

Executive Summary

SME-friendly organisation of public procurement

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Public contracts to procure goods, services or construction work must be put out to tender in a formal procurement process. In the coalition agreement, the German government agreed to reorganise the public procurement process, aiming at a faster, more efficient, and more digital procurement process. In addition, they aim to strengthen the sustainable orientation of public procurement without increasing the access barriers for SMEs (so-called SME-friendliness). The study examines which obstacles SMEs currently experience when participating in public tenders and how these can be resolved in the course of the amendment.

SMEs experience obstacles at every stage of the procurement process

Both the evaluation of statements from a public consultation of the Federal Ministry for Economic Affairs and Climate Action (BMWK) and the analysis of international literature show that SMEs experience obstacles at every stage of the procurement process. This can result in SMEs refraining from participating in public tenders despite their interest in public contracts. The obstacles include a lack of information and difficulty in contacting the contracting authority, a lack of user-friendliness on the digital platforms, high requirements of the tender, and excessive bureaucracy. Some of these obstacles even occur in several phases of the procurement process.

Better equipment of contracting authorities and harmonised legal framework as key solutions

There are several possible solutions to reduce the obstacles for SMEs. Some of these can already be implemented but are often not used by the contracting authorities due to a lack of personnel resources. Therefore, better equipping the contracting authorities seems to be crucial to reduce the obstacles faced by SMEs. Furthermore, harmonising the legal framework would be helpful to increase the efficiency of the contracting authorities. In addition, the harmonisation would have positive effects on the entire procurement process, e.g. by facilitating the implementation of a more user-friendly digitalization.

SME-friendliness should be considered more when reorganising public procurement

Regarding the plans of the German government to make the public procurement more sustainable and efficient, there might arise conflicts with the objective of SME-friendliness. In particular, strengthening sustainable procurement could

further increase the obstacles faced by SMEs, e.g. due to the need to provide additional evidence to proof that the requirements can be met. Therefore, this suggests strengthening the sustainable orientation of public procurement in a two-stage-process: In the first step, the obstacles for SMEs should be removed. In the second step, a more sustainable procurement should be implemented. Alternatively, a more sustainable orientation of public procurement could be achieved by dispensing with the need to provide additional evidence and references relating to sustainability. While this would be beneficial for SMEs, it would negatively impact the legal certainty. However, other countries with innovative public procurement show that this approach could work.