

PUBLIC PROCUREMENT REFORM

FACT SHEET No 1: GENERAL OVERVIEW

What is public procurement?

Public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies which they have selected for this purpose.

Examples include: building a state school, purchasing furniture for a public prosecutor's office or contracting cleaning services for a railway station.

Why introduce new rules?

Current European rules on public procurement date from 2004 and implement the principles and freedoms established by the EU treaties. They aim to make the procedures for awarding public procurement contracts transparent and open to all European companies, which can thus offer their services and products throughout the European Union.

Economic, social and political developments and current budgetary constraints have made it necessary to reform the rules, firstly to make them simpler and more efficient for public purchasers and companies and secondly to provide the best value for money for public purchases, while respecting the principles of transparency and competition.

Procurement in numbers: EUR 425 billion, or 3.4 % of EU GDP (2011 figures) under European directives.

What has changed under the new rules?

- The rules **simplify public procurement procedures and make them more flexible**, which will benefit both public purchasers (see FACT SHEET No 3) and businesses, particularly small and medium-sized companies (see FACT SHEET No 2):
 - public purchasers will be better able to **negotiate** the terms of contracts with companies to obtain the service that best suits their needs;
 - minimum **deadlines** for procedures will be shorter;
 - **regional and local authorities** will benefit from reduced publicity obligations and may set procedural deadlines (e.g. tendering bids), by mutual agreement with the participating companies;
 - only the winning company needs to submit all the documentation proving that it qualifies for the contract in question. For a company to participate in the procedure, it will be sufficient to submit a **self-declaration** that it fulfils these conditions, drastically reducing the volume of documents required for selecting companies.

- to further reduce the paperwork involved in public procurement, public procurement contracts will eventually have to be sent online rather than by post (see FACT SHEET No 4).
- **Public procurement** is becoming a **policy strategy instrument**: under the new rules, public procurement procedures will help public purchasers to implement environmental policies (see FACT SHEET No 7), as well as those governing social integration (see FACT SHEET No 8) and innovation (see FACT SHEET No 9). Thus:
 - public authorities will be able to base their decision on the best **life cycle cost** of the goods offered. Here, the CO2 footprint of products could be a decisive factor;
 - the same will apply to the **process** by which the work, services and supplies purchased are **produced**: employing the most vulnerable or disadvantaged people or using non-toxic substances may be a decisive factor in selecting the winning bidder;
 - the new procedure for the purchase of **innovative products and services** will stimulate innovation;
 - more is done to encourage social integration: any public purchaser may **reserve contracts**, not only for sheltered workshops, but also for companies whose main objective is to integrate disadvantaged workers into the world of work, provided that they account for at least 30 % of the organisation's workforce (compared to the current level of 50 %).
- **European small and medium-sized businesses**, with their significant potential for job creation, growth and innovation, **must have better access** to public procurement markets (see FACT SHEET No 2):
 - public purchasers will therefore be encouraged to award several contracts to various small businesses, rather than a single contract to a large company;
 - the turnover required to participate in public procurement will be limited to a maximum of double the estimated contract value.
- Stronger measures to prevent **conflicts of interest, favouritism and corruption** (see FACT SHEET No 10):
 - a new, clearer definition will require Member States to take steps to effectively prevent, identify and correct '**conflicts of interest**';
 - anyone attempting to influence a public purchaser or making false statements **may be excluded** from public procurement procedures;
 - it will be easier to identify cases where a **contract could be modified** after it is awarded, without a new call for tenders;

- finally, public purchasers must reject any **bid that comes at an abnormally low price** because the company concerned is violating EU or international social, environmental and labour laws.
- **Social, cultural and health services** and certain others, such as legal, hospitality, catering and canteen services listed in the Directives, will benefit from the **new simplified arrangements** (see FACT SHEET No 6):
 - these arrangements apply to contracts worth more than EUR 750 000 (compared with EUR 200 000 for other services);
 - public purchasers may award contracts to tenders that meet all quality criteria such as the accessibility, continuity and sustainability of the services offered, which they consider critical to the service concerned;
 - apart from the obligation to treat all companies equally and provide adequate publicity to the call for tenders and award of contracts, only national rules will apply to the relevant procedures.
- The new EU rules will not affect **the national organisation of public services**:
 - Member States will continue to choose the way in which they organise their public services. Public authorities may either carry out their own public service remit using their own resources or may draw on an external body;
 - rules on public procurement and concessions will apply only when a public authority decides to outsource services;
 - public procurement rules do not cover cooperation between public authorities, in particular municipalities: this cooperation is now governed by new rules which specify special conditions (see FACT SHEET No 5).