procurement

Electronic public procurement in Denmark is promoted as a more uniform and transparent way of contracting, leaving less room for error for public buyers and economic operators. Electronic procedures reduce transaction costs which are particularly important for SMEs when in the midst of an economic crisis will try to reduce operational costs. Third, the Danish government is promoting broad participation of SMEs in electronic public tenders to enhance competition in this sector and generate better quality services at relatively lower prices. The Danish national public procurement platform is providing a single window access to all public procurement information which enables electronic bidding but in addition serves as a communication platform and data centre for local SMEs interested in bidding jointly for public contracts. In this way, Danish SMEs are becoming an essential element of the public procurement process to ensure best value for money.

Subcontracting

Another important element of Danish public procurement is participation of SMEs in the execution of public contracts as subcontractors. An important role in this regard is played again by the national electronic public procurement platform. Similar to the exchange of information on joint bidding opportunities, the platform ensures open access to information about awarded public contracts in the local and EU markets and also serves as a meeting point for SMEs interested in subcontracting on specific public contracts. This way both joint bidding and subcontracting is encouraged and viable business opportunities are made more accessible for local SMEs.

Promoting online opportunities for small value public contracts

The online portal www.udbud.dk offers up to date lists of SMEs offering specific goods and services, and is a small value shopping system and feedback function which enables SMEs to comment on procurements launched by public buyers in Denmark. Encouraged by Danish Competition and its Consumer Authority, electronic bidding is improving SMEs success rates in competing for public contracts as a result of the uniformity of the processes which is reducing errors and knowledge asymmetry. Informal feedback on tender requirements on www.udbud.dk helps pinpoint unsuitable tender requirements or too much focus on price without resorting to a formal complaint mechanism. The use of functional requirements is encouraged to ensure flexible tender terms and better opportunity to offer new ideas or innovative solutions. Standardised technical specifications, qualification requirements and evaluation criteria for selected goods and services are encouraged to improve communication with suppliers and service providers, secure more responsive bids and make it easier and less costly for public buyers to contract public services.

Clearly, public procurement legislative instruments are not necessarily the only factor which has a decisive impact on the situation of SMEs in the public procurement market. Equally important is how the public procurement legal framework is consistent with freedom of enterprise laws and local industry structure and whether general pro-competition measures are actively promoted by responsible public procurement regulatory authorities in local public procurement practice.

1 SME participation in public procurement, Danish Competition and Consumer Authority, May 2013; http://en.kfst.dk/~media/KFST/Publikationer/Engelsk/2013/SMEparticipation%20in%20public%20procurement.pdf
CHAPTER 4
WITHOUT QUOTAS AND PREFERENCES – LEADING EXAMPLES OF NON-DISRUPTIVE SME SUPPORT INSTRUMENTS IN PUBLIC PROCUREMENT
4. WITHOUT QUOTAS AND PREFERENCES – LEADING EXAMPLES OF NON-DISRUPTIVE SME SUPPORT INSTRUMENTS IN PUBLIC PROCUREMENT

This chapter aims to review the impact updated freedom of enterprise and freedom of information legislation combined with new public procurement policy and implementation of comprehensive electronic public procurement systems at the national level have had on enterprise development, and specifically SME development.

The three public procurement markets chosen for the case studies are Cyprus, Italy and Ukraine. Although not directly connected, the case studies are linked through the recent implementation of new public procurement legislation and the deployment of eProcurement procedures, tools and platforms. The first case study presented is Italy, followed by Cyprus, and then Ukraine.

Introduction

The aim of the review will be to explore the impact open competition – achieved through the implementation of new procurement legislation and the deployment of electronic public procurement systems – has had on the participation levels and success rates of SMEs in public procurement competitions.

Informed by this aim, the objectives of the review include:

1. Place a value on the size of the public procurement market
2. List the thresholds employed in public procurement competitions
3. Identify the economic contribution made by SMEs’ to an economy
4. Determine the levels of SME participation in procurement competitions
5. Assess the success rates of SMEs’ in public procurement competitions
The results of the review will contribute to our knowledge of SME participation in public procurement competitions, and specifically the benefits of competitive but inclusive public procurement policies.

**Approach**

Data for the case studies was gathered through a variety of methods. For example, primary data was secured from the Treasury of the Republic of Cyprus for the Cyprus case study. For Italy, secondary data was secured through a desk-top review of publically available data and in particular data published by the European Commission. The primary data to produce the Ukraine case study was extracted from Prozorro, the newly deployed national electronic public procurement platform.

The framework used to analyse the data and inform the development of the case studies reflects three broad areas:

1. SMEs’ industry structure in the national economy
2. SMEs’ participation levels in public procurement competitions
3. SMEs’ success rates in public procurement

Each case study sought to explore the impact public procurement legislation and relevant national electronic public procurement procedures and tools have had on the local SME community. Where available, specific data from specialised electronic procurement systems for conducting micro and low value public procurement competitions – for example eAgora in Cyprus, MePA in Italy and Prozorro in Ukraine – were reviewed. The review sought to comment on the accessibility of public procurement opportunities for the local SME community, and the volume of new commercial opportunities created through open competition in public procurement competitions.

The study also considered market specific settings for local SMEs engaging in public tendering, taking into account the different size and capacity of national markets and their typical exposure to international trade or cross border trade for the EU Member States.
e-MARKETPLACE (MEPA) IN ITALY
4.1 e-Marketplace (MEPA) in Italy

Background

The primary driver of reforms in public procurement in Italy was the Program for the Rationalisation of Public Spending, mandated by the ‘Legge finanziaria’ in 2000. The aim of this programme was to utilise electronic procedures to achieve efficiencies in public procurement through open competition. As such, Italy was one of the first EU Member States to adopt electronic public procurement procedures (eProcurement), which provided the opportunity to promote simplification of procedures and macro level initiatives focused on achieving value for money through Information Technology (IT) enabled purchasing innovations. The aim was to modernise the culture and practice of public procurement management while contributing to the achievement of broader national strategies including: e-commerce; information technology; and, the implementation of EU directives relating to public procurement and economic reform.

Building on the earlier work undertaken by Consip from 2002, which set up national framework contracts on behalf of purchasing bodies for acquisitions above EU thresholds, the Italian government introduced the use of digital procedures in public procurement under the supervision of the Ministry of Economy and Finance. These digital procedures allowed the public sector to perform acquisitions below the EU threshold through MePA – conceived as a complementary tool as it had become evident that SMEs found it difficult to compete in high-value tenders. The role of MePA was to facilitate the access of SMEs to participate in the low-value public procurement market, valued in excess of €13bn annually.

While the positive outcomes of the introduction of eProcurement have been evidenced, with “Italian public procurement achieving over €3.2bn savings in 2015” the question remains of the impact of electronic procurement procedures on SME development in Italy.

The aim of this case study is to appraise the impact eProcurement legislation and the MePA procurement system had on the levels of participation and success rates for SMEs in public sector tenders using the available data.

Building on this aim the objectives of the case study include:

- Place a value on the size of the public procurement market
- List the thresholds employed in public procurement competitions
- Identify the economic contribution made by SMEs to the economy
- Determine the levels of SME participation in procurement competitions
- Assess the success rates of SMEs in public procurement competitions

---

1 Financial Act
3 Consip, under the original name of CON.S.I.P. “Concessionaria Servizi Informativi Pubblici” was founded in 1997 for the purpose of bringing about changes in IT management for the former Ministry of the Treasury, Budget, and Economic Planning.
4 Mercato elettronico della Pubblica Amministrazione
4.1.1 Public procurement market in Italy

The OECD reports that in 2016 Italy GDP was valued at €2,173bn, the fourth highest in the EU only exceeded by France, UK and Germany. General government procurement as a percentage of GDP was 20.9%, and as a share of total government expenditure 10.7%[^7]. In other words, the Italian public procurement market is valued at approximately €455bn per annum. Naturally this level of spending attracts the commercial interests of enterprises representing the four dimensional subgroups: micro, small, medium and large.

4.1.2 Enterprise structure

Italy boasts 3.7 million enterprises employing 14.3 million people contributing €647bn value added to the economy[^8]. **Figure 1** presents the industrial structure of Italy enterprises. The figure illustrates that micro enterprises employing < 10 persons and with a turnover of ≤ €2m annual sales account for 95% of enterprises. This is followed by small enterprises at 4.5%, and medium sized enterprises at 0.5%. Large enterprises account for the remainder at 0.1% of enterprises.

**Figure 1: Italy enterprise structure**

<table>
<thead>
<tr>
<th>Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>95%</td>
</tr>
<tr>
<td>Small</td>
<td>4.4%</td>
</tr>
<tr>
<td>Medium</td>
<td>0.5%</td>
</tr>
<tr>
<td>Large</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

Source: European Commission, SME Performance Review[^9]

In other words, SMEs account for 99.9% of all Italy enterprises slightly above the EU average of 99.81%[^10], employ 11.3 million people and contribute 68% value added to the economy at €440bn[^11]. **Table 1** presents a comparison of data for all Italy enterprises with regard to volume, employment and value added.

### Notes

[^7]: www.oecdilibrary.org
[^8]: European Commission: 2016 SBA Fact sheet – Italy
[^10]: General government expenditure as a percentage of GDP has averaged at 50% between 2007 and 2014.

European Commission: 2016 SBA Fact sheet – Italy
4.1 e-Marketplace (MEPA) in Italy

### Table 1: Italy enterprise data

<table>
<thead>
<tr>
<th>CLASS</th>
<th>ENTERPRISES</th>
<th>PERSONS EMPLOYED</th>
<th>VALUE ADDED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NUMBER</td>
<td>SHARE</td>
<td>NUMBER</td>
</tr>
<tr>
<td>MICRO</td>
<td>3 552 531</td>
<td>95.1%</td>
<td>6 657 193</td>
</tr>
<tr>
<td>SMALL</td>
<td>152 263</td>
<td>4.3%</td>
<td>2 910 669</td>
</tr>
<tr>
<td>MEDIUM</td>
<td>18 352</td>
<td>0.5%</td>
<td>1 792 702</td>
</tr>
<tr>
<td>SMEs</td>
<td>3 733 146</td>
<td>99.9%</td>
<td>11 360 564</td>
</tr>
<tr>
<td>LARGE</td>
<td>3 086</td>
<td>0.1%</td>
<td>2 969 548</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3 736 232</td>
<td>100%</td>
<td>14 330 112</td>
</tr>
</tbody>
</table>

Source: European Commission: 2016 SBA Fact sheet – Italy

The information presented in the table highlights the importance of a healthy SME community to the broader Italy economy. For example, 79% of the workforce and 68% of value added is provided by SMEs. Specifically, value added by Italy SMEs is higher than the EU average by 11%, higher by 26% from Ireland the lowest placed nation, but 12% below the top placed Malta. In Italy, accommodation and the food services sector is key as they provide 25% of all SME jobs. While SMEs in manufacturing are particularly important as they generate almost a third of all SME value. However, the productivity of micro enterprises is only 80% of the EU micro firm average. In short, an increase in the efficiency of the SME community is important for the development of the economy in Italy.

However, the EC forecasts that compared to the EU average the number of SMEs Figure 2 – and the numbers of people employed by the SME community – Figure 3 – will decline moving forward. By extension this will also have an impact on the value added by SMEs which is also forecast to drop compared to the EU average.

**Figure 2: Italy: number of SMEs**

**Figure 3: Italy: number of persons employed**

![Graph 1](image1.png)

![Graph 2](image2.png)

Source: European Commission, SME Performance Review

Therefore, it is important that SMEs in Italy can report increasing levels of access to public procurement. However, there are a number of factors impeding local SMEs’ winning public procurement contracts.
4.1.3 Factors influencing SMEs’ winning public procurement contracts

To improve the success ratios of SMEs, measures have been taken in recent years at the policy level which aims to overcome barriers to entry and to address levels of success including:

- Dividing contracts into lots
- Reservation of 30% of public tenders to SMEs
- Creation of a new database of public contracts
- Reduction of the performance guarantee
- Advance payment of min 10% of contract price
- Simplification of participation procedures
- Vouchers to support the development of internationalisation strategies
- Grants to establish multi-regional consortia for internationalisation

Since 2008 Italy has made progress in the area of internationalisation, and now score above the EU average in this indicator. Italy secures 2.1% share of public contracts secured abroad by number of contracts versus 1.2% for EU-27. By value of contracts secured abroad, Italy SMEs win 3.2% of value compared to 2.6% for the EU-

Figure 4 presents the share of above threshold contracts won by number of contracts between 2009 and 2011. The data shows that large enterprises won 51% of competitions, with medium sized SMEs winning 23%, small sized 18%, and micro 8%. Put differently, 0.1% of Italy enterprises reported success in 51% of above threshold contracts. Clearly, there is a relationship between contract value and size of the enterprise competing for and winning the public procurement competition.

Figure 4: Share of above threshold contracts won by number of contracts 2009-2011

Source: EC Ref. Ares(2016)791120

13 European Commission: 2016 SBA Fact sheet – Italy
Although open competition has resulted in 49% of above threshold contracts by number won by SMEs, these results are placed into context when comparing against the EU-27 average and the best performing nations. For example, comparing the EU-27 average, 55% of above threshold contracts are won by SMEs: 17% by medium sized enterprises, 21% by small enterprises, and 18% by micro enterprises. Therefore, the aggregate Italy SME share of above threshold contracts by number of contracts was 6% lower than the aggregate EU-27 average. Comparing micro enterprises, Italy ranks the lowest at 8% of enterprises winning above threshold contracts along with Malta and Lithuania, a full 19% behind the best scoring nation Ireland. In Italy, the share of high value contracts to SMEs is 65% when the contract value does not exceed €300k, whereas it markedly decreases when the value is above this threshold. Therefore the dividing of contracts into lots will further assist SMEs report greater levels of success in bidding for high value contracts.

**Figure 5** presents the share of above threshold contracts won by value of contracts between 2009 and 2011. The data shows that large enterprises won 80% of contract value, with medium sized SMEs winning 12%, small sized SMEs 6% and micro enterprises 2%. Put differently, 0.1% of Italy enterprises secure 80% of above threshold contract value.

**Figure 5: Enterprise share of above threshold contracts won by aggregate value of contracts**

![Pie chart showing enterprise share of above threshold contracts](image)

<table>
<thead>
<tr>
<th>Size</th>
<th>Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large</td>
<td>80%</td>
</tr>
<tr>
<td>Medium: 12%</td>
<td></td>
</tr>
<tr>
<td>Small: 6%</td>
<td></td>
</tr>
<tr>
<td>Micro: 2%</td>
<td></td>
</tr>
</tbody>
</table>

Source: EC Ref. Ares(2016)791120

Compared to the EU-27 average 71% of above threshold contract value was won by large enterprises and 29% by SMEs: 15% by medium sized enterprises, 9% by small enterprises, and 4% by micro enterprises. Therefore, the Italy SME share of above threshold contracts by value was 8% lower than the EU-27 average. Comparing micro enterprises, Italy ranks 1% above the UK as the lowest placed ration, level with 4 other nations at 2%, below the EU-27 average by 2% and below the best performing nation Greece at 24%. Therefore, when comparing 49% of above threshold contracts by number won by value, the government may not to-date have secured the results it has wished for when aiming to secure open competition to all Italy enterprises. In other words, SMEs’ are represented in public contracts by value to the same level as their share of national economy.

---

Regarding contracting authorities, when the procurer is a local authority, SMEs compete more effectively than large enterprises, than when procurement carried out by central government or national agencies\textsuperscript{16}. Put differently, SMEs are more successful in local authority procurement competitions. Moreover, SMEs are more successful in tender value when open procedures are used, and are less successful when restricted procedures are used, with further reductions experienced when negotiated procedures and competitive dialogue are used. The threshold value above which Italy micro and small firms suffer from competition from larger firms is €50k\textsuperscript{17}. Therefore, contract value is a major factor in determining the SME success rate in winning public competitions.

Comparing this data with the overall economic significance of SMEs and to place the percentages into context, we can compare SMEs share in winning above threshold public contracts – by aggregate value – to their overall share in the economy. The difference between the share of Italy SMEs in public procurement above threshold contracts and their role in the economy is approximately minus 47% whereas the EU-27 average is minus 29%. The highest placed nation is Greece at plus 15%, with the lowest placed nation Portugal and Estonia reporting minus 48% share in public procurement compared to their role in the economy\textsuperscript{18}.

Despite policy initiatives and changes implemented since 2008, successful participation of SMEs is still below EU average, with the share of SMEs which participated in public tenders falling from 48% to 35% during 2013 – 2015\textsuperscript{19}.

The data suggests that Italy SMEs still face a number of barriers when attempting to access and win public contracts including:

- Bureaucratic burdens
- Inadequate segmentation of procurements
- Lack of knowledge and understanding about tender procedures
- Difficulties in obtaining information
- Type of procurer
- Procurement strategy / tender procedure
- Delayed payments\textsuperscript{20}.


\textsuperscript{18} EC Ref: Ares(2016)791120

\textsuperscript{19} European Commission: 2016 SBA Fact sheet – Italy

4.1.4 Creation of e-Marketplace (MEPA)

Launched in 2003 and currently operating with an e-catalogue of more than one million items, MePA is one of the leading e-marketplaces currently operating in Europe. Managed by Consip, MePA provides a paperless environment for awarding (mainly) low value public contracts for goods and services. MePA aims to become part of the solution to encourage the participation of SMEs in the public procurement market. Figure 6 provides an illustration of the MePA concept.

Figure 6: MePA: The Conceptual Scheme

MePA encourages enterprises to engage with contracting authorities located throughout Italy. The e-marketplace provides operational flexibility, allowing for direct awarding from standardized online catalogues and for e-auctions as requests for quotations.

To better understand public procurement procedures and operational policies employed by MEPA, a review of MEPA processes was undertaken. Results of the review summarised in a form of model business process presents annex 1.

Whereas published contract award notices provide an excellent basis for the estimation of SMEs’ share of above threshold tenders, only minimal information is available on how SMEs fare in below-threshold procurement competitions. Designed to maximise access to public procurement, MePA encouraged SMEs participation in public procurement exercises as:

- Registration is free of charge to both suppliers and purchasers
- Transactions are digitalized
- Use of digital signature ensures conformity and transparency
- The e-marketplace provides an open platform to publish standardised online catalogues


MEPA business model

The provision of an e-marketplace is important for SMEs as historically there has been low rates of online sales due to poor investment in ICT technology and ICT training. Figure 7 presents the estimated share of small value public contracts won by aggregate value of contracts between 2009 and 2011.

**Figure 7: Share of ‘low value’ contracts won by aggregate value of contracts 2009-2011**

<table>
<thead>
<tr>
<th>Size</th>
<th>Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Micro</td>
<td>10%</td>
</tr>
<tr>
<td>Small</td>
<td>22%</td>
</tr>
<tr>
<td>Medium</td>
<td>29%</td>
</tr>
<tr>
<td>Large</td>
<td>39%</td>
</tr>
</tbody>
</table>

Source: EC Ref. Ares(2016)791120

The data [estimated] shows that SMEs’ share of ‘low value’ contracts by value during 2009 – 2011 was 61%. Interestingly, the share between medium, small and micro enterprises reduces from 29%, to 22% and 10% respectively. This suggests that the smaller the enterprise the more difficult it is to win in low value procurement competitions. For the EU-27, the average SMEs’ share of ‘low value’ contracts by value was 59%, with medium sized enterprise winning 24% of value, small sized enterprises winning 22% of value and micro 13% of value.

Therefore, although SMEs’ in Italy secure a larger share of ‘low value’ contracts than the EU-27 average by 2%, with medium sized enterprises securing 5% greater share of value than the EU-27 on average, micro enterprises secure 3% less of value than the EU-27. That said, Italy SMEs’ secure 41% greater share of share of ‘low value’ contracts than the least best performing nation Sweden, where micro enterprises only secure 6% of value.

Evidence suggests that the threshold value above which in particular micro and small enterprises are impacted by competition from larger enterprises is €50k\(^2\). Therefore, the Italian market reinforces findings at the EU level that contract value is crucial in determining the success rate of SMEs in public procurement procedures and as such the key success factor in ensuring that open competition is good for SME development in Italy.

\(^2\) Gian Luigi Albano, Roberto Zampino, Some Evidence of ‘Smart’ Public Procurement: Solutions for SMEs in Italy
Although historically, the regulatory burden was a major factor in SMEs participating in public sector competitions, the core problem lies in late payments. Even though the EU’s Late Payment Directive establishes that contracting authorities have to pay for goods or services within 30 days, payments completed by procurers remains at an average of 65 days\(^{23}\). This in turn influences SMEs access to finance, a major issue impacting SME development.

### 4.1.5 Findings

The case of the Italian e-Marketplace confirms that sound management of the electronic procurement process is paramount to ensuring both the efficiency and effectiveness of public procurement tenders regardless of the value of the public contract, with improvements in small value procedures resulting in bigger gains or small businesses.

Introducing targeted procurement tools and modern procurement management techniques brought an undisputable success for the e-Marketplace, because legislative, procedural and information technology tools were oriented on reducing the administrative burden of participation in public tenders and decreasing the risk of non-payment by public sector buyers.

Removing red tape and decreasing barriers to entry by adopting electronic purchasing tools resulted in improved market share and encouraged greater levels of participation of SMEs in public tenders in Italy. Nonetheless, published data on the disproportion between micro and small enterprises success rates suggests that some barriers to entry have remained since SMEs are still not winning the majority of small value contracts in spite of simplified procedures employed by the e-Marketplace, with statistics on high value tenders demonstrating an even lower market share of SMEs in Italy. Building on the success of Consip dedicated tools, these barriers to entry to the public procurement market need to be further eroded to increase access. Similarly, better SME success rates in open competition compared to negotiated procedures and procedures with prequalification hints on unnecessary complexity of procurement procedures and relates to difficulties resulting from knowledge asymmetry. Finally, if in reality Italian SMEs are most successful with contract values below €50k and achieve better results with selections based on price, it is perhaps worthwhile to redesign public procurement policies for small value contracts to expand policies governing contracts below 50,000 euros to higher values below the GPA/EU thresholds for high value procurement.

\(^{23}\) European Commission: 2016 SBA Fact sheet – Italy
1 Decision on purchasing strategy
2 Supplier management
3 Marketplace catalogue administration
4 Purchasing on Marketplace

1.1 Identify product categories not in Framework Agreements.
1.2 Assess purchasers needs if low value (Y/N)
1.3 Is the category of products low value?
1.4 Framework Agreement.
1.5 No
1.6 Define products and product attributes to be presented in the catalogue.
1.7 Preliminary development of a standard template for establishing the catalogue.
1.8 Finalize product list for catalogue, supporting technical specification and a catalogue template with mandatory and optional fields.
1.9 Publication of notice. Send invitations to registered Suppliers.
1.10 Potential Suppliers invited to participate in the procurement competition.

Low means in total below €50K p.a. in each category (e.g. IT equipment).
For example: screen size, screen resolution etc… Defining is not formalized. Experts are from the Contracting Authority.
Marketplace Administration

2.1 Request for participation received.

2.2 Participant registered.

2.3 12 months.

2.4 Request to confirm declaration to participate.

2.5 Verification.

2.6 Continues to be eligible?

2.7 Information on exclusion.

2.8 No Participant excluded.

2.9 Yes Participant remains qualified.

2.10 15 days

2.11 Application for participation received.

2.12 Ad hoc review of supplier during prequalification valid period.

2.13 The reason is to proof the validity of information included in declarations (at any point during the process).

2.14 Assessment of submitted information / documents.

2.15 Is the information sufficient?

2.16 Deadline for submission

2.17 Information on disqualification.

2.18 Participant disqualified.

2.19 Yes Disconnecting Supplier’s catalogues from Marketplace.

2.20 Participant remains qualified.

2.21 Confirmation on validity of prequalification Supplier.

2.22 Participant remains qualified.

2.23 Request for additional information.

2.24 Is the information sufficient?

2.25 No Submission of additional information / documents.

2.26 Need for review

2.27 Request for additional information.

2.28 Disconnecting Supplier’s catalogues from Marketplace.

2.29 Participant disqualified.

2.30 Participant remains qualified.

2.31 Need for review
Marketplace Administration

Supplier

Request for participation received.

Registration of participant.

Is additional information / clarification required?

Request for additional information or clarifications.

Assessment of additional information / clarifications.

Request for participation rejection.

Notification of registration and invitation to submit a product catalogue.

Is new participant registered on eProcurement system?

No

Participant not registered for Marketplace.

Yes

Notification of registration and invitation to submit a product catalogue.

Request for new participant registration on eProcurement system.

Approval of registration.

Participant registered for Marketplace.

Notification of registration and invitation to submit a product catalogue.

Request for new participant registration on eProcurement system.

Approval of registration.

Participant registered for Marketplace.

Supplier

Registration form

Inc. catalogue name, period of validity, list of buyers (optional), list of Suppliers that are approved, template.

With dispatch of a template

Establishing new workspace.

Notification on workspace readiness.

Publishing new catalogue.

Administration of running catalogue.

End of life cycle of the workspace.

Workspace closed

Life cycle is defined in the Establishing of a Workspace.

Marketplace Administration

At least one participant qualified.

3.1 Establishing new workspace.

3.2 Notification on workspace readiness.

3.3 Publishing new catalogue.

3.4 Administration of running catalogue.

3.5 End of life cycle of the workspace.

3.6 Workspace closed

Marketplace Administration
Catalogue is prepared by Supplier on template in Excel format and uploaded onto the system where it is converted into a catalogue.
Refers to new version of a catalogue or 1st version of new Suppliers catalogue. Supplier can change catalogue at any time by submitting a new catalogue. Change of prices, attributes or products in a catalogue require the publishing of a new catalogue (which is a new version of the catalogue).

Reasons for exclusion: poor performance, misconduct, breach of legal requirements in Marketplace

Purchaser can be excluded for misconduct in Marketplace
CHAPTER 4   WITHOUT QUOTAS AND PREFERENCES – LEADING EXAMPLES OF SMES SUPPORT...

Purchaser

1. Need for purchase

2. Searching for a product in Marketplace

3. Is suitable product in Marketplace?
   - Yes
   - No

4. Is purchase above 50 K €?
   - Yes
   - No

5. Organize new tender

6. Is purchase below 2 K €?
   - Yes
   - No

7. Do I want quotations?
   - Yes
   - No

8. Request for quotations

9. Placing order to selected supplier/s

10. Purchase done

---

**Determining if suitable number of suppliers exist?**

- Yes
  - Standard procedure.
  - Information like: quantity, location, bundle or per item award, bid submission deadline.

- No
  - Quotation ended.

**Purchaser to assess if Suppliers can and are interested to deliver products to certain conditions inc: quantity, time and location – when such conditions differ from that included in the catalogue.**

**Deadlines cannot be shorter than 7 days when estimated value is between €15K and €50K.

---

**System notification to selected Suppliers.**

**Collecting of updated quotation.**

**Displaying prices for purchaser.**

**Responding to the bid with a price update.**

**RFQ process concluded.**

---

**Order placed at Supplier.**
**Marketplace Administration**

1. **3.5.1.1** Request for inclusion
   - **3.5.1.2** Verification of registration
     - **3.5.1.3** Is supplier properly registered?
       - **3.5.1.4** Registration
         - **3.5.1.5** Dispatching of a template
           - **3.5.1.6** Supplier included

---

**Supplier**

---

**Purchaser**

1. **4.1** Searching for a product in Marketplace
   - **4.2** Is suitable product?
     - **4.3** Is purchase above 50 K €?
       - **4.4** Is purchase below 2 K €?
         - **4.5** Yes
           - **4.6** No
             - **4.7** Organize new tender
               - **4.8** Request for quotations
                 - **4.9** Placing order to selected supplier/s
                   - **4.10** Purchase done
                     - **4.7** Yes
                       - **4.10** Purchase done
                       - **4.7** No
                         - **4.10** Purchase done

---

Annex 1. e-Marketplace (MEPA) business model
4.8.1 Selecting suitable products from specific catalogues

4.8.2 Completing details to be dispatched to the bidders

Information like:
- quantity
- location
- bundle or per item award
- bid submission deadline

4.8.3 Determining if suitable number of suppliers exist?

Yes

4.8.7 Evaluating of bids and award decision

No

4.8.10 Details submitted to the system

4.8.11 System notification to selected suppliers

4.8.12 Displaying prices for purchaser

4.8.13 Deadline

4.8.14 Supplier notified

4.8.15 RFQ process concluded

4.8.16 RFQ participation concluded.

4.8.17 Responding to the bid with a price update

4.8.18 Placing the order

4.8.19 Order placed at supplier

4.8.20 Purchaser has to assess if suppliers can and are interested to deliver products on certain conditions (quantity, time and location) when such conditions differ from those included in catalogue.
4.2 e-Agora in Cyprus

Background

Already before accession to the EU the public procurement system in the Republic of Cyprus was respecting principles of open competition, transparency and equal treatment. Following accession to the EU in 2004, the national procurement system has been reformed to embrace the 2004 EU directives on public procurement and the introduction of electronic public procurement.

The Treasury of the Republic of Cyprus is assigned the role of the national public procurement authority and this role is delivered through its Public Procurement Directorate (PPD).

The PPD ensures the fair treatment of suppliers through policies, stakeholder support, and the monitoring of contracting authorities in implementing its public procurement legal framework.

This aim of this case study is to appraise the impact eProcurement legislation has had on the levels of participation and success rates for SMEs in public sector tenders. Building on this aim the objectives of the case study include:

- Place a value on the size of the public procurement market
- List the thresholds employed in public procurement competitions
- Identify the economic contribution made by SMEs’ to the economy
- Determine the levels of SME participation in procurement competitions
- Assess the success rates of SMEs’ in public procurement competitions
- Draw conclusions and provide a series of recommendations
4.2.1 Public procurement market in Cyprus

Figure 1 presents the size of the public procurement market in 2016. On average the public procurement market is valued at €500m per year, awarded through approximately 4000 contracts by 20-30 Contracting Authorities. That said, for 2016 the value of public purchasing was €609m awarded through 5241 contracts. This increase is explained by the fact that 2016 signals the commencement of Cyprus exit from the financial crisis.

For 2016, above EU threshold contracts accounted for 66% of annual spend, while above simplified and below EU threshold contracts accounted for 25% of spend, and below simplified threshold 9% of spend.

However, this flexibility introduces challenges. Currently there is no full information on micro contract awards, with a value of < €2000. Moreover, there is limited control of simplified procedures, and as such there is a lack of monitoring of contract opportunities and their visibility to micro and small sized enterprises – the natural beneficiaries of low value public contracts.

Figure 1: Size of public procurement market in 2016

Source: Treasury of the Republic of Cyprus
Procurement process thresholds

The public procurement legal framework sets escalating thresholds for the purchase of goods, services and works – see Figure 2. The law provides flexibility for low value purchases and in particular for contracts with a value for up to €50,000 (€80,000 for services) where the contracting authority may employ simplified procurement procedures.

Figure 2: Public procurement process thresholds

![Procurement procedure table]

- Up to €2,000 for supplies and works and €5,000 for services
  - May assign directly a contract without having conducted a procurement process
- Up to €15,000 for supplies and works and €25,000 for services
  - May ask for tenders either orally or in writing from a limited number of operators
- Up to €50,000 for supplies and works and €80,000 for services
  - Tender documents to at least 4 interested operators – 7 days notice
  - Publication of a notice on eProcurement System and Official Gazette (OG)
- €135,000 for supplies and services and €5,225,000 for works
  - Publication of a notice on eProcurement System OG and Official Journal of EU

Above threshold procurement
- Publication of a notice on eProcurement System OG and Official Journal of EU

Source: Treasury of the Republic of Cyprus

Figure 3 presents the volume of awarded contracts per threshold. Above EU threshold accounts for 18% of all contracts awarded, while above simplified and below EU account for 11% of contracts awarded, and below simplified 72% of contacts awarded by volume.

Figure 3: Volume of awarded contracts

![Volume of awarded contracts pie chart]

Source: Treasury of the Republic of Cyprus
**Figure 4** presents the number of contracts awarded by organisation type. Governmental organisations account for 79% of contracts awarded during 2016, with bodies governed by public law accounting for 15%, and local authorities and the utility sector accounting for the remainder at 3% each.

**Figure 4: Contract volume by organisation type**

Source: Treasury of the Republic of Cyprus

**Figure 5** presents the details of contract values by organisation type. Governmental organisations account for 71% of contract value during 2016, with bodies governed by law accounting for 20%, and local authorities and the utility sector accounting for the remainder at 4% and 5% respectively. Put differently, governmental organisations spend in 2016 was twice as big as the remaining purchasing organisations combined.

**Figure 5: Contract values by organisation type**

Source: Treasury of the Republic of Cyprus
Purchasing split between individual contracting authorities and central purchasing in 2016, shows that decentralised purchasing of individual contracting authorities accounted for 77% of public procurement purchasing (€470m), with central purchasing accounting for the remainder at 23% (€138m).

The analysis reinforces the need for contracting authorities to employ measures and tools to negate any barriers that SMEs may encounter – and in particular micro and small enterprises – to participate in and win public procurement competitions.

### 4.2.2 Enterprise structure

**Figure 6** presents the industrial structure of Cyprus enterprises. In Cyprus, micro firms (employing < 9 people) account for 94% of all enterprises; while small firms (employing 10-49 people) account for 5% of all enterprises. On average, Cyprus micro enterprises employ on average 2-3 people. The remaining 1% is split between medium (employing 50-249 persons) at approximately 0.86%, and large (employing 250 + people) at approximately 0.14% of all enterprises.

The EC 2016 SME Performance Review\(^1\) reports that Cyprus SMEs employ 83.33% of all enterprise employment. Micro enterprises employ 38.05%, small 23.61%, and medium 21.67% of enterprise employment.

**Figure 6: Industrial structure of economically active enterprises**

As demonstrated Cyprus has a significant dependance on SMEs as they contribute greatly to employment. Moreover, the EC 2016 SME Performance Review reports that SMEs contribute 71.91% value added to the Cyprus economy, with micro enterprises contributing 23.25%, small 26.16%, and medium 22.51%. Compared to other EU countries, Cyprus is 14.5% ahead of the EU average, 8.44% behind Malta the best placed country, and 24.6% ahead of Ireland the least best performing country. Therefore a healthy SME population and in particular a resilient micro enterprise community is of paramount importance for Cyprus moving forward.

4.2.3 SMEs participation in public procurement in Cyprus

SMEs are key to the social and economic development of Cyprus and a key provider of goods, services and works to government. Although the value of setting targets for contracts awarded to SMEs is acknowledged, competition needs to remain open to all parties, without bias to the size of the enterprise, to ensure the principles of transparency, equal treatment and non discrimination are achieved.

Encouraging SMEs participation
To encourage SME participation in government procurement, the PPD employed a series of initiatives and measures, including:

- Publication of a Best Practice Guide on public procurement
- Identifications of pit falls and lessons learnt in tendering for public sector contracts
- Provision of capability building initiatives – pro gratis – both towards contracting authorities and SMEs on key topics inc: procurement law; procurement procedures; best practices etc…..
- Guidance to contracting authorities on designing procedures to reduce administrative burden for participation
- Design of framework agreements with a view to remove barriers to entry for SMEs and facilitate participation for small local producers
- Early publication of the intention to procure allowing SMEs time to prepare for competitions or to establish partnerships / consortia
- Selection criteria to be limited through the use of a European Single Procurement Document consisting of an updated self – declaration which results in SMEs not required to submit supporting documents already in the contracting authorities possession
- Where appropriate, participation allowed to parties without having previous experience either based on the capacities of a third entity or through partnerships / consortia
- Restrictions on use of turnover as a barrier to entry in public procurement competitions
- Payments made – by law – within 30 days of invoice
- Tendering split into lots to make more attractive bundles for SMEs both in number and in size

Promoting eProcurement to improve access to public tenders
Introduced across the country in 2009, the Cyprus electronic public procurement system (eProcurement system) was the first major tool that encouraged SMEs to engage in public procurement irrespective of their geographical location. Currently there are over 13k enterprises registered on the eProcurement system comprising 10k Cyprus based enterprises, and 3k overseas enterprises. Since 2009 the eProcurement system has provided a support framework to encourage participation in public procurement competitions, including:

- Simplicity: the system notifies all registered enterprises upon publication of a competition
- Speed: all procurement process communications are completed electronically
4.2 eAgora in Cyprus

- Cost: the public procurement platform is free to use for both contracting authorities and enterprises
- Certainty: procurement notice, tender documents, communications and award decision are all published on the platform and available to all stakeholders
- Fit-to-context: process management is undertaken electronically which provides an audit trail

The introduction of eProcurement for public tenders was undertaken at a time when public procurement was conducted on paper and managed manually. Consequently, eProcurement has both reduced and simplified the overall end-to-end lead time for undertaking a competition from identification of need to final payment. This is particularly true for standardised goods, services and works. Following the implementation of eProcurement eCatalogues and eOrdering modules were also introduced.

To encourage greater levels of SME participation – and in particular participation from micro enterprises – an upgrade to the eProcurement system is currently under implementation. As soon as the upgrade is concluded, it is envisaged to extend the obligation for mandatory submission of tenders for competitions above EU thresholds – valid since 2015 – to also cover below threshold procurement. This shall finalise Cyprus achieving total eProcurement implementation from identification of need to payment.

**SMEs-friendly framework agreements**

In 2009 the PPD introduced Framework Agreements for common use repetitive purchasing or to address complex markets with a view to achieve economies of scale and reduce administration costs.

Considering number of SMEs, the methodology for framework agreements was carefully designed to recognise the needs of micro and small enterprises and to employ methods for encouraging SME participation in centralised aggregated procurement. In particular, when deciding how to structure the framework agreement, the PPD shall consider the type of framework agreement; the number of enterprises to be selected to participate in the framework agreement; the awarding mechanism; the breakdown of awards; and, the market actors including micro and small enterprises that could participate in the centralised competition. As a result, in Cyprus as a matter of principle the centralised public tenders are structured to cater for the needs of local industry, and more specifically local micro or small producers to avoid exclusions from centralised purchasing due to capacity constraints.

With both framework agreements and eAgora in operation, the PPD may decide which purchasing strategy should be employed for specific types of goods. When demand for some common use goods is high and regular, this product category will be included and the PPD will prepare and conduct a centralised competition for establishing a new framework agreement.

When demand for some common use goods is low and intermittent, the best fit would be to include these goods on eAgora, which will be open to all enterprises giving them the opportunity to join or leave at any point. Provided that a product category is considered appropriate for eAgora, a technical specification is drafted by the PPD administrators of the eAgora outlining specific product features that participants should provide information for their products to allow comparison. Administrators shall open a dossier and a new “Market” on eAgora will be created, and every enterprise registered on the eProcurement system will be invited to express an interest in uploading an electronic product catalogue and for accepting electronic orders.
4.2.4 eAgora – online purchasing of small value goods and services

Following a successful pilot, the PPD will now fully deploy eAgora as a component of the Cyprus eProcurement system to facilitate and organise micro and low value public contracts.

eAgora is a specialised electronic system that creates an online market for contracting authorities interested in purchasing of-the-shelf goods.

To promote competition, eAgora is set to allow every contracting authority to purchase on the platform, without previous publication of a tender. This means that eAgora employs only simplified procedures and purchasing is allowed only for micro and low value public contracts. Figure 7 presents the simplified electronic public procurement procedures employed through eAgora.

To better understand public procurement procedures and operational policies employed by e-Agora, a review of e-Agora procedures and processes was undertaken. Results of the review summarised in a form of model business process presents annex 2.

eAgora has established an environment which proactively encourages the participation of SMEs – and in particular micro enterprises – to participate in below threshold public procurement exercises. This affords SMEs’ the opportunity to engage in as many public procurement exercises as possible taking into account their volume, capacity, capability or geographical restrictions. Below threshold procurement will by definition take place more frequently than larger above threshold procedures, and be attractive to most micro and small sized enterprises.

Therefore, the full deployment of eAgora will contribute to enhancing the levels of competition for low value public procurement contracts in Cyprus and shall introduce accountability in public spending for micro and small value purchasing.

Selling at eAgora
Interested parties will then be able to upload – as a one-off exercise – all prequalification documents, certifications and assurances as required by EU Directives into the eProcurement system. Once prequalified, parties will receive invitations to submit electronic catalogues to be uploaded to eAgora. Following verification, administrators will publish the e-catalogue, and the supplier will be able to process electronic orders or requests for quotations by purchasers.

Purchasing on eAgora
If a contracting authority identifies a need which cannot be satisfied under an established framework agreement, and the purchase is below threshold the purchase can then be completed – although not compulsory – through eAgora.
Figure 7: Purchasing under eAgora

- Search eAgora and place directly an order, or
- Search eAgora, compare and ask for an updated bid from selected suppliers. Place an order to lowest price bidder.

Spend less than €2,000

- Search eAgora, compare and ask for an updated bid from at least two selected suppliers. Place an order to lowest price bidder.
- Search eAgora, compare at least two suitable products and place an order to the selected.

Spend less than €15,000

- Search eAgora, compare and ask for an updated bid from at least four selected suppliers. Give requirements and request for a bid allowing at least 7 days for submission. Place an order to winner according to criteria.
- Consider an open tender procedure if the environment in eAgora is not competitive enough.

Spend less than €50,000

Source: Treasury of the Republic of Cyprus

Consequently, eAgora will further open competition to suppliers of products historically unable to break into public sector procurement markets and especially micro and small product suppliers.

Registered benefits

In addition to providing a platform to undertake small value procurement procedures, eAgora provides a number of additional benefits including:

- Encourage participation of micro and small enterprises in public procurement
- Minimise transaction costs
- Remove geographical constraints
- Encourage enterprises to publish e-catalogues, process orders electronically and engage with eCommerce activities
- Secures greater value by avoiding direct awards and securing price updates
- Assists with delivering government policies through public procurement including environmental and social considerations
The PPD considers that the implementation of eAgora will add to the existing eProcurement framework which seeks to provide a holistic approach to Cyprus public procurement. Figure 8 presents an overview of the public procurement tools at each contracting authorities disposal.

Figure 8: Public procurement tools

However, the implementation of eAgora and the purchase of goods / services through simplified procedures does not come without challenges, including:

- How to ensure contracting authorities abide by the requirements of the legal framework
- How to ensure contracting authorities only procure what is required
- How to ensure effective spending is conducted based on need and not on desire

That said, whilst information is difficult to obtain for off system purchasing, the use of eAgora for low value purchasing will enable the PPD and contracting authorities to monitor public spending, to identify patterns and poor purchasing practices as well as improper conduct.

4.2.5 Findings

The policies and measures implemented throughout the Cyprus public procurement landscape over recent years have succeeded in creating an open and accessible public procurement market for all interested enterprises, in particular local SMEs.

The framework as designed, aims to cover the majority of contracting authorities needs via common purchasing tools like framework agreements and Dynamic Purchasing System, whilst using eAgora for the remainder of lower value common needs. The aim of this holistic approach to public procurement is to achieve the following objectives:
• Transparency and traceability of all public spending
• Simplification of the end-to-end public procurement supply chain
• Reduce costs through maximising competition and reduction of transaction costs
• Minimise waste through the manipulation of data to predict demand patterns
• Achieve just on time delivery to minimise inventory levels
• Mitigate procurement risk through electronic relationship management
• Robust administration of the end-to-end procurement and management process

Moreover, the market statistics collected by eAgora will also inform policy makers what further measures need to be taken to ensure SMEs are in a position to participate in and win public sector contracts.

To answer the question which provided the focus for the case study, open competition is not bad for Cyprus SME development. This is evidenced by SMEs higher participation in public tenders. SMEs in Cyprus have benefited from the introduction of open competition for public tenders, with support measures encouraging SMEs to participate in and by extension win public procurement contracts.

The deployment of eAgora for micro and low value contracts is already proving popular with local SMEs, and will encourage greater levels of micro and small enterprise activity in public procurement, while ensuring their competitiveness and efficiency.
Annex 2. e-Agora business process

1 Decision on purchasing strategy

2 Supplier management

3 eAgora catalogue administration

4 Purchasing on eAgora
1.1 Identifying product categories that are not in FA

1.2 Assess needs of purchasers if they are low value or not

1.3 Is it a low value category of products?

1.4 To the framework agreement

1.5 No

1.6 Preliminary development of a standard template for the establishment of catalogue

1.7 Market consultations

1.8 Finalizing product list for catalogue, their technical specification and a catalogue template with mandatory and optional fields.

1.9 Publication of notice and sending invitations to registered suppliers

1.10 Potential suppliers invited

1.11 Low means below 50,000 € per year in total in each category (where category means e.g., IT equipment, hardware tools (like hammers), and so on.

1.12 Invitations contains eligibility requirements for participation, including certificates if applicable.

1.13 Identifying products and product attributes that will be in catalogue

1.14 Initially defining the products and product attributes that will be in catalogue

1.15 Reviewing product list for catalogue, their technical specification, and mandatory and optional fields.

1.16 Publication of notice and sending invitations to registered suppliers

1.17 Potential suppliers invited

1.18 Low means below 50,000 € per year in total in each category (where category means e.g., IT equipment, hardware tools (like hammers), and so on.

1.19 Invitations contains eligibility requirements for participation, including certificates if applicable.
2.11 Application for participation received

2.12 Ad hoc review of supplier during prequalification validity period

2.13 Request to confirm that qualification criteria are fulfilled

2.14 Verification

2.15 Is continuous to be eligible?

2.16 Information on disqualification

2.17 Disconnecting supplier's catalogues from eAgora

2.18 Participant disqualified

2.19 Yes

2.20 Participant qualified

2.21 Ad hoc review of supplier during prequalification validity period

2.22 Request to confirm that qualification criteria are fulfilled

2.23 Verification

2.24 Is continuous to be eligible?

2.25 Information on disqualification

2.26 Disconnecting supplier's catalogues from eAgora

2.27 Participant disqualified

Annex 2. e-Agora business process
2.2.1 Request for participation received

- Qualification of participant’s compliance with selection criteria based on submitted request for participation
  - Is supplier qualified?
    - Yes
      - Notification on qualification and invitation to submit a product catalogue
    - No
      - Request for additional information or clarifications
  - Is the information satisfactory?
    - Yes
      - Notification on qualification and invitation to submit a product catalogue
    - No
      - Request for new participant registration on eProcurement system
  - Is new participant registered on eProcurement system?
    - Yes
      - Participant qualified for eAgora
    - No
      - Approval of registration

2.2.2 Registration form

2.2.3 Request for additional information or clarifications

2.2.4 Assessment of clarification/additional information

2.2.5 Request notification on disqualification

2.2.6 Deadline for submission

2.2.7 Request notification on disqualification
3.1 Establishing new workspace
3.2 Notification on workspace readiness
3.3 Publishing new catalogue
3.4 Administration of running catalogue
3.5 Termination by administration
3.6 End of life cycle of the workspace

Catalog name, period of validity, list of buyers (optional), list of suppliers that are approved, template.

Life cycle is defined in the Establishing of a Workspace.
3.4.1 New or new version of catalogue.

Catalogue is prepared by supplier on template in Excel form and uploaded on the system where it is converted to a catalogue.

3.4.2 Uploading the catalogue

3.4.3 Proofing of uploaded catalogue

3.4.4 Is catalogue compliant?

No

Accepting of a catalogue and approving to be visible to purchasers

Yes

3.4.5 Catalogue is prepared by supplier on template in Excel form and uploaded on the system where it is converted to a catalogue.

Catalogue published
It refers to new version of a catalogue or 1st version of new suppliers catalogue. Supplier can change catalogue any time he needs. It is made by submitting a new catalogue. Change of prices, attributes or products in catalogue need a publishing of a new catalogue (which is new version of catalogue).

Exclusion can happen upon:
- request of supplier
- bad performance or misbehaving in eAgora
- breach of legal requirements

Exclusion can happen upon:
- request of purchaser
- misbehaving in eAgora

- Including new prequalified supplier
- Publishing of catalogue
- Registering new purchaser upon request
- Upgrading of catalogue template
- Excluding supplier
- Excluding purchaser
Annex 2. e-Agora business process

1. Need for purchase
2. Searching for a product in eAgora
   - Is suitable product in eAgora?
     - Yes: Organize new tender
     - No: Is purchase below 50 K €?
       - Yes: No
       - No: Is purchase below 2 K €?
         - Yes: Do I want quotations?
         - No: Request for quotations
3. Request for quotations
4. Is supplier prequalified?
   - No: Prequalification
   - Yes: Dispatching of a template
5. Verification of prequalification
6. Is supplier prequalified?
   - No: Prequalification
   - Yes: Supplier included
7. Supplier included
8. Purchaser
   - Need for purchase
     - Is purchase below 50 K €?
       - Yes: No
       - No: Is purchase below 2 K €?
         - Yes: Do I want quotations?
         - No: Request for quotations
10. Placing order to selected supplier/s
11. Purchase done
Title: Selecting suitable products from specific catalogues

- **4.8.1** Selecting suitable products from specific catalogues
- **4.8.2** Completing details to be dispatched to the bidders
- **4.8.6** System notification to selected suppliers
- **4.8.11** Responding to the bid with a price update
- **4.8.14** Displaying prices for purchaser
- **4.8.16** Supplier notified
- **4.8.17** Collecting of updated quotation
- **4.8.18** RFQ participation concluded
- **4.8.7** Evaluating of bids and award decision
- **4.8.9** Order placed at supplier
- **4.8.15** RFQ process concluded
- **4.8.10** Details submitted to the system
- **4.8.13** Deadline
- **4.8.12** Supplier notified
- **4.8.19** Responding to the bid with a price update
- **4.8.21** RFQ participation concluded

**Suitable numbers of supplier:**
- 0-2 K€ - 1+
- 2 K€ - 15 K€ - 2+
- 15 K€ - 50 K€ - 4+

**Criteria:**
- Purchaser has to assess if suppliers can and are interested to deliver products on certain conditions (quantity, time and location) when such conditions differ from that included in the catalogue.
- Deadlines cannot be shorter than 7 days when estimated value is between 15 K€ and 50 K€.
PROZORRO IN UKRAINE
4.3 Prozorro in Ukraine

Introduction

The last two years has seen a seismic shift throughout Ukraine’s public procurement landscape: progressive reforms, accession to the World Trade Organization (WTO), Agreement on Government Procurement (GPA), and the introduction of electronic procurement. These reforms seek to completely transform public procurement in Ukraine, and open a new era of transparency after decades of endemic corruption linked to government contracts. One long-lasting legacy of the Soviet era was a procurement regime controlled by the country’s ruling elite and exploited in their financial and political interests. A dense network of red tape ensured that discretionary decisions about the awarding of public contracts remained hidden from public scrutiny. As well as creating the conditions for opportunistic nepotism and bribery to proliferate, this lack of transparency allowed vertical schemes for the shadow funding of political parties to flourish.

These reforms are also expected to generate huge savings for the public purse, improve the quality of public service delivery and help promote economic growth. Particularly as a result of Prozorro – the country’s new electronic procurement system – large numbers of local suppliers are learning to trust the public procurement market for the first time and participate in public sector procurement competitions. This has resulted in greater levels of competition and by extension Ukrainian taxpayers are getting better value for money. The aim of the new public procurement legislation and the deployment of electronic public procurement through ProZorro is to open up public procurement competitions to all Ukraine enterprises. At the same time – following a 2015 pilot – Ukraine embedded procedures for below threshold public procurement to encourage the participation of SMEs in tendering for public sector contracts.

The aim of this case study is to review the impact of the reforms and the introduction of electronic public procurement on the levels of participation and success rates of SMEs in public procurement competitions. Building on this aim the objectives of the case study include:

- Place a value on the size of the public procurement market
- Detail the public procurement thresholds employed and scope of use of electronic procurement
- Quantify the levels of participation of SME in public procurement
- Quantify the success rates of SMEs in public procurement
- Place a value on the savings achieved since the deployment of Prozorro in the context of SMEs participation

Informed by the objectives, the case study seeks to answer whether the reforms which focused on transparency, open competition and creating an accessible electronic public procurement system have negatively or positively influenced Ukraine SME development.

For the purposes of this case study, to enable a comparative analysis with the EU Member States, the EC\(^1\) definition of an SME is employed, except for revenue. To adjust to Ukrainian market, an SME in Ukraine is defined as an enterprise with revenue of less than €10m.

4.3.1 Public procurement market and thresholds

The total annual value of the Ukrainian public procurement market is estimated at UAH 87.12bn. This estimate is based on information on national public procurement collected via the electronic procurement system since it became mandatory on 1st April 2016.

Ukraine public procurement regulation employs three thresholds, namely:

- Below threshold of national public procurement legislation (micro procurement)
- Low value procurement (above equivalent of 7,000 euros), and
- High value procurement (above the GPA/EU directives thresholds)

Structure of public procurement markets

Figure 1 presents 2016 data for the three principal procurement thresholds. In short, 23% of public procurement was conducted in simplified competitive procedures / reverse auctions for micro value procurement (UAH 20bn), with 28% of public procurement conducted in simplified procedures for low value spend administered through above threshold UA procedures (UAH 25bn), with the remaining 48% through above threshold EU procedures (UAH 42bn).

Figure 1: Procurement procedure share by value and quantity of bidders

Source: bi.prozorro.org

Figure 1 also presents the split of public procurement procedures employed against a total of all public procurement. During 2016, micro value procedures accounted for 89% of all public procurement spending, with 80% of bidders local SMEs. On average 2.37 bids were received for each micro tender. In low value procedures, accounting for 10% of all public procurement, 93% of participants were local SMEs. In the remaining 1.0% of tenders with a value above GPA/EU thresholds, 81% of participants were SMEs.

Figure 2 presents the quantity of bids per threshold made by SMEs. The data highlights that SMEs are currently well represented in each procurement threshold.
For example, SMEs are responsible for 98% of bids in all micro value tenders, 96% of bids in low value tenders, and 88% bids in high value tenders (procedures above the GPA/EU thresholds). In other words, in addition to participating in micro and low value tenders – which could be expected due to their financial and technical capacity limitations – SMEs are also present in high value public tenders with good success rates.

### 4.3.2 SMEs participation in public procurement in Ukraine

To encourage SMEs participation in public procurement and to reduce the administrative burden in undertaking public tenders, during the latest reforms the government of Ukraine has employed the following measures:

- Restricted direct awarding to exceptional cases
- Implemented simplified electronic competitive procedures for micro and low value procurement
- Removed the need to pre-qualify in order to participate in simplified electronic procedures
- Removed the requirement to provide proof of capacity by introducing self-declarations on capacity as basis for participation in public tenders
- Undertaken a regional marketing campaign to promote participation in electronic public tenders to local SMEs.

To better understand public procurement procedures and operational policies employed by Prozorro, a review of Prozorro procedures and processes was undertaken. The results of the review - summarised in a business process model – is presented in annex 3.
Figure 3 presents the details of SMEs participating in public procurement. In 2016, 98% of SMEs took part in at least one public procurement exercise. Put differently, 28,927 SMEs engaged in public procurement activity. Participating SMEs took part in 145,128 tenders – 90.2% of the total volume of tenders on offer. Moreover, SMEs won 77.3% of the total 2016 Ukraine public procurement spend – Figure 4 – valued at UAH 58.19bn.

Figure 3: Industrial classification of bidders

Source: bi.prozorro.org

Figure 4: Value of awards by industrial classification

Source: bi.prozorro.org

\[ \text{Total volume of SMEs} \, 29,526. \]
Figure 5 presents details of the quantity of bidders versus the value of contracts. SMEs represented 92% of total bidders for procurement exercises valued less than UAH 1m. For procurement exercises valued below UAH 500k this rises to 95%, and for procurement exercises valued below UAH 100k this increases to 98% participation rates.

Figure 5: Quantity of awarded bidders by awarded value range

SME/Non-SME participation by Awarded value ranges

Source: bi.prozorro.org

Clearly, new public procurement legislation in Ukraine has established a framework which opens up competition in public tenders and encourages SME to bid for public contracts. The data on public tenders collected by Prozorro demonstrates that SMEs – and in particular micro and small enterprises – are participating in large numbers in micro and low value tenders. This suggests that public procurement reforms undertaken in Ukraine have created a new market in economic terms for small business and enabled them to effectively participate in public procurement.
Figure 6 presents details of the 10 tender categories where both SMEs and non-SMEs participated in public procurement exercises during 2016. The data shows that although SMEs are eager to participate in all procurement categories, the highest participation is in categories – for example agriculture, farming, fishing, forestry – where it could be argued the barriers to entry are at their lowest.

Figure 6: Tender categories

The data suggests that lower barriers to entry will encourage greater participation from all three SME categories. Moreover, a number of these categories may also favour the splitting of contracts into lots which will also encourage the participation of micro and small enterprises which historically have been excluded from participation as a consequence of their insufficient capacity in terms of turnover.

Conversely, where barriers to entry remain high and where it is difficult to split contracts into lots, there was a lower representation of SMEs competing. Therefore, based on Ukrainian data it can be concluded that assisting with the removal of barriers to entry in the public procurement market and encouraging the splitting of contracts into lots will result in increased levels of SME participation in public tenders.
**SMEs success rates in public tenders**

The dividend of the Ukrainian reforms can be demonstrated in the high numbers of SMEs bidding for and winning public contracts, compared to public procurement markets in many EU Member States.

**Figure 7** presents the structure of enterprises bidding for and winning public sector contracts. The data recorded on electronic public procurement system confirms that in 2016, 98% of bidders can be classified as SMEs. Of this, 74% can be classified as micro enterprises, 19% as small enterprises, and 7% as medium-sized enterprises. The analysis shows that, 98% of SMEs were awarded contracts.

**Figure 7: Structure of enterprises bidding for and awarded contracts**

Source: bi.prozorro.org

**Figure 8: Structure of enterprises winning contracts**

Source: bi.prozorro.org
Figure 8 presents the structure of SMEs winning public sector contracts. In 2016, 98% of SMEs achieved success in at least one public tender. Taking this in turn, micro enterprises won 58.68% of all awarded tenders, with small sized enterprises winning 22.3% of tenders, and medium-sized enterprises achieving success in 9.5% of tenders. The remaining 9.8% were awarded to large enterprises.

### 4.3.3 Findings

This study aimed at appraising how new public procurement legislation and new innovative electronic public procurement introduced in Ukraine in 2015 impacted on the levels of participation and success rates for SMEs in public tenders.

Based on public procurement data for 2016, when the new legal regime became mandatory for all public sector in Ukraine, micro and low value procurement accounted for 89.22% of all public procurement, with 80% of SMEs participating in micro and low value tenders and being awarded 71.76% of micro and low contracts, with a total value of UAH 12.72 B (€0.43bn).

New public procurement policies and the introduction of electronic procurement encouraged SMEs to engage in public bidding and resulted in 91% of SMEs participating in at least one public tender, representing 77% of the total number of public tenders in Ukraine.

During 2016, 68% of SMEs in the country were successful in at least one public tender. As an additional bonus, increase of competition for micro and low value tenders and SMEs successfully winning contracts to provide goods and services resulted in substantial levels of savings for the state budget (total savings are valued at UAH 8.3 B (€0.28 bn) and reflect a difference between prices of awarded contracts compared to estimated costs published by contracting authorities before the tender).

**Budget savings**

A key driver to the deployment of open competition is to secure increasing levels of value for money. Figure 9 presents the average savings for all small and micro value contracts achieved versus savings for large tenders awarded during 2016.

For contracts awarded during 2016, the percentage savings realised through the award of below threshold contracts was 15.8% representing a monetary value of UAH 3.65bn, while the savings realised through the award of above the threshold contacts was 9.8% representing a monetary value of UAH 6.38bn.

Figure 10 presents the average savings for bid amounts and savings by SMEs versus non-SMEs. For bids submitted during 2016, the percentage savings achieved from SMEs was 12.2% representing a monetary value of UAH 8.3bn, while savings realised from Non-SMEs was 8.7% representing a monetary value of UAH 1.7bn.

---

3 For the purpose of this case study, savings are defined as the difference between planned sum announced during the publication of the tender and the final agreed price in the signed contract.

4 Because all competitive procedures in Ukrainian public procurement use mandatory reduction the final price could be significantly lower.
Figure 9: Bid amount and savings by UA threshold

Source: bi.prozorro.org

Figure 10: Bid amount and savings by SME / Non-SME

Source: bi.prozorro.org
In other words, the increased use of competition in micro and low value contracts underpinned by the splitting of contracts into lots resulted in a high number of micro and small-sized enterprises participating in public sector competitions. The consequence of this level of participation was the lowering of prices and greater levels of savings achieved for the Ukraine public purse.

The public procurement reforms in Ukraine focused on improving access to public procurement for all Ukraine enterprises by increasing transparency and competition in public tenders. However, the above analysis demonstrates that local SMEs have benefited more from the transition to open competition than large enterprises. Put differently, Prozorro has provided greater levels of transparency with regard to public procurement and created a competitive but accessible market for all SMEs including micro, small and medium sized enterprises.

The deployment of simplified electronic public procurement procedures for micro and low value contracts resulted in high levels of SMEs participation and winning public contracts.

It needs to be underlined that in 2016 in Ukraine SMEs were awarded 72.54% of high value public contracts that were resulting from 1260 competitive public tenders above the GPA/EU thresholds. This is 16.54 per cent higher than estimated 56 per cent of all public procurement contracts above the EU thresholds awarded to SMEs in the EU Member States.

Learning from this positive experience with opening the public procurement market to competition and improving accessibility to bidding by introducing an electronic public procurement solution, the government of Ukraine is considering further improvements to access tenders for SMEs by decreasing red tape and integrating national state registries and improving the use of digital signatures. It is also discussed how to improve and make less expensive remedies procedures, because while large companies are defending their interests well, SMEs are still less keen to complain about public tenders.

To answer to the question underpinning the case study, open competition is not bad for SMEs market share in public procurement in Ukraine; on the contrary open competition in low barrier, accessible and transparent electronic public procurement market favours SMEs participation and increases their success rates in public procurement.
Annex 3. Prozorro micro and small value procedures business model

![Diagram](image-url)
ProZorro Supplier ANCE

ProZorro Registration and Prequalification for Shopping Mall

Ad hoc review of supplier during prequalification validity period

1.1 Request with electronic signature

1.2 ProZorro sends Single Form (ProZorro Registration and Prequalification) to Supplier

1.3 ProZorro sends Single Form (requests for Electronic Signature, ProZorro Registration and Prequalification) to Supplier

1.4 Registration

1.5 Registration form [electronically undersigned]

1.6 Is Supplier prequalified?

1.7 Information reg. rejection

1.8 No

1.9 ProZorro includes Supplier in the prequalified Suppliers list on shopping mall for 12 months

1.10 30 days

1.11 Exclusion from prequalified suppliers list

1.12 Registration of updated data

1.13 11 month after registration of Supplier data

1.14 Yes

1.15 Participant remains qualified

1.16 Participant disqualified

1.17 Request for additional information

1.18 Assessment of submitted information/documents

1.19 Confirmation on validity of prequalification supplier

1.20 Request

1.21 Request without electronic signature

1.22 Request for additional information

1.23 Assessment of submitted information/documents

1.24 Reason for review

1.25 Information on disqualification

1.26 No

1.27 Deadline for submission

1.28 Participant disqualified

1.29 Yes

1.30 Participant remains qualified

Annex 3. Prozorro micro and small value procedures business model
### CHAPTER 4   WITHOUT QUOTAS AND PREFERENCES – LEADING EXAMPLES OF SMES SUPPORT...

#### (OVERVIEW)
### 2.3 Product not in catalogue - point of view ProZorro

<table>
<thead>
<tr>
<th>Contracting Entity</th>
<th>Deadline for sending of Proposals (5 days)</th>
<th>Deadline for complaints (5 days starting from receiving of information)</th>
<th>Execution</th>
</tr>
</thead>
<tbody>
<tr>
<td>ProZorro</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Budget</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tender notice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[without budget]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total maximum</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>available budget</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>registration on</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TUNEP</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lowest bid released for technical evaluation or information about no bids received sent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are any proposal received before deadline?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information on rejection of technical proposal of winning supplier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information about cancellation.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cancellation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Award notice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Received</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Was a successful complaint received?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information about cancellation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information on rejection of technical proposal of winning supplier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Publication of cancellation notice on ProZorro website</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tender (cancelled)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Publication of award notice on ProZorro website</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedure [completed]</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Legend:
- **> neutral**
- **> positive**
- **> negative**

#### Budget
- Total maximum available budget
- Registration on TUNEP

#### Tender notice
- [without budget]

#### Proposals
- Lowest bid released for technical evaluation or information about no bids received sent
- Are any proposal received before deadline?

#### Cancellation
- Was a successful complaint received?
- Information about cancellation

#### Complaints
- Information on rejection of technical proposal of winning supplier
- Cancellation

#### Procedure
- [completed]
No Product / Service in Product Catalogue

Deadline for sending of Proposals (5 days)

Proposals above declared estimated budget are automatically rejected by the ProZorro system

Minimum 3 proposals received for evaluation

ProZorro sends Invitation to tender including tender tech. specification to prequalified suppliers from the list based on their location and product category

Converting tender notice into invitation for prequalified suppliers

Proposals received

5 days

ProZorro sorts all proposals received based on price

Invitation [without budget]

Annex 3. ProZorro micro and small value procedures business model
Deadline for complaints (5 day starting from receiving of information)  
Deadline (10 day starting from receiving of complaint)

<table>
<thead>
<tr>
<th>Contracting Entity</th>
</tr>
</thead>
</table>

ProZorro

2.3.31.1 ProZorro publishes rejection of technical proposal and informs supplier

2.3.31.32 Complaint received

2.3.31.39 Complaint [registered at ProZorro for review]

2.3.31.40 ProZorro sends complaint for review

2.3.31.41 Review decision received

2.3.31.42 ProZorro records and publishes review decision

Complaint successful?

No

Proposal rejected

Yes

Any other proposals on list?

No

Tender for cancellation

Yes

Next proposal analyse

2.3.31.43

No

2.3.31.44

2.3.31.33 Deadline for complaint

2.3.31.34 Yes

ProZorro records and publishes review decision

2.3.31.35 No

Next proposal analyse
### 2.3 Product not in catalogue - point of view Supplier

#### Deadline for sending of Proposals (5 days)

- **Invitation** [without budget]

#### Deadline for complaints (5 day starting from receiving of information)

- **Deadline** (10 day starting from receiving of complain)

#### Execution

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.3.48</td>
<td>Submission of proposal.</td>
</tr>
<tr>
<td>2.3.49</td>
<td>Receiving information about selected supplier / service provider.</td>
</tr>
<tr>
<td>2.3.50</td>
<td>Information from ProZorro on non-compliance with technical specification.</td>
</tr>
<tr>
<td>2.3.51</td>
<td>Is Supplier to complain against proposal to be rejected?</td>
</tr>
<tr>
<td>2.3.52</td>
<td>Submission of complaint to ProZorro.</td>
</tr>
<tr>
<td>2.3.53</td>
<td>Review decision received.</td>
</tr>
<tr>
<td>2.3.54</td>
<td>Complaint accepted?</td>
</tr>
<tr>
<td>2.3.55</td>
<td>Yes</td>
</tr>
<tr>
<td>2.3.56</td>
<td>No</td>
</tr>
</tbody>
</table>

#### Proposal contains:

1) Declaration that qualification criteria are complied with
2) Technical proposal
3) Financial proposal

#### Proposal to be rejected by Contracting Authority due to product or service non-compliant with tender technical specification.
Invitation to tender received
Invitation to tender sent by ProZorro to suppliers with requested product / service in the catalogue

Sending information on awarding supplier

Price quotation received for comparison

Price comparison

Publication of award notice on ProZorro website

Publication

Information about selected supplier / service provider received

Procedure [completed]

Contract

Contracting Entity

Supplier
Contracting Entity

- Contract is signed by Contracting Authority and is sent to ProZorro for registration and signing by Supplier.

ProZorro

- Contract is received for signing
- Registration of contract
- Sending to supplier
- Signed contract recording in ProZorro
- Generating contract delivery and payment schedule for Contracting Authority and Supplier.

Supplier

- Contract received for signing
- Undersigned contract sent
- Receiving contract delivery and payment schedule

Annex 3. ProZorro micro and small value procedures business model
2.6.1 Contract for administration

2.6.2 Change contract

2.6.3 Contract deliverable/s.

2.6.4 Amendment and extension of the contract

2.6.5 Contract final completion

2.6.6 Contract ended

Changes cannot be undertaken.
Validation: must be signed. Catalogue of possible changes: volume cuts, item price variation, price reduction, (cannot be greater than 10%) tax rate, third party. Must be published. Additional contract: new items (if exist), new date, new value.
2.6.5.1  Contract to be ended

2.6.5.2  Registration of contract end

2.6.5.3  Publishing of contract execution report on ProZorro

2.6.5.4  Was the contract terminated?

2.6.5.5  Yes

2.6.5.6  No

2.6.5.7  Registration of release of guarantee

2.6.5.8  Publishing of contract termination reasons

2.6.5.9  Publishing of contract

2.6.5.10  Registration of contract

2.6.5.11  Contract ended

Contracting Entity

ProZorro

Annex 3. Prozorro micro and small value procedures business model
5. LESSONS LEARNED

No quotas, no privileges, no bureaucracy

While working in different market conditions, public procurement support programmes for small business in Cyprus, Italy and Ukraine are connected by focusing on facilitating SME participation in public procurement markets without resorting to preferential treatment.

Different public procurement procedures and purchasing tools were developed in each country to suit the characteristics of specific public procurement markets for micro, small and high value or aggregated public contracts. There was no intention to create a preferential method of public purchasing restricted to SME participation. A common feature of all three national programmes is their clear understanding of the proportionality principle in public procurement regulations, and the efforts made to align the complexity of public procurement regulations – and the purchasing tools used in local practice by contracting authorities – with the value and type of public contract.

Second, shared value is the reliance on competition in public procurement. None of the support programmes promoted the direct awarding of public contracts provided that the supplier preferred by a contracting authority is an SME. In fact, the opposite was the case; all evaluated instruments were designed to restrict uncontrolled direct awarding but to offer contracting entities a simple, easy, quick but transparent competitive procedure for micro and low value contracts for goods and services. To promote competition special attention has been paid to decrease barriers to entry to public procurement markets for micro and low value contracts. Terms of participation in small value procedures were (a) simplified to fit market best practice, and (b) standardised to be understood in the same way across the national public sector. This approach resulted in minimising bureaucracy without compromising on transparency and accountability of public procurements.

The third common feature is the decision of respective governments to embrace innovative IT ideas and to update public procurement policies to create breakthrough electronic procurement solutions for the public sector.

When first implemented in 2003, the Italian e-Marketplace was the first national-level programme of this type in Europe and perhaps third globally. e-Agora in Cyprus, launched in 2010, learnt from the Italian e-Marketplace experience and improved the online e-catalogue concept by creating a single online shopping system for public buyers that enables purchasing from framework agreements as well as from e-catalogues. Shared e-catalogues prompted the development of easy price quotation systems across all online e-catalogues. Taken together, this creates a modern and attractive shopping experience for public buyers, with tedious public procurement bureaucracy forgotten but transparency safeguards enhanced. Prozorro developed in Ukraine in challenging market conditions, introduced a collaborative and networking approach to electronic public procurement solutions. Prozorro promotes highly accessible, competitive and fully transparent online procurement procedures, with monitoring and feedback on quality of procurements provided by civil society organisations.
Finally, all three governments implemented public procurement SME support programmes in parallel or as a follow-up to reforms targeting freedom of enterprise and freedom of information legislation. All these reforms addressed excessive red tape which discouraged the registration of new businesses, anecdotal levels of tax avoidance among SMEs, and public administration habits of conducting public affairs behind closed doors. In Italy, new freedom of information legislation introduced default open access to public information, including all information on public procurement and requested government bodies to publish online public information in Open Data formats.

It transpired that all three reviewed SME programmes focused first on addressing legal, market access and complexity barriers to public procurement markets. Simplifying regulation, optimising the procurement process for the electronic environment and targeting open access to public procurement markets, are the most distinctive common features of SME programmes in Cyprus, Italy and Ukraine.

**Common legal, operational and institutional features**

In particular, the programmes in Cyprus, Italy and Ukraine implemented the following policy instruments:

- Competitive online marketplaces, open to all public sector buyers for micro and low value contracts for goods and services
- Simplified online bidding procedures, from electronic reverse auctions to online price quotations from e-catalogues, with standardised lowest price or price and other criteria selections
- Open access for suppliers and service providers to participate in the marketplace, based on transparent registration or simplified pre-qualification procedure
- Default public notice on all public contracts, accompanied with an invitation to all registered SMEs to participate in auction, tender or price quotation
- Self-declaration as a proof of capacity, verified upon winning a tender
- Standardised product description templates on electronic catalogues for public sector buyers to enable equal access for all interested suppliers
- Supermarket shopping experience approach, with e-catalogues for public sector buyers offering choice of goods within predefined functional or technical options, to offer a basic, medium or best product / functionality available on the market and in clearly defined price brackets
- ‘Quick order, quick delivery’ principle to encourage ‘in-stock’ approach and guaranteed availability of goods and services listed in e-catalogues
In addition, Cyprus and Italy addressed the barrier to entry problem of excessive financial and technical requirements imposed by public sector buyers by encouraging uniformity of procurement practice and standardised procurement processes by establishing responsible public procurement markets operators. Public sector buyers are not left to their own devices how to implement SME friendly public procurement in micro and low value contracts, but are provided with dedicated procedures and standardised tools preventing disproportionate technical and financial requirements, guiding a selection process by standardised online workflows and reducing discretion when not required.

In Cyprus, the Treasury of the Republic of Cyprus is not only responsible for developing new public procurement policies but its departments are effectively playing a role of managers of public procurement markets and operators of dedicated electronic public procurement systems.

In Italy, implementation responsibilities were delegated by the Ministry of Finance to the central purchasing body – CONSIP. Within CONSIP dedicated units are responsible for managing specific public procurement markets, achieving efficiency and horizontal policy targets in public procurement. Moreover, these units also operate dedicated electronic public procurement systems such as the e-Marketplace (MEPA).

In summary, examples of successful SME support programmes are in fact reforms targeting market failures of public procurement regulation, insufficient access to public procurement business opportunities, complexity of procurement procedures and excessive red tape.

Evidence presented in case studies on small value purchasing from Cyprus, Italy and Ukraine confirms that while reforms targeting competition and transparency generate improvements to public procurement systems as a whole, in practice they benefit local SMEs the most by securing access to new markets.

Important and evidenced by empirical data from ChileCompra and Prozorro (no detailed data is available for Cyprus and Italy), is that engaging SMEs in competitive public bidding is not negatively affecting savings in public procurement. Put differently, SMEs winning a greater share of public contracts is good for the public purse.

Research undertaken by ChileCompra and analytical information from Prozorro presented in the case study, with both markets operating ‘open access’ and ‘low barriers to entry’ electronic public procurement systems confirms the following:

a) In competitive lowest price procurement processes higher participation of SMEs increases the probability of achieving savings

b) Adopting measures increasing the probability to award SMEs contracts such as allowing for lots in high value procurement and partial bids (bids for a subset of products in a tender) would not affect the probability of achieving savings

c) The probability to increase awarding public contracts to SMEs increases if the value of the public contract is kept low
Learning from the implementations in Cyprus, Italy and Ukraine as a recipe for success in SME support programmes in public procurement, the key is for governments to focus on: creating competitive public procurement markets; removing barriers to entry to public procurement markets; retaining a balance between centralised and decentralised public procurement; and, safeguarding considerate centralised purchasing practices.

**Remove barriers to participation**

At the most basic and least controversial, governments may correct or remove barriers to public procurement markets. Anything that makes the public procurement process easier and lowers the cost of participation will have a greater relative result for SMEs. Procurement reforms should focus on creating a business and policy environment where all enterprises small and large can operate in confidence and compete openly in undistorted markets. Instead of offering preferences, governments should ensure that there is a freedom of enterprise, there are legal rules to enforce contract and property rights, and that public procurement information is widely accessible online and in Open Data standards. In essence, public procurement regulation should allow the private sector to compete effectively for public contracts by safeguarding transparency and competition, and reducing transaction costs.

**Considerate centralised purchasing**

It is vital not only to adopt legal measures reflecting market best practice that is beneficial to SMEs. Equally important is to raise awareness among public buyers and central purchasing bodies in particular regarding the role of SMEs in the national economy. Centralised public procurement may positively impact on SMEs market share in the high value public procurement market by streamlining procurement processes and developing uniform business practice without excluding SMEs from bidding for aggregated contracts. Practical considerations in implementing electronic framework agreements in an SME friendly-manner, with permitted regional lots and guaranteed prompt payment for goods and services may achieve more than quotas, and are potentially easier to implement and less disruptive for the public procurement market.
BIBLIOGRAPHY


European Commission (2016), 2016 SBA Fact sheet – Italy, European Commission


Dept of Finance and Administration, Australian Government Information Management Office (2005), Case studies on e-procurement implementations: Italy, New South Wales, New Zealand, Scotland, Western Australia, Canberra: Department of Finance and Administration, Australian Government Information Management Office.


http://www.dbresearch.de/PROD/DBR_INTERNET_DE-PROD/PROD0000000000269867.PDF: accessed on 09.04.17


ACKNOWLEDGEMENTS

The EBRD would like to extend its gratitude to the Public Procurement Department of the Treasury of the Republic of Cyprus, the Public Procurement Policy Department of the Ministry of Economic Development and Trade of Ukraine, ChileCompra Chile and CONSIP Italy for their generous assistance in collecting relevant public procurement research and statistical information.

The production of this handbook was led for the EBRD by Eliza Niewiadomska, Senior Counsel, Legal Transition Programme, Office of the General Counsel.

The handbook was prepared by William A. Hetherington under the umbrella of technical cooperation projects of the EBRD Legal Transition Programme, with case studies contributed by William A. Hetherington (Italy), Philippos Katranis (Cyprus), Wojciech Hartung (Denmark, Poland) and Olexandr Starodubtsev and Dmitry Palamarchuk (Ukraine) and model business processes developed by Piotr Biernacki.