From Idea to Product with the Help of Public Authorities
- Public Procurement Issues

18 April 2024
Initial thoughts - be proactive and prepare

- TRLs/MRL/organisation may impact how and in what ways you can/will cooperate with the Public Authority

- When you are invited to participate in procurement procedures – note what is required from you and what is in it for you

- Work on your ”contract readiness level”
Legislation on public procurement and procurement within the utilities sector

- Legislation based on EU directives, implemented in all EU Member states
- All acquisitions of goods, services and works
- Made by
  - State, regional or local authorities
  - Entities governed by such public authorities (e.g. kommunala bolag)
  - Associations formed by such public authorities
  - Certain private utility owners for the purpose of the utility service
- The law is addressed to the public authorities
# Threshold Values 2024

<table>
<thead>
<tr>
<th>Public sector</th>
<th>Procurement utilities sector</th>
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<tbody>
<tr>
<td>Public works</td>
<td>EUR 5 382 000</td>
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<tr>
<td>Goods and services</td>
<td>EUR 143 000</td>
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<td>Public service contracts, social services etc.</td>
<td>EUR 750 000</td>
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Procurement procedures above thresholds

- Open procedure
- Restricted procedure
- Negotiated procedure
- Competitive dialogue
- Innovation partnership
- (Negotiated procedure without prior publication of a call)

Publication on EU level (and national) of call for competition
Procurement procedures below thresholds

• National rules
• Often simplified procedures
• The fundamental procurement principles are still relevant (acc. the Treaty of the functioning of the EU)
• Competitive process
• Often requirement of publication of calls on a national level
• Direct purchasing – no competitive process – only contracts of a very low value
Non-compliance with the rules

• The public authority:
  • Correction of procedure or retake of the whole procedure
  • Risk having to pay damages to economic operators and/or penalties to supervising authorities
• Signed contracts could be declared void
  • Repayment of amounts
• Limited possibilities to amend or vary procured contracts
Procuring innovations

- Procurement based on functional requirements
- Innovation Partnership
- Competitive dialogue
- Procurement of a pilot

R&D contracts not financed or only partly financed by the PA typically fall outside the procurement rules (not an acquisition)
Phases of the procedure of a published call

**OPEN**

- Market Dialogue/RFI
- Publication of contract notice
- Calculation period
- Submission of tender
- Evaluation
- Contract award
- Q&A
Phases of the procedure of a published call

- **Market Dialogue/ RFI**
  - Prior information notice
- **Selection**
  - Invitation to submit tender to selected candidates
- **Calculation period**
- **Evaluation, (negotiation)**
- **Submission of tender**
- **Contract award**

**Restrictive Negotiated**
Possibilities in procurements subject to published calls

- Focus on the Market Dialogue
- Examples of what the supplier can achieve:

<table>
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<th>for itself</th>
<th>for the public authority</th>
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<td>• Awareness of opportunities</td>
<td>• Awareness of constraints</td>
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<tr>
<td>• Knowledge of PA needs</td>
<td>• Encourage request for information</td>
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<tr>
<td>• Knowledge of PA concerns</td>
<td>• Ensure that the mandatory requirements of the contract document will be achievable</td>
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<td>• Enable readiness to submit tender</td>
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Example of procedures of procuring of pilot and the final result

**Alternative X**
- Direct procurement of pilot
- Publication of contract notice – requirements based on pilot, "full" contract
- Delivery of pilot
- Contract award

**Alternative Y**
- Publication of contract notice – functional requirements based on dialogue, "full" contract delivered in phases
- Contract award
- Right for PA to terminate contract after pilot phase or right to buy the developed goods/service
Prepare to be ready to submit a tender

Will we meet the qualification criteria?
• Economic and financial standing
• Technical and professional ability

Will our goods/services meet the technical specifications?
• Mandatory requirements which must be achieved
• Certifications

Can we team up with other companies?
Economic and financial standing

- Minimum turnover (not higher than 2 x contract value)
- Financial key indicators
- Minimum credit risk rating according to established institutes (e.g. in Sweden Creditsafe and UC)
Technical and professional ability

- Reference projects as proof of required experience of similar projects
- CV:n of key personnel as proof of required knowledge, experience and ability
- Organisational charge as proof of necessary resources to perform the contract
- Quality system - ISO or similar (relevance is increasing, e.g. for businesses covered by NIS II Directive)
Last minute advise

➢ Read the published call or prior notice carefully.

➢ Check the time schedule. When is the last day for submission? When is the last day to ask questions?

➢ Note all mandatory/absolut requirements that you need to fulfil.

➢ Make sure that you respond to all these requirements and that you provide all required proofs and documentation.

➢ If parts of the tender will be graded during the evaluation – make sure that your tender covers all requested aspects. Don’t provide too little information - put yourself in the PA:s position!

➢ If you didn’t win the contract - contact the PA and ask what you can do better next time.
Contact

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