

Kommunstyrelsen
Yttrande

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Statement regarding public consultation on the EU Procurement Directive

The Municipal Council hereby submits its comments in relation to the public consultation concerning the EU Procurement Directive.

Strengthening the ability to reject bids with unreasonably low prices

The new European Procurement Directives must empower contracting authorities to take decisive action regarding unreasonably low pricing. Numerous procurements are plagued by strategic pricing tactics that often lead to complications throughout the contract period. It is essential that quoted prices also bear their own costs. This is a fundamental requirement for reassuring healthy competition and facilitating sound public procurement practices. Bidders who submit zero or negative prices should be rejected, as should those who propose unit prices that do not cover their own expenses.

Enhanced opportunities for monitoring bidders based on exclusion criteria

The new procurement directives need to enhance the conditions under which contracting authorities can verify bidders against exclusion criteria. It is crucial to have a consolidated capability to, for instance, check legal judgments involving bidders (including representatives of companies, as well as site managers and supervisors) across all member states. For contracting authorities to wield a powerful tool against welfare fraud and ensure that procurements are conducted under fair terms, it is vital that these verification tools are available for their use.

Strengthening the ability to require collective agreements in procurements

To secure fair working conditions for employees working with contracted suppliers, Uppsala Municipality asserts that the new procurement directives should permit the imposition of requirements for collective agreements. This would contribute to strengthening healthy competition in public procurements and also prevent poor working conditions for individual employees.

Strengthening the ability to limit the number of subcontracting tiers

The new procurement directives should create conditions that allow for the limitation of subcontracting tiers. An excessive number of subcontractors increases the risk of requirements not being passed down, making it more challenging to monitor all suppliers or contractors effectively. To facilitate decisive action against labour market crime, contracting authorities should be able to limit tiers in procurements where they deem such requirements

appropriate. This should be an option available to each contracting authority. It should also be emphasized that the issue is not merely the number of subcontractors but rather the potential to "hide" unscrupulous actors further down the chain. Uppsala Municipality seeks to limit this possibility.

Strengthening the ability to impose local/regional ties to enhance preparedness

To strengthen the robustness and preparedness of contracted agreements, contracting authorities must be empowered to impose localization requirements. This may include, for example, dividing food procurement to secure local/regional food production or for various types of transport, demolition, and construction services. To ensure deliveries in critical societal contracts, it is essential that more suppliers at the local/regional level can be conditioned in public procurements. This is crucial for the continuity of the societal mission that authorities have, particularly in times of crisis.

A unified procurement system at the national level

Several European member states have adopted a unified procurement system at the national level; however, Sweden has opted against such an approach, leading to each individual authority conducting its own procurements. In Sweden, multiple system providers exist, which means that bidders must submit proposals through various systems with different functionalities. Some system providers have even opted to impose fees on licenses for bidders, which is certainly detrimental. This can hinder small and medium-sized enterprises (SMEs) from choosing to participate in public procurements. To facilitate SME participation, the new procurement directives should advocate for all member states to implement a unified procurement system at the national level.

A more flexible regulatory framework to facilitate good public procurement practices

To establish conditions beneficial for good public procurement practices, the new procurement directives should adopt a more flexible approach. One request is for the possibility of negotiations to be permitted, regardless of the procurement procedure chosen. Currently, this option exists for procurements below the threshold and should be extended to those above.

Another request is to ease the regulations surrounding Dynamic Purchasing Systems (DPS). The regulations state that DPS is a fully electronic procurement method — beneficial for the submission of bids and qualifications. However, it should be clarified that, for instance, interviews are allowed during the evaluation phase of specific procurements conducted within the DPS framework, allowing contracting authorities to assess the accuracy of submitted information. We are on the brink of a paradigm shift regarding the use of AI, which is becoming increasingly widespread. To ensure that both contracting authorities and bidders feel secure in the process, the ability to conduct interviews must be included.

Furthermore, it is essential that the new procurement directives clarify that it is permissible to reserve contracts for social enterprises and non-profit organizations. Public authorities need to have the capacity to reserve contracts to enable more individuals to enter the job market, particularly those who are distant from said market.

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