Improving SME Access to Public Procurement

1. The development of small and medium enterprises (SMEs) is very important to the national economy and public procurement can be an important source of business for SMEs. However, access to public sector contracts by smaller entities is often seen as a problem, at national and EU level, for many in the sector.

This document attempts to outline factors that impact on the SME sector in accessing public procurement opportunities, particularly in the light of a new national public procurement policy framework, to identify possible obstacles and, in consultation with the relevant stakeholders, to consider possible ways of appropriately encouraging / facilitating that sector's participation. In the context of promoting whole of Government objectives, the document points to the possibilities for stimulating innovation, for example, in the context of SME participation in public procurement.

The document is intended to provide a basis for consultation with the relevant stakeholders, including the representative bodies for the SME sector (such as IBEC, Small Firms Association, Irish Software Association, Irish Small and Medium Enterprises, Institute of Advertising Practitioners in Ireland, Chambers of Commerce, County Enterprise Boards), State development agencies (Department of Enterprise, Trade and Employment, Forfás, Enterprise Ireland) and public purchasers. It sets out relevant issues and considerations that impact on SME participation in public procurement. To facilitate focused consultation and feedback, a number of specific questions are addressed to stakeholders at appropriate sections of the document. It is stressed that the range and scope of consultation is not limited and comment on any aspect of the topic, general or specific, is welcome. It is envisaged that the final outcome of this exercise should result in a clearer outline of the relevant issues and provide a more informed picture of

- (i) what the NPPPU/State agencies can do,
- (ii) appropriate guidance / suggestions to contracting authorities on what they should do and
- (iii) appropriate guidance / suggestions to suppliers and service providers on what they can do

to facilitate greater participation by SMEs in the public procurement market.

Background

2. A Small Business Operational Programme, sponsored by the Department of Enterprise Trade and Employment and co-funded under the 1995 to 1999 round of Structural Funds, included a measure to promote and facilitate the participation of SMEs in the public procurement market. The initiatives undertaken under this measure included

- the engagement of about six procurement specialists by Enterprise Ireland to examine and identify business opportunities for SMEs in the procurement functions of various public sectors and to bring them to the attention of small enterprises
- the production of a guide for small businesses to tendering for public contracts
- the production of a comprehensive Directory of public sector buyers and
- a survey to (i) determine the size of the public procurement market and the breakdown of the domestic and import content of the market (ii) estimate the potential for SMEs to provide substitutes for imported purchases, and (iii) to make recommendations on how the public sector market could be made more accessible to small firms.

On the basis of the survey a report, "Small Firms and Public Procurement in Ireland", was published in July 1999. Recommendations in the report on making the public sector market more accessible to small firms included suggestions on the development of a searchable website on which all calls for tender would be published, the development of standardised electronically available tender forms and better training for public purchasers. The report placed strong emphasis on the need for greater proficiency and professionalism in performing the public procurement function. It recommended more centralisation of purchasing, appointment of procurement managers with responsibility for all purchasing within an organisation, development of systems to reduce 'ad hoc' purchasing and development of information systems to support a rational, integrated purchasing function. The report envisaged this would be to the advantage of SMEs by improving the visibility of the function and by having a positive effect on openness and accessibility.

3. Many of the recommendations from the 1999 Report are reflected in the current programme for procurement management reform being promoted under the National Public Procurement Policy Framework. However, in the context of implementing the Framework, it is considered appropriate at this stage to consider the role of SMEs in public procurement and see what can be done to further encourage and facilitate their participation. The Framework provides that, where practical, procurement policy should seek to promote whole of Government objectives. In this regard and in the context of the Lisbon Programme, the EU has identified public procurement as being an instrument which can help stimulate innovation at national and European level. Appropriate engagement between public purchasers and the SME sector can play a significant role in identifying new technological and innovative solutions which can improve efficiency in the delivery of public services and contribute to innovation as part of broad enterprise policy.

Public Sector Procurement – Context

4. Unlike private sector business and commercial entities, procurement and purchasing procedures of public sector bodies are governed by the EU Treaty, EU Directives, Regulations and national guidelines. The prime objective of the rules and

procedures of the public procurement regime are to achieve value for public money in the award of public contracts by use of an open, non – discriminatory and fair competitive process.

Public policy makers recognise the importance of the role of SMEs in the economy, including the importance of their participation in the public procurement market. Public procurement can help in the development of an effective and efficient SME sector by providing appropriate opportunities for SMEs to demonstrate their skills and capabilities, including the purchase of goods and services which allows SMEs to develop and demonstrate innovative goods and services. In the past, procurement was considered mainly as an operational activity rather than as a key strategic function in the business planning process. Public purchasers concentrated on compliance with rules and procedures set down in guidelines, regulations or EU Directives to seek value for money outcomes from procurement while observing necessary standards of probity and ethics.

This regulatory regime may have been perceived as limiting the possibilities for public authorities to engage or develop long-term contractual arrangements with suppliers or particular sections of a market. However, the public procurement regime is evolving to reflect modern market conditions, as evidenced by recently revised public procurement Directives and, at national level, the National Public Procurement Policy Framework. While procurement procedures and processes may have improved, it is considered that cultural, risk and institutional issues may still constitute barriers to SME participation in public contracts.

Factors Impacting on SMEs

5. Governments and public authorities are required to comply with EU rules / Treaty principles. Contracting authorities are precluded from awarding its contracts, or any particular quota of its contracts, to a company on the basis of its size. While contracting authorities cannot favour a company based on size, there are areas where SMEs tend to have a competitive advantage that could be a factor in tender evaluation, such as quality of service, response time, regularity of interaction with buyer, etc.

Not all contracts are subject to the procedures of EU Directives. Contracts below certain thresholds, currently €211,000 for the supplies and service contracts of most contracting authorities, are outside their scope. The award of these smaller contracts, which are subject to national rules and EU Treaty principles, may offer some flexibility. For example, if too low in value to be of relevance in promoting the Internal Market or for national advertising, direct invitation confined to small suppliers may be appropriate.

(i) Barriers to SME participation

Surveys (EU and national) indicate the main problems experienced by small and medium sized firms interested in the public procurement market as follows:

- difficulty for commercial operators in understanding the public sector purchasing culture
- public buyers reluctant to consider new suppliers / cosy with existing suppliers
- lack of, or poor quality, information in tender documents
- bureaucratic nature of the process, form filling, excessive and complex documentation for small contracts creating administrative burden
- degree of risk aversion within public sector buyers, resulting in emphasis on brand recognition and reputation, which tends to work against smaller firms
- lack of consistency / uniformity in procedures across, or even within, public sector organisations
- insufficient time to draw up tenders
- unnecessarily high qualification levels, financial and technical
- difficulty in understanding evaluation procedure (from limited contact with buyers and poor feedback)
- perception that lowest cost is the main criterion in award of public sector contracts

Questions to SMEs and Public Purchasers

Are the barriers suggested above valid in your view?

Are there others not listed?

Any suggestions as to how the barriers might be overcome?

(ii) Public Purchasers perceptions of SMEs

The same sources indicate that problems and disadvantages in doing business with SMEs identified by public buyers include:

- preference for dealing with one large supplier rather than a number of smaller ones
- perceived lack of resources (personnel, organisational, technical, financial)
- inability to provide adequate ongoing support, back-up or service levels
- lack of track record / reputation

- continuity of the enterprise / uncertainty of deliveries and supplies
- inability / unwillingness to hold stock (presumably for "draw down" contracts)
- narrower product range than larger companies
- lack of knowledge of the tendering process.

Questions to SMEs and Public Purchasers

Are the perceptions suggested above accurate / valid in your view?

Are there others not listed?

Any suggestions as to how negative perceptions might be addressed?

National Public Procurement Policy Framework

6. The strategic importance of public procurement has been recognised in the National Public Procurement Policy Framework, which now requires public bodies to adopt a more strategic approach to purchasing goods, supplies and services. The main objective of the Policy Framework of 2005 is to promote a strategic and professional approach to the public procurement function. This involves building the necessary capacity and expertise within organisations. It also provides that where practical and legally possible the policy should promote Government objectives. In this context the policy can have an impact on the SME sector.

The Policy Framework promotes electronic procurement to improve efficiency through the use of targeted cost effective technologies in support of various aspects of the procurement function. Some widely perceived impacts of e- procurement, as summarised from a recent Forfás Study "Public Sector eProcurement Opportunities and Threats for SMEs", are as follows:

(i) Positive

- Wider and more systematic advertising of requirements should result in more openness and transparency and improve accessibility
- more professional and better trained buyers who know their market would engage more proactively with market operators and could develop strategies which could identify and include an appropriate role for SMEs. This would include better feedback on strengths and weaknesses of tenders
- more use of technology and more streamlined procedures could reduce the costs of tendering.

(ii) Negative

- centralisation of purchasing and aggregation of requirements, resulting in bigger contracts, could result in the exclusion of SMEs from the tendering process
- a policy of dealing with fewer suppliers as part of a more efficient materials and supply chain management policy on the part of public purchasers could also be detrimental to SMEs
- downward pressure on prices from the use of electronic means of purchasing, such as e-auctions and e-catalogues, could put strain on SMEs margins
- some SMEs may lack the necessary technological capability.

EU Dimension

7. At EU level there is a growing recognition of the need to promote and facilitate SME participation in public procurement. The availability of more flexible procedures, such as the use of framework arrangements and electronic means of purchasing and tendering, under recently revised EU public procurement Directives can be positive to the extent that they can reduce tendering costs and can facilitate a more focused policy approach to SME participation. It might also be noted that the EU Commission recently published a staff working document outlining elements of good practice designed to promote innovation through public procurement which can be found at http://register.consilium.europa.eu/pdf/en/07/st05/st05751.en07.pdf.

Future Actions / Initiatives

8. Some earlier recommendations and positive elements of the Policy Framework are now in place. For example, there is wider advertising of public procurement opportunities via the national public procurement website *www.etenders.gov.ie*. There is more training and "professionalisation" of public purchasers. Sixty officials from forty organisations underwent training in spend profiling and corporate procurement planning in the NPPPU in 2005 / 2006. A two year post graduate qualification in Strategic Procurement is being offered by Dublin City University since September 2006 and an IPA Course, reflecting NPPPU specifications, is also on offer.

The NPPPU now wants to seek to address the issue of promoting greater SME participation in public procurement by, among other things, consulting with public purchasers, business representative bodies and development agencies with a view to identifying possible initiatives that might be undertaken. The NPPPU wants to explore whether the implementation of the broad thrust of the National Public Procurement Policy Framework across public bodies can also takes account of the impact of the reform agenda on the SMEs sector.

As indicated above, it is envisaged that the outcome of this consultation should result in a plan of action outlining what the relevant stakeholders can do to facilitate SME access to public procurement and, where possible, stimulate innovation.

What the NPPPU / State agencies could do:

- identify and meet relevant training and guidance needs
- identify good practice where it might exist, either externally or within our procurement regime and then seek to promote it nationally
- identify initiatives undertaken in other States which might be examined and adapted for use nationally, where appropriate
- develop and promote the use of standardised tender forms. This will reduce the administrative burden for SMEs
- develop the 'etenders' website to provide useful market information
- keep SMEs in mind in developing 'etenders', e.g. by providing more targeted alerts to suitable opportunities for SMEs
- develop and promote the "Postbox" in a way that is sensitive to SME needs
- arrange or participate in appropriate information events (seminars, workshops) arranged by the sector representative bodies

Questions (for all stakeholders)

Can you give example(s) of good practice in procurement that could be adopted / promoted to the benefit of SMEs?

Can you give example(s) of initiatives in other administrations that could be adopted / promoted to the benefit of SMEs?

Any feedback or suggestions on how the "etenders" website can be developed to the benefit of SMEs?

What training and education measures would be useful in the development of procurement expertise in public organisations? Please specify as precisely as possible

Are targeted seminars, workshops etc. useful? Any suggestions as to how such events can be made more relevant / productive?

What **contracting authorities** could do:

- avoid using pre-qualification criteria or award criteria that systematically / needlessly exclude SMEs from contracts
- set out requirements in clear unambiguous tender documentation
- avoid superfluous lengthy tender documentation
- be conscious of the potential of, or impact on, SMEs at each stage of the procurement cycle (identifying the need, specifying, the award process etc.)
- avoid issuing prescriptive tenders / set out requirements in terms of a deliverable which allows / encourages SMEs to provide creative and innovative solutions
- consider breaking requirement into lots which could be supplied by small enterprises (while having regard to the obligation to aggregate lots for the purpose of determining advertising thresholds)

- when establishing frameworks, include SMEs where the nature of the framework and the subject of the contracts allow this
- encourage arrangements that facilitate sub-contracting on larger contracts
- publish a "buyer profile", with relevant information on their purchases and procurement procedures, on their websites
- provide a contact point that will assist tenderers with any problems / queries
- debrief candidates and tenderers constructively.

Most of the above measures that could be taken by contracting authorities would seem to be self-evident. Further suggestions or general comment is invited on what contracting authorities can do.

What **SMEs** could do:

- register and check etenders for opportunities, sign up for appropriate alerts
- check for published prior information notices or contact purchasing personnel in public bodies and obtain information about upcoming contracts and / or purchasing and tendering policy
- ask to be put on tender lists, where kept
- form consortia /group together, where appropriate, to bid for contracts that one enterprise might have difficulty in fulfilling
- identify and pursue opportunities for sub-contracting on larger contracts
- request debriefing on outcome of tendering procedure.

Questions (to all stakeholders)

Are the above suggestions appropriate?

Any other measures / initiatives that can be undertaken by SMEs?

9. On the basis of feedback received, the NPPPU hopes to have a clearer view of the barriers to participation that currently exist and to identify actions that can be taken by relevant stakeholders to address them and to promote innovation to the greatest possible extent.

Your feedback and comments should be sent to the following mailbox at email address *smeconsultation@etenders.gov.ie* by 20 June 2007.

National Public Procurement Policy Unit Department of Finance

11 May 2007.