



KONKURRENCE- OG FORBRUGERSTYRELSEN

SME-participation in public procurement
Market study

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SME-participation in public procurement

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Chapter 1

Main conclusions

1.1 Main conclusions

Danish public authorities purchase goods and services for about 290 billion DKK a year in the private sector. This makes the public sector a major buyer of goods and services from Danish companies. But, some companies experience challenges when they participate in public procurement. One of the reasons is that the procurement process demands considerable resources from the companies if they wish to take part in it.

This is particular the case for small and medium sized enterprises (SMEs) since the resources needed to participate in the public procurement processes accounts for a significant amount of smaller companies' total capacity. The SMEs also experience that procurement processes can be designed in ways that excludes smaller companies from bidding, for example, when large financial guaranties are needed which smaller companies cannot comply with on their own. This can keep the smaller companies from bidding when the public authorities are contracting out.

More than 97 % of all Danish companies fall under the definition of SMEs used in this report¹. Since SMEs make up such a large part of the Danish market it is crucial that the public sector maintain a good co-operation with these types of companies. This help to ensure that the competition in publicly provided services is efficient.

If the SMEs do not take part in the competition when public authorities contract out public services, it can have the effect that the competition narrows down to a small part of the market. This can result in a situation, where the public service being contracted out is not solved as efficiently as possible relative to price and quality and thus, the consequence can be an inefficient use of the taxpayers' money.

Besides potentially reducing competition in publicly provided services there is also a risk that the Danish growth potential is not being fully utilised if only a limited amount of the market actors do business with the public sector. Through public-private cooperation the market can contribute to the development of new solutions – for example new welfare technologies that both enhance the public sectors ability to solve its tasks and strengthen the Danish competitiveness. Since smaller companies make up a large part of the Danish market it is important that they participate and make bids when the public sector contracts out. In that way, most competencies comes into play and the growth potential is fully utilised.

¹ In this report the SME definition focus on companies, where participation in public procurement draws excessively on the companies' capacity relative to their core business. The definition contains companies with less than 50 employees and a yearly turnover/total balance sheet of maximum 10 million EUR. The definition is narrower than EU's definiton, which includes 99,7 % of all Danish companies.

When the public sector contracts out, there can be many reasons why the design of the contract results in the task being less attractive for SMEs. A central consideration should always be how to attain an efficient result for the public authority. In some cases it will be necessary to prioritize other considerations than SME participation to get the most efficient result. For example, in situations where the public sector can achieve economies of scale by contracting out comprehensive tasks. This does not exclude SMEs from the competition but can mean that these kinds of public contracts will be more attractive for larger companies.

This report examines to what extent SMEs participate when the Danish public sector contracts out publicly provided services. In addition to this, the report looks into what barriers that limits SME participation and also what kind of initiatives that can reduce such barriers.

1.2 Barriers

Today SMEs participate in the competition for two thirds of the tasks that the public sector contracts out. This is documented in an analysis of a number of publicly provided services that has been contracted out. That has been carried out on behalf of The Danish Competition and Consumer Authority for the purpose of this report. In the case, where the contracting authority could inform about the winner of the contract in the analysis, the SMEs have won about half of the public contracts. In comparison, the SMEs account for about one third of the turnover on the private market. This indicates that the number of SMEs partaking in the competition for publicly provided services is quite high both in terms of bidding and market share. It should be noted, that the figures are not directly comparable, as they are based on respectively number and value.

The high SME participation rate shows that many public tasks are contracted out in ways that make them attractive for SMEs. Even though the numbers are high it is important that there is a forward-looking focus to keep the competition for public services open for smaller companies in order to ensure efficient competition and optimal utilisation of the growth potential.

In the process of making this report, a reference group of organisations with knowledge of the conditions for SMEs participation in the competition for publicly provided services has been set up. The reference group's participants have pointed out a number of barriers, which potentially limits the SMEs participation in the competition for publicly provided services. It should be noticed that it is not the whole reference group that considers all the mentioned challenges as barriers, but that one or more members of the group has identified the barriers. The barriers can be summarised by the following three headings:

Resource demanding procurement processes: High documentation requirements and short deadlines make it unnecessarily costly to enter into a public procurement process. Participants from the reference group estimate that there is a need for dialogue between companies and contracting authorities in relation to public procurement. More dialog will ensure that contracting authorities are aware of the opportunities that the actors in the market – among these the SMEs – can offer so that the contract notice does not automatically exclude alternative solutions.

Complex and inflexible procurements with unnecessarily high requirements: Participants in the reference group point out that many SMEs consider it a barrier that contracting authorities only to a limited extent gives companies the possibility to make use of new ideas and innovation when they are bidding on a public contract. For example, because the requirements are formulated too overtly detailed. This can in some circumstances limit the companies abilities to make use of their specific competencies and keep them from bidding. The public procurement rules set a frame for how a public procurement should be carried out; which in some circumstances limit the contracting authorities' option to make room for innovation and new

ideas. However, within the frame of the public procurement rules there is a range of opportunities for public procurers to open up for new solutions. For example, by making greater use of functional requirements. Participants from the reference group assess that there is a potential for contracting authorities to make even more use of these alternatives. If the procurement contains very high requirements on for example guaranties, it can also prevent SMEs from competing for publicly provided services. Finally, reference group participants point to imprecise and complex formulated contract notices as a reason for unnecessarily resource demanding procurement processes.

The need for more knowledge: Reference group participant's estimate that some SMEs have limited knowledge about the public procurement rules. This can keep SMEs from competing for publicly provided services, for example if they continuously have submitted bids which in the end fail to comply with the requirements set by the contracting authority. Limited knowledge about cooperation with SMEs within contracting authorities can also be a barrier. The authority needs to have a good understanding of the market in which they act, if they are to identify when and how it is relevant to focus on SMEs when they contract out.

The identified barriers are particularly an obstacle for smaller companies but can also have influence on larger companies. Many large companies could benefit from being able to offer new and innovative solutions to the public sector. And many companies could benefit from public authorities having greater knowledge about the market in which they act. Initiatives aimed at making it easier for SMEs to partake in the competition for publicly provided services will therefore strengthen the conditions for public-private cooperation widely.

1.3 Recommendations

There is in general a positive trend surrounding SMEs involvement when the Danish public sector contracts out. The Competition and Consumer Authority has through dialogue with stakeholders in the area identified seven initiatives, which it would be beneficial to carry out in order to diminish the outlined barriers making it easier for companies to compete for publicly provided services. The recommendations are shown in Box 1.1. The recommendations are ment to ensure that as many companies as possible wish to take part in the competition for publicly provided services.

The recommendations are particularly aimed at creating better conditions for SMEs in relation to competing for public contracts, but they will benefit all types of businesses by making it easier to participate in the competition for public sector contracts.

The purpose of the recommendations is also to enhance efficient public procurement. Increased involvement of SMEs in the public sectors problem solving should be designed to support efficient purchases. It is essential that the recommendations benefit both public authorities and private companies.

The recommendations are aimed at increasing public procurer focus on SMEs, and at helping companies to become better in the competition for public services that are contracted out.

The recommendations draw on positive experiences from England with regards to furthering of SME participation in the competition for public services. Based on the English experiences the recommendations focus on e-procurement, increased dialog between business and public and, on implementing market knowledge to the public authority. Existing English initiatives also serve as an inspiration to the recommendations. For example, an informal feedback function and a procurement platform feature that allow public authorities to highlight public contracts suited that are particularly well suited for SMEs.

**Box 1.1
Recommendations from
The Competition and Consumer Authority in order
to promote SME participation in the competition for
publicly provided services:**

- » *Advice and information to companies about dialogue:* The Competition and Consumer Authority recommend that guidance on possibilities of entering into dialogue with the public sector with specific focus on SMEs is developed. The guidance must account for when and how companies can contact a contracting public authority without risk of being banned from the competition. This will make it easier for smaller companies to enter the competition in a constructive manner and ensure the best possible results.
- » *Enhancing the use of e-procurement:* The Competition and Consumer Authority recommends that an identification of opportunities and barriers be uncovered in order to expand the use of e-procurement in Denmark. E-procurement can make it easier for SMEs to compete for public contracts because the processes are uniform and because the risk of making mistakes is reduced. E-procurement can help reduce the transaction costs of procurement for both companies and authorities, and an increasing use of e-procurement will enhance the companies' interest in competing thereby making the competition as strong as possible.
- » *Informal feedback-function on udbud.dk:* The Competition and Consumer Authority recommend that the Danish procurement portal udbud.dk be extended with an informal feedback function where companies can comment on a concrete procurement. For example, companies can inform contracting authorities if they find the requirements of the contract notice too inflexible or comprehensive, or if there is too much focus on price. Contracting authorities can use this feedback to better public procurement in the future. The companies can also provide feedback about the actual process for example about deadlines or documentation requirements. This can promote a more flexible and simple process when contracting out, which in turn can contribute to an increased the competition.
- » *Increased use of functional requirements:* The Competition and Consumer Authority recommend that standard formulations on functional requirements in central areas are drawn up. Functional requirements can ensure a flexible contract notice giving the companies better opportunity to offer new ideas and innovative solutions. In order to ensure that companies are able to handle public contracts with functional requirements the agency recommends the preparation of guidance material on how to bid on public procurements based on functional requirements.
- » *Further development of udbud.dk:* The Competition and Consumer Authority recommends that the Danish procurement portal udbud.dk will be extended so that the public contracts are more accessible for companies, for example, with an udbud.dk application for smart phones that makes it possible to follow new public contracts and a flag function that gives the contracting authorities the option to mark a contract if they consider it especially relevant for SMEs. This will increase the contracting authorities' attention to smaller companies and in general make it easier for companies to compete when publicly provided services are contracted out.
- » *Guidance to contracting authorities on how to carry out market research:* The Competition and Consumer Authority recommends that guidance on how to carry out market research effectively is developed. Through market research contracting authorities will be able to estimate whether a concrete public contract advantageously can be contracted out with particular focus on SME participation. In general, market research can ensure that public services are contracted out in a way that strengthens the competition for publicly provided services.
- » *Preparation of paradigms for the procurement processes:* The Competition and Consumer Authority recommend the preparation of paradigms for the different of a procurement process. For example, for prequalification valuations, tender evaluations and awards that public authorities can use when contracting out public services. This will help to ensure that contract notices and the processes are as easy and uniform as possible for the companies to take part in. The paradigms can also make it easier and less costly for contracting authorities to contract out public services.