



"The voice of crafts and SMEs in Europe"

Public procurement: "trialogue" talks last chance to get rules right, warn SMEs

UEAPME insists on "apply or explain" principle for lots and variants; speaks against shorter time limits and exemptions for public authorities

Brussels, 21 February 2013 – The European Parliament and the Council must ensure greater and easier participation for SMEs in their future "trialogue" talks on the new public procurement directive, according to UEAPME, the European craft and SME employers' organisation. The European Parliament's Internal Market Committee voted today to enter negotiations with the Council on this key file. Several pending issues will have to be determined in these talks. In particular, UEAPME asked both institutions to reinstate the "apply or explain" principle, by which contracting authorities should separate tenders into lots as a rule, or otherwise state their reasons for not doing so. The association also spoke in favour of allowing variants and against any further reduction of the time limits to express interest and to prepare a tender. Finally, UEAPME warned about the risk of unfair competition for SMEs if public authorities operating also on the private market are exempted from the new directive.

"Today's decision by the Parliament to enter negotiations on public procurement with the Council is the last chance to really facilitate SMEs' participation in public tenders. Although this was a clear goal of the original proposal put forward by the European Commission, the discussions in the other institutions have left a lot to be desired so far in this respect. Hopefully the upcoming 'trialogue' talks will fix this", said Economic and Fiscal Policy Director **Gerhard Huemer**.

First of all, the possibility by default to divide into lots all tenders worth more than 500.000 EUR must be kept, continued Mr Huemer. The European Commission had originally suggested using the "apply or explain" principle, by which contracting authorities should separate tenders into lots as a rule, or otherwise state their reasons for not doing so. While the Council agrees with this approach, unfortunately the Parliament's Internal Market Committee wants to delete this clause. *"Many small businesses cannot face a whole public contract on their own, but would happily work on just one part of the project. Keeping the division into lots as default is fundamental for these companies",* commented Mr Huemer.

Secondly, variants in public tenders should be allowed as a matter of principle. The "apply or explain" rule should also apply to variants, stressed Mr Huemer. In this case, the Parliament is in favour and the Council is against as of now. *"Variants are a very cost-effective way to provide a better, often more innovative solution to the tender requirements. For instance, a small company could suggest using different materials or another technology than what the tender foresees to reach its goals. Allowing variants would greatly help innovative SMEs",* Mr Huemer said.

Thirdly, further cuts on time limits for the receipt of tenders and for participation requests cannot be accepted. The European Commission already shortened these deadlines significantly compared to the current rules. The Council wants to reduce them even further. As an example, the deadline for open tenders would go from 52 days at the moment down to 40 days according to the EC. The Council is looking at 35 days, with a further cut to 30 days for electronic submissions. *"SMEs often have to build up consortia or search for partners from scratch. The shorter time limits suggested by the Commission are already problematic in this respect. Cutting them even further is clearly a no go",* explained Mr Huemer.

Finally, the European Commission proposed to exempt public authorities from respecting the directive if they do not carry out more than 10% of their activities on the private market. Both Council and Parliament would like to increase this threshold to 20%, which is deplorable for SMEs. *"In an ideal world, this threshold should be set to 0%, to avoid subsidisation of private activities and unfair competition, especially for the local and regional construction and services markets. The Council and Parliament should rethink their approach and work to guarantee a fair market",* Mr Huemer concluded.

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Our requests for the "trialogue" can be found at http://www.ueapme.com/IMG/pdf/130220_PP_UEAPME_Triologue_final.pdf

EDITORS' NOTES: UEAPME is the employers' organisation representing exclusively crafts, trades and SMEs from the EU and accession countries at European level. UEAPME has 80 member organisations covering over 12 million enterprises with 55 million employees. UEAPME is a European Social Partner. For further information please visit <http://www.ueapme.com/> or follow [@UEAPME](https://twitter.com/UEAPME) on Twitter.

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