

Michel Barnier  
Commissioner for Internal Market and Services  
European Commission  
Brussels B-1049  
Belgium

Opinion of the Folketing (Danish Parliament) on the Proposal for a Directive on Public Procurement – COM(2011) 896

Dear Michel Barnier

Please find below the consultation response of the Folketing's European Affairs Committee to the Commission's proposal for new EU rules on public procurement, COM(2011)896.

The Folketing has considered the proposal in the European Affairs Commission and the Municipal Affairs Committee and has the following remarks, which are supported by all parties in the committees:

1. – that the thresholds should be raised in order to create a simpler, more flexible and far more sustainable and efficient procurement market in Europe by significantly reducing bureaucracy and avoiding invitations to tender for the smallest public contracts, which, as experience shows, result in the submission of very few tenders. Higher thresholds will significantly alleviate the pressure on municipalities, regions and states in Europe by facilitating a reduction of the huge administrative, economic and legal burdens that are associated with the present directive on public procurement and the proposed new directive on public procurement, COM(2011) 896. This will thus facilitate achievement of significant savings in connection with procurement procedures and also provide for the possibility to incorporate future-oriented considerations regarding innovation, environmental protection and social responsibility in connection with public procurement. This will have a positive effect on both public procurers and private suppliers. However, higher thresholds should naturally be determined on the basis of close assessment/analysis of experience with market development and the number of cross-border tenders submitted by Member States in line with the thresholds that have applied hitherto.
2. – that action should also be taken to ensure greater transparency and accessibility as well as more comprehensible information (e.g. in English) regarding the increased number of European tenders in the future. Transparent and objective procurement procedures will have great importance for public procurement, resulting in improved procurement outcomes and considerable savings that benefit Member State authorities and, ultimately, the European taxpayer.
3. – that, in conjunction with raising the thresholds, the access of SMEs to public procurement should be enhanced, for example by introducing the obligatory division of major public contracts into lots and by reducing the bureaucratic requirements for such participation.
4. – that greater access should be provided for negotiation between the parties participating in procurement procedures, and that contracting authorities should have freedom to use the negotiated procedure after publication of a contract notice.

5. – that effort should be made to reduce bureaucracy in procurement procedures by refraining from requiring a minimum number of tenders (The Commission's proposed directive currently requires a minimum of five tenders to be submitted, which is why many public invitations to tender nevertheless do not result in any form of competitive procurement, because these invitations generate only few tenders).
6. – that, in order to reduce bureaucracy in the future, plans for switching over to e-procurement exclusively should be accelerated (as should plans to phase out communication by letter/fax, which the Commission's proposed directive otherwise wishes to retain as an option).
7. – that, in relation to the proposal to impose greater requirements for elements/criteria which are to be included in the contract award procedure – such as specific social, financial and economic requirements, which are perhaps not always relevant in a specific case – action should be taken to ensure that the directive on public procurement does not hinder the continued ability of Member States to use their own tools in relation to public procurement, provided such use remains consistent with the requirement of proportionality. It thus also remains crucial that the proposal does not hinder the inclusion of labour clauses in public procurement contracts.
8. – that increased focus should be placed on shortening the time limits for review procedures concerning the award of public contracts, as long time-limits for conducting reviews can kill the desire to submit a tender.

Yours sincerely

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Chair, European Affairs Committee

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Chair, Municipal Affairs Committee