

National Public Procurement Strategy



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As the Minister responsible for public procurement in Sweden, I have noted that more guidance is required before public procurement is the strategic tool that the Swedish Government wants it to be.

The contracting authorities and entities need to take greater responsibility for procuring more strategically and for using tax assets in the best possible way. Here I see an important task for the Government to be clear that the governmental authorities have that responsibility. It is the Government's hope that what is stated in the

National Public Procurement Strategy is actually implemented by the contracting authorities and entities. The Government expects results and will follow this development closely.

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Why is a National Public Procurement Strategy necessary?

Sweden's public sector faces a series of major challenges. Changes in the world around us, for example in climate, the environment, demographic trends and migration flows, as well as changes in citizens' expectations of service, are making great demands of how the public sector functions. Efficient public procurement is crucially important to an efficient social service provision that lives up to the justified expectations of the country's citizens.

Today, the public sector procures goods and services annually to a value of approximately SEK 625 billion.¹ In view of the major sums spent in public procurement, a more strategic approach to public procurement not only offers substantial savings but also several other benefits to society. There is much to suggest that several of the serious problems that affect public procurement are directly linked to the absence of a sufficiently strategic perspective (SOU 2013:12)².

A national strategy is needed to promote innovations and be a catalyst for new ideas in the public sector and the business community. It is needed to achieve the Government's aim of establishing public procurement as a strategic tool for efficient organisations and a means of achieving the national environmental, social sustainability and administration policy objectives. With the aid of well-functioning competition, the Government's ambition is to use public procurement as a tool for improving

efficiency and quality in the public sector, at the same time as meeting Sweden's international obligations within the EU, the WTO and our free trade agreements.

The expenditure of Sweden's public sector will play a crucial role in the country's national implementation of the UN's 2030 Agenda for long-term sustainable economic, social and environmental development³, as well as Sweden's Policy for Global Development.⁴ Systematic activities at national level will also create credibility at international level. The Government's ambition is to contribute actively to the efforts of the UN and international financial institutions in establishing the foundations for sustainable development via its own public procurements, and promoting modern and sustainable development in its partner countries.

Another aim of the strategy is to make innovation procurement a natural part of organisational development at the contracting authorities.

The strategy is needed in order to create the right conditions for small enterprises and non-governmental organisations to participate in public procurements.

How can public procurement play a part in making the Government's administrative policy a reality?

Public administration serves a central role in Sweden's development. A legally certain and efficient system

of public administration strengthens democracy. The Swedish public administrative model, with far-reaching delegation of responsibilities to county councils and municipalities, contributes to efficient, development-led central government administration. Another important prerequisite is a coordinated form of administration, characterised by a holistic approach and a shared acceptance of responsibility for society as a whole.

As part of its policy for development in public administration, the Government has initiated a trust reform. The remit of the commission is to develop the procedures for control and follow-up in the public sector, in a way that balances the need for control with confidence in the professional knowledge and experience of the employees concerned.

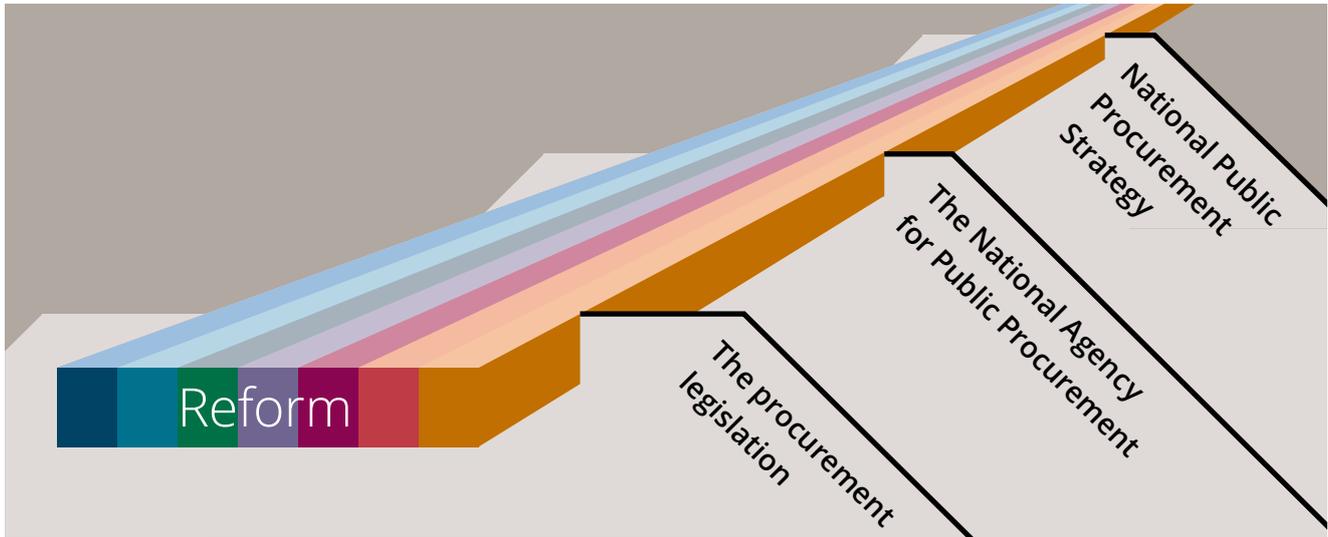
Public procurement is an important part of the Government's administrative policy and an important means of achieving its administrative policy objective, namely, an innovative and collaborative system of central government administration that is legally certain and efficient, delivers a high standard of quality, service and availability and thereby contributes to Sweden's development and effective work at EU level.

¹ According to information from the Swedish Competition Authority. See for example report 2016:4 Upphandling enligt lägsta pris behöver inte ge sämre kvalitet (Procurement based on lowest-price does not necessarily mean poorer quality), in Swedish, April 2016.

² Sweden's Public Procurement Inquiry

³ In September 2015, the UN General Assembly adopted the following resolution: Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1, which incorporates a 15-year agenda for long-term sustainable economic, social and environmental development linked to fighting poverty.

⁴ Proposition 2002/03:133 - Gemensamt ansvar: Sveriges politik för global utveckling (Government bill on Sweden's Policy for Global Development)



What has the Government done to date?

In order to create a solid foundation for a strategic public procurement process, the Government has initiated an extensive reform in the area of public procurement. The reform consists of three elements: the procurement legislation, the National Public Procurement Strategy and the establishment of the National Agency for Public Procurement.

The procurement legislation

One of the widest-ranging legislative tasks during the Government's mandate period consists of implementing the three EU procurement directives and get the new national legislation in place.

Most of the provisions in the Swedish Public Procurement Act (2007:1091) concern public procurements above the EU thresholds. Even if the number of public procurements over the threshold has risen sharply in recent years, only approximately one out of three calls for tender are covered by the public procurement directives in Sweden. Hence, the majority of all public procurements do either not fall within the scope of the EU directives or are subject to only a few rules in the directives. In other words, they are public procurements that are below the threshold values specified or that concern social services or other special services. The review

of the national regulations is intended to simplify the regulatory structure and create more flexible provisions for procurement of social services or other special services.

The National Agency for Public Procurement

In September 2015, the National Agency for Public Procurement was established. The Government chose to place support for public procurement within an independent authority to raise its profile and to provide organisational conditions that would enable the National Agency for Public Procurement to provide as effective support as possible. The National Agency for Public Procurement has a broader remit than the previous support for public procurement provided by the Swedish Competition Authority. It has the overall responsibility for developing, managing and supporting the public procurement carried out by contracting authorities and entities.

National Public Procurement Strategy

The purpose of the Government's work on developing a National Public Procurement Strategy has been to make it possible for contracting authorities and entities in Sweden to develop their

strategic work on public procurement. The strategy presents proposals for concrete actions that can be taken within the contracting authorities and entities. The actions proposed in the strategy are relevant regardless of the public sector activity concerned. With the procurement strategy, the Government wants to demonstrate the benefits that can be achieved through a strategic approach to purchasing. The Government also wishes to show in concrete terms how the approach to purchasing highlighted in the strategy can be achieved in each particular activity.

Example: The Welfare Commission

One example of the Government's work to establish more flexible provisions on procurement of social services and other special services was the remit to the Swedish Welfare Commission to propose ways in which the regulatory system governing the procurement of welfare services could be simplified and made more flexible (Dir. 2015:22).

What are the Government's objectives for public procurement?

The objective for the policy area public procurement is that all public procurement shall be efficient, legally certain and take advantage of the competition in the market. It shall also promote innovative solutions and take environmental and social concerns into account.

Strategic implementation of public procurement is an effective means of

achieving this objective and at the same time brings about several positive effects for the society. These include driving increased growth and employment together with sustainable development of environmental, social and ethical aspects. Contracting authorities and entities shall lead by example in the management of their resources. Sustainability criteria, including labour law and environ-

mental criteria, shall be stipulated in public procurements, where justified. Stipulating criteria that promote environmental and social concerns makes a difference, and at the same time enables the public sector to deploy tax revenues in an effective way.



On the basis of its overarching objective, the Government has formulated seven policy objectives for its procurement strategy.

- 1 Public procurement as a strategic tool for doing good business.
- 2 Effective public purchasing.
- 3 A multiplicity of suppliers and well-functioning competition.
- 4 Legally certain public procurement.
- 5 Public procurement that drives innovation and promotes alternative solutions.
- 6 Public procurement that is environmentally responsible.
- 7 Public procurement that contributes to a socially sustainable society.

The Government has prioritised the reform of public procurement in Sweden. However, it is the actions taken by the contracting authorities and entities that will decide whether the Government's objectives for public procurement can be accomplished. The real work starts once the policy objectives actually are to be put into practice..

Procurement strategy for whom?

The procurement strategy is aimed, above all, at representatives of the central government authorities. It is the Government's desire and intention that these actors should implement the procurement strategy. It is the central government authorities that are able to be at the forefront in the development of public procurement by using a strategic perspective in the purchases of their organisations.

However, the municipalities and county councils account for the bulk of public purchasing in Sweden. Against that background and with reference to the procurement strategy, the Government also intends to work to ensure that representatives of municipalities and county councils as well as other contracting authorities and entities, adopt governing documents to put the policy objectives and the Government's aims for public procurement into practice within their activities. It is of crucial importance that central government authorities collaborate closely with municipalities and county councils in implementing and following up on the strategy. For example, central government authorities can collaborate with municipalities and county councils in innovation procurements.

In order for the objectives of public procurement to be achieved, it is necessary for the contracting authorities and entities to be able to see the value of having similar aims as expressed in the strategy for their own operations. Only then it will be possible to bring about a change.

Other actors also play a vital role in how public procurement will develop

in Sweden. Suppliers, industry organisations and the organisations of civil societies all bear responsibility for improving the process of public procurement. The procurement strategy incorporates aspects that concern each and every one of these target groups and provides guidance on the choice of priorities for achieving the objectives of public procurement.

The category "contracting authorities and entities" in Sweden includes organisations with a range from a few employees to several thousands. These organisations procure everything from new hospitals and railway lines to pens and copying paper. Similarly, suppliers range from small non-governmental organisations to huge multinational groups. The policy in the procurement area covers many different and widely diverse activities. The procurement strategy applies to all contracting authorities and entities.

State-owned companies

The procurement strategy is also aimed at representatives of State-owned companies. The Government is of the view that the State, in its capacity of company owner, must ensure that State-owned companies act responsibly and in exemplary fashion in their purchasing. The Government wants to emphasise that the State's policy on ownership in State-owned companies states that such companies shall act in an exemplary way within sustainable business and otherwise act in order to ensure that they gain the trust of the public. Integration of sustainability issues into the organisation shall form a natural part of a long-term business strategy and

business development. State-owned companies shall operate strategically, act transparently, collaborate with other companies and stakeholders as well as comply with international guidelines in the field. Anti-corruption is part of the Government's definition of sustainable business.

Contracting authorities and contracting entities

Contracting authorities:

Central and municipal government authorities, such as decision-making assemblies in municipalities and county councils and certain bodies governed by public law (for example, most municipal-owned and some central government-owned corporations). Combinations of one or several contracting authorities or one or several bodies governed by public law also constitute contracting authorities.

Contracting entities:

Contracting authorities and public undertakings exercising activities within the field of energy, water, transport and postal services, based on a specific or exclusive right.

What types of purchasing is the strategy aiming at?

The procurement strategy should be applied to all public purchases, that is, all acquisitions of goods, services and contracts made with public funds. Even if it is a strategy for public procurement, it is also relevant to public purchases that are not subject to the rules on public procurement. The aim is therefore that the strategy shall be applicable not only to purchases within the scope of the rules on public procurement – namely the Public Procurement Act (2016:1145), the Act on Public Procurement of Water, Energy, Transport and Postal Services (2007:1092), the Defence and Security Procurement Act (2011:1029), and the rules stated in the Act on System of Choice in the Public Sector (2008:962) – but also to purchases outside the scope of Sweden’s public procurement legislation, for example in connection with the procurement of research and development services. The strategy is also intended to be applicable to call-offs under framework agreements.

The strategy is applicable to State-owned companies that are subject to Swedish public procurement legislation when making purchases.

Framework agreements

Purchases by central government authorities are often made by way of call-offs from one of the framework agreements concluded by the National Procurement Services (SIC) at the Legal, Financial and Administrative Services Agency. SIC is tasked with offering framework agreements for goods and services that are regularly procured by the central government authorities, on a large scale or at high values. SIC provides support and guidance both to government authorities using the coordinated framework agreements and to suppliers.

How was the strategy developed?

The National Public Procurement Strategy is ineffective if not applied to day-to-day activities. During the process of developing the strategy, it was important to provide stakeholders with the opportunity of commenting on the details of the strategy, for example via questioning of experts. Stakeholders such as the Swedish Association of Local Authorities and Regions (SALAR), the Swedish Competition Authority and the National Agency for Public Procurement participated in the development of the strategy.

How will the strategy be followed up?

It is important that the National Public Procurement Strategy results in actions taken by the contracting authorities and entities.

The National Agency for Public Procurement has a specific task of implementing and following up the strategy on the basis of seven policy objectives. In view of the results from the National Agency for Public Procurement’s follow-up, work on the strategy within the contracting authorities will also be followed up in various ways by the Government. At the level of the governmental authorities, this may take place in the form of inter-authority dialogue or, where appropriate, via special projects.



Policy objectives

- 1** Public procurement as a strategic tool for doing good business.
- 2** Effective public purchasing.
- 3** A multiplicity of suppliers and well-functioning competition.
- 4** Legally certain public procurement.
- 5** Public procurement that drives innovation and promotes alternative solutions.
- 6** Public procurement that is environmentally responsible.
- 7** Public procurement that contributes to a socially sustainable society.



1

Public procurement as a strategic tool for doing good business

Take advantage of the strategic importance of public procurement in order to develop the business activity while providing an efficient service to society at the same time.

Decision-makers must be aware that strategic use of public procurement is a prerequisite that will enable the public authority or entity to achieve its organisational objectives and do good business (see report SOU 2013:12, page 19), thereby helping to create benefit for citizens and to develop the business sector. Major gains can be made through a more fit-for-purpose organisation and an objective-focused public procurement process. The public procurement process offers potential for achieving various objectives for public sector activities such as financial, qualitative, social and environmental goals.

Make public procurement issues part of organisational development

The distance between strategic decision-makers and those responsible for the work of public procurement needs to be reduced. Purchasing is an important part of business development., Purchasing strategies need to be based on the objectives and needs of the organisation as well as to ensure that goods and services delivered meet the quality criteria as specified in the procurement documents to the right price as determined by the market.

In particular, public procurement may serve as a means in the process of digitalisation that public administration as a whole is facing. Digitalisation is a tool for achieving the administrative policy objective of a legally certain and efficient system of public administration, at a high level of quality, service and availability. When setting procurement criteria, attention should be paid to ensuring that the information stored in the system can be accessed in the simplest way possible for further use.

See the value of developing a purchasing strategy

A purchasing strategy provides increased opportunities for professionalization, creative ideas and innovation as well as a clearer connection to the organisation's other objectives and strategies. With a

Supply strategy for better emergency management

A purchasing strategy should include a supply strategy. This will better enable the authority to plan for how purchasing will take place in various crisis situations: Which goods and services are needed to achieve the authority's aims? Which services can be performed in-house? Is it possible to call off from an existing framework agreement? Can purchasing be coordinated with another authority? The Swedish Civil Contingencies Agency provides support when a serious accident or crisis occurs. The Government has assigned among others the Swedish Armed Forces and the Swedish Civil Contingencies Agency to present proposals for a fundamental approach of a coordinated planning for national defence. The fundamental approach proposed shall include a description of how the process of coordinated planning should be conducted and serve as support for the planning work of all government authorities concerned. A report on the project is to be presented in June 2016.

purchasing strategy, the management is able to formulate a clear ambition for how the organisation's purchasing can become a tool for achieving overarching objectives.

Keep statistics on purchases-

Statistics in the public procurement sector today is inadequate. As a result, there is uncertainty as to the annual total value of public procurement in Sweden. Inadequate statistics also create difficulties in evaluation and follow-up in the field of public procurement. Statistics is also lacking concerning environmental public procurement, how social criteria are taken into account, including gender-based statistics, and the extent to which public procurement is used to drive innovation. In addition, a better overview of the expenditures of the contracting authorities and entities is needed in order to create better conditions for doing good business. The conditions for obtaining better statistics improve simply by ensuring that the procurement documents contain full details, and that the results of the procurement are published. A better overview of the purchases made can be obtained by linking purchasing and contracts in a contract database or the like, so that payments made in connection with public procurements can be identified.

How can this objective be achieved?

By ensuring that representatives of your organisation and strategic decision-makers learn about the support that the National Agency for Public Procurement, among others, offers in order to expand your knowledge on how public procurement may be used as a tool for strategic development of the organisation.

By publishing the public procurement documentation as open data upon completion of the public procurement.

By ensuring that your authority's management develops clear and well-defined purchasing objectives based on the strategy – and that these objectives are communicated throughout the organisation.

By ensuring that your authority's purchasing objectives are incorporated into internal guidelines, policy- and governing documents, or in documented routines and processes.

By ensuring that your authority draws up, for example, an internal purchasing strategy endorsed at management level.

By ensuring that your authority drafts internal guidelines on business ethics, describing, for example, the process of building trust and benefiting from competition.

By ensuring that your authority participates in the National Agency for Public Procurement's collection of public procurement statistics, especially relating to which environmental and social criteria that have been specified in contract documents and how they are complied with. Statistics on how public procurement is used to drive innovation is also needed.

By ensuring that your authority acquires a good overview of its purchases, the data obtained can be used as a basis for national statistics gathering.



2

Efficient public procurement

Public procurement characterised by efficient purchasing and procurement procedures delivers more value for money.

Efficient purchasing makes it possible to do the best business in terms of need, cost, quality and other criteria, such as environmental criteria. As considerable amounts of money are involved, a relatively modest price reduction, without any compromise on quality, may lead to savings, for example through better coordination or closer attention paid to contract follow-up and evaluation.

The public sector needs to ensure that what is purchased is economically beneficial from an overall cost perspective. For example, we should not only examine the acquisition cost but also take into account the total cost over time for use of the product or service.

Good purchasing skills are essential for doing good business. Procurement staff is key personnel to enable efficient purchasing, but good purchasing skills are needed throughout the organisation.

The contracting authority or entity needs competence across the entire

purchasing process. The needs and market analysis, the legal requirements imposed, how the tenders are evaluated, the drafting of and follow-up of the contracts are essential elements in ensuring that the desired quality in the purchases can be achieved. Other factors include how suppliers can be motivated to make constant quality improvements, for example through different types of payment modes or options for renewal of contracts. Efficient purchasing also requires effective follow-up. Follow-up is necessary partly to ensure that the contracting authority or entity benefits from the quality and quantity agreed, partly to verify that suppliers fulfil the criteria in the concluded contracts, and also to develop the process for future public procurements. Effective follow-up also plays an important role in the work of building trust in public procurement markets. To retain the right competence, it is necessary to provide continuous in-service training for employees.

Take account of and contribute to research in public procurement

Research in public procurement is an important building block in development of the public procurement process. On an overarching level, research can contribute to a fact-based debate and well-founded decisions. On a more application-based level, research can create tools and procedures for more effective public procurement. Research findings in the form of analysis data and conclusions can help move the development of public procurement forward.

The Swedish Competition Authority offers research grants and operates a Council for Research Issues whose tasks include stimulating research in public procurement. The Council is required to report to the Competition Authority and the National Agency for Public Procurement such findings from developments, above all in the economic and legal fields that may be relevant to the activities of the Competition Authority and the National Agency for Public Procurement. The Council for Research Issues is appointed by the Competition

Systematic comparisons

The report Systematiska jämförelser - För lärande i staten (Systematic comparisons - for learning in the state sector; SOU 2015:36) concludes that central government authorities have relatively effective means for mutual comparison where procurement activities are concerned, especially with regard to costs. Systematic comparisons between central government authorities may be used to develop procedures for control and evaluation of the activities, but also for efficiency improvements in the authorities' purchasing. Such comparisons may also be used by other contracting authorities and entities, such as municipalities and county councils.

Authority following consultation with the National Agency for Public Procurement.

View costs in a broad context from a life cycle perspective

Lack of a holistic approach to public procurement may imply that costs and values for other activities affected by the public procurement are omitted from the calculation, along with cost differences which occur during the life cycle of products. This may result in undesired pass on effects and sub-optimisation of resources overall. It is therefore important to take this into account in the purchasing process.

The life cycle perspective is important, and shall be taken into account in public procurement. All too often, lack of a holistic approach leads to products with a low purchase price being chosen, although quality and sustainability differences mean that operating costs will be higher in the long run. Public procurements comprising not only products and materials but also investments, operation and maintenance services should include an incentive for efficiency improvements and stimulate new ways of thinking, and should develop qualitative perspectives as well as environmental, social and ethical aspects.

Ensure transition to an electronic purchasing process

The use of existing and new electronic tools must increase in order to develop, streamline and quality assure the public procurement process and the subsequent ordering process. The central government authorities need to set a good example in this regard. Increased use of electronic tools in the purchasing process may also make it easier to gather statistical data (see section 5.1).

How can this objective be achieved?

By ensuring that the employees at the authority have the prerequisites required for achieving the objectives of the purchasing strategy as well as the skills of setting quality criteria in contract documents.

By ensuring that your authority makes use of the support that is available. The National Agency for Public Procurement, which is tasked by the Government to offer support and guidance for strategic public procurement, has a key role to play in providing you with the necessary support.

By making public procurement, with emphasis on the strategic perspective, part of the skills development of individuals in executive positions within central government.

By ensuring that your authority contributes with ideas and support for possible research projects in the public procurement field and participates in the work of the Competition Authority and the National Agency for Public Procurement in the area of research.

By ensuring that your authority recognises the value of applying existing research to develop the process of public procurement.

By ensuring that your authority takes life cycle costs into account and performs a life cycle analysis as part of any public procurement. The National Agency for Public Procurement can offer guidance in this respect.

By ensuring that your authority switch to a totally electronically coordinated purchasing process.

By ensuring that your authority uses the support offered by the National Agency for Public Procurement on issues relating to electronic purchasing tools.



3

A multiplicity of suppliers and well-functioning competition

Effective competition is a fundamental condition for doing good business

Public procurement shall be efficient and benefit from competition in the market. Well-functioning competition, with a multiplicity of actors, goods and services, is crucial in enabling public procurement to meet the society's needs in the best way possible.

Including more, and new, tenderers in public procurements contributes to prevent bid rigging. When more companies and other organisations are able and wish to tender in public procurements, competition is strengthened and fresh ideas are stimulated.

Improve trust in the public procurement markets and the conditions for competition

The Government would like to see competition in public procurement

enhanced with more foreign suppliers involved in order to stimulate competition. Small enterprises and, for example, non-governmental organisations with limited administrative resources have in many cases a need for information of good quality, guidance and clear rules of play. New business start-ups also need to be given the opportunity to compete for public contracts. Trust towards the public procurement markets is crucial for willingness to take part. When trust towards the public procurement process becomes eroded, fewer suppliers decide to participate in tendering.

The Swedish Competition Authority is the supervisory body for compliance with the regulations on competition and public procurement in

Sweden. Bid rigging cartels in connection with public procurements and illegal direct award of contracts are examples of phenomena that not only cause direct harm to the markets, but also affect trust in the functioning of the markets. Effective enforcement and supervision has the effect of increasing trust in the way that the markets function, which in turn prompts more actors to participate and submit tenders in competition with others. Many cases dealt with at the Swedish Competition Authority are the result of tip-offs and complaints.

Taking the supplier's perspective into account in public procurements

A multiplicity of suppliers, goods and services is necessary to create effective competition. To ensure that suppliers do not feel excluded from participating in public procurements, account needs to be taken of the supplier's perspective in the process. Tender documents should, for example, be drafted so as to encourage companies and organisations to submit tenders and offer new, innovative solutions. In order to enable foreign suppliers to take part in public procurements, reference should be made to international standards or labels whenever possible.

Enable better interaction and more dialogue

A key factor in terms of developing public procurement is how contracting authorities or entities interact with suppliers. Effective dialogue before, during and after public procurements can create better understanding of the authority's specific needs, and consequently how the procurement documents are formulated – but can also improve knowledge and understanding of the solutions that the market can offer. Authorities should also make use of the local or sector-specific initiatives that are

available for meetings, for example at Sweden's Chambers of Commerce, the Confederation of Swedish Enterprise, the Swedish Federation of Business Owners and other interest- and interest organisations, such as the Swedish Association of Local Authorities and Regions (SALAR), as well as at advocacy groups. The challenge lies in creating a culture in which preparation and dialogue are valued. Increased dialogue, within the limits of the law, is another way of lowering the barriers for participation of small enterprises (for more on this, see below).

Provide the right conditions for small and medium-sized enterprises

In many cases, small enterprises can offer flexible solutions that meet particular needs. The point is to design sufficiently attractive public procurements which both large and small enterprises want and are able to participate in. The costs involved for enterprises to participate in public procurements will be weighed against their chances of obtaining the contracts. It is important that small and medium-sized enterprises are reached by information about tenders and public procurement procedures, what business opportunities are on offer and who the tenderers can approach to obtain guidance and support. The new public procurement directives describe both opportunities and obligations aiming to encourage participation by small and medium-sized enterprises.

Simply by dividing major public procurements into smaller parts can create better opportunities for small and medium-sized enterprises to compete for public sector contracts on equal terms. At the same time, costefficiency for the overall project must be kept in mind.

How can this objective be achieved?

- By ensuring that your authority plays a part in increasing trust among the market actors towards the public sector market and contributes to lower barriers to entry for actors in the market.
- By ensuring that your authority is involved in the work performed by the National Agency for Public Procurement with the aim of improving conditions for competition in public procurement.
- By ensuring that your authority creates conditions for effective supervision by drawing the Swedish Competition Authority's attention to suspected breaches of the regulations on competition and public procurement.
- By ensuring that your authority takes the supplier's perspective into account when producing procurement documents.
- By ensuring that your authority actively strives not to exclude suppliers from taking part in public procurements, for example in formulating the specification of criteria for the public procurement.
- By ensuring that your authority plays a part in simplifying cross-border activities, promoting competition between suppliers and preventing lock-in effects to a specific supplier, for example by referring to international standards in your documents. The ambition should be to use open standards to the greatest extent possible.
- By ensuring that your authority enables constructive dialogue with potential suppliers, for example by offering a platform for dialogue.
- By ensuring that your authority makes use of the local or sector-specific initiatives available for meetings.
- By ensuring that your authority uses the support offered by the National Agency for Public Procurement with regard to dialogue with potential suppliers.
- By ensuring that your authority actively strives to provide a real chance for small enterprises to participate in public procurement, for example by removing barriers such as excessive criteria for economic and financial capacity where such are unjustified.
- By ensuring that your authority uses the support offered by the National Agency for Public Procurement with regard to how public procurements can be carried out in order to enable small enterprises to participate.

4

Legally certain public procurement

A well-functioning public procurement relies on both suppliers and citizens having trust in the due functioning of legal certainty.

Public procurement is often identified as an area at risk of corruption. With more and more activities being subject to competitive tendering, a greater need has emerged for contracting authorities and entities to take a caution to prevent corruption and conflicts of interest. Well-prepared and strategic public procurements prevent improper behaviour in purchasing. By working actively to prevent corruption and by planning purchases the risk of illegal direct

award of contracts due to time shortage for example is reduced. Contracting authorities and entities need to be aware of signs of corruption, bid rigging cartels and other signals of distorted competition. The Government also wishes to emphasise the importance of effective contract follow-up, just to demonstrate for other tenderers the actual compliance with contracts concluded.



Prevent corruption

Trust in how public purchases are conducted is seriously damaged if there are suspicions of corruption. Work on preventing corruption is all about combating bribery and other improper benefits.

The Government's objective is that all contracting authorities and entities should have internal guidelines for how the authority should prevent the occurrence of irregularities. With all contracting authorities and entities working actively to prevent corruption and conflicts of interest in their organisations, the aim of a legally certain and a reassuring system of public procurement can be attained.

Transparency and communication can prevent misunderstandings and unnecessary legal proceedings

The general principles of European Union law on transparency and equal treatment are especially important in building trust among suppliers. The principle of transparency establishes criteria for information on public procurements, that the contracting authority or entity should use written and documented procedures and that the reasons for the contract award decision are given. One way in which the contracting authority or entity can contribute to enhanced transparency is to publish the procurement documentation.

The right to review is important in terms of legal certainty. However, there is much to gain both by the contracting authority or entity and the suppliers if unnecessary court proceedings arising from misunderstandings, for example, can be prevented. It is the Government's view that misunderstandings and unnecessary court proceedings can be avoided through transparency and communication.

Raise the level of ambition in your follow-up

By not following up on contracts during the contract period, contracting authorities and entities risk losing quality and efficiency, as well as losing credibility as a contractual partner, which at the same time will tend to encourage dishonest suppliers to compete for public contracts. It should be a matter of course to always check that goods and services received and used in the public business activity conform to what the authority actually specified, ordered and paid for. To set criteria that cannot be verified goes against both the equal treatment principle and the requirement for a transparent public procurement process.

As soon as the criteria are set in the public procurement documents, the contracting authority or entity needs to be able to specify how they are going to be followed up. This is essential if the criteria are to be trustworthy in relation to the suppliers and at the same time ensure that they represent the quality expected.

Follow-ups to ensure that the contracting authority or entity receives what it has paid for are also about creating trust in public procurement and encouraging a willingness to participate in the competition together with other suppliers (see also section 3.3).

How can this objective be achieved?

By ensuring, for example, that your authority produces internal guidelines on bribery and corruption, in order to provide employees with the right knowledge to prevent conflicts of interest and corruption.

By ensuring that your authority take support from actors such as The Swedish Anti-Corruption Institute and The National Agency for Public Procurement.

By ensuring that your authority prevents misunderstandings and unnecessary court proceedings through transparency and good communication with potential suppliers.

By ensuring that your authority performs contract follow-ups in a legally certain and effective manner.

By ensuring that your authority makes use of the support material and the support tools offered by the National Agency for Public Procurement for contract follow-up..

By ensuring that your authority examines the conditions for working with other contracting authorities or entities for more effective joint follow-up work.



5

Public procurement that drives innovation and alternative solutions

Releases the public sector's potential for innovation through public procurement

Great potential exists in using public procurement as a tool for promoting development and innovation. By employing techniques for innovation procurement, such as pre-commercial procurement and innovation partnership, the public sector can stimulate the development of completely new innovative solutions that do not exist

on the market today. The public sector can also promote innovation at supplier level by requesting, in public procurements, functions rather than ready solutions. Furthermore, the public sector can, in its capacity as active purchaser and first customer, drive the market to develop solutions to important social challenges.

By demanding so-called “transformative” solutions to a greater extent, contracting authorities can, for example, help sustainability goals to be achieved.

Through public procurement and close cooperation between contracting authorities and the business sector, technical development to strengthen public sector activity can be stimulated, which in turn can result in world-leading innovations. When businesses are given the opportunity to develop innovative solutions and new products for public sector activities, this may also create sustainable growth, enhanced competitiveness, new jobs and export opportunities.

A key to ensuring good results from public procurements is to involve potential suppliers, industry organisations, experts, users and other actors well before the specification for the public procurement is drafted. Through dialogue with these actors, greater understanding and greater knowledge is obtained about which solutions the market can offer or develop on the basis of specific needs. At the same time, this ensures that the specification subsequently specified in the procurement documents does not exclude new solutions that are available in the market, and that the solutions created are suitable for use by the intended target group.

Make innovation procurement part of your organisational development

Sweden’s capacity for innovation is crucial in order to develop the public sector as well as to meet the challenges and opportunities offered by the global economy. It is therefore important for innovation procurement to become part of the public authorities’ organisational development. New technological solutions and innovations are necessary to achieve the societal goals.

Innovation procurement is often more resource-intensive than traditional public procurement. By organising buyer’s groups and using the possibilities for financial support from, for example, Vinnova -Sweden’s innovation agency contracting authorities and entities can reduce the risks to the individual authority. Smaller municipalities and county councils in particular can gain from collaborating on public procurement.

Set criteria by function

Setting criteria by function rather than setting specific criteria for goods and services stimulates creativity and innovative capacity on the part of potential suppliers.

Requesting by function can promote competition in public procurements by enabling more companies and organisations to participate and submit tenders, to the benefit of small and medium-sized enterprises.

How can this objective be achieved?

- By ensuring that, at management level, your authority identifies development and innovation needs that could be met via innovation procurement.
- By ensuring that your authority produces internal guidelines to promote innovation in public procurements.
- By ensuring that your authority establishes an effective dialogue at an early stage with the actors in the market regarding needs and conditions for developing innovative solutions. The National Agency for Public Procurement is engaged in work in this area and can offer appropriate support.
- By ensuring that your authority sets criteria by function, starting from the results to be achieved rather than by stating specific criteria for goods and services.
- By ensuring that your authority makes use of the initiatives and tools that the National Agency for Public Procurement has developed as support for setting functional criteria in public procurements.



6

Environmentally responsible public procurement

- Green public procurement must be increased throughout the public sector
- Purchasing may be used as a strategic means of achieving environmental goals
- Set animal welfare criteria

Sweden shall be at the forefront in green public procurement and continue to lead by example in this area. Today, environmental criteria already apply to how 190 Government authorities are to conduct their public procurement, via the Ordinance (2009:07) on Environmental Management in Government Authorities. Through well-formulated environmental criteria for goods and services, public procurement can act as a strong driving force for sustainable development. Use of green public procurement should therefore be increased, especially in product categories with major impact on the environment. Environmental concerns and a life cycle perspective should be taken into account in the different phases of the public procurement process. Even if the price for a particular public procurement

becomes higher if subject to environmental criteria, the overall cost to society may be lower in the long term.

Public procurement can also be used as a strategic tool in Sweden's transition to a circular, bio-based economy in order to achieve Sweden's environmental objectives and to support Sweden's work to meet the Sustainable Development Goals and the 2030 Agenda. The purpose of using environmental criteria in public procurement is to help the environmental quality objectives to be achieved. The public sector has an important role to play here as a responsible purchaser of goods and services. Through sustainable and ethically conscious purchasing, it can also match the strong and growing commitment to this area among the general public.

The public sector also plays an important role in enabling the promotion of innovative and new environmental and energy technology solutions. Similarly, the increased digitalisation and use of IT can assist in meeting the climate challenge and achieving these goals. Conversely, public procurement may represent an important market for innovative companies in these and other areas.

Public procurement of products and services should better reflect the ambitions of society and be aligned with the high standards of animal welfare and environmental consideration set by Swedish legislation.

Increase use of environmental criteria

Environmental concerns can be taken into account at stages of the public procurement process. Particular provisions also apply to environmental criteria. Swedish legislation also offers major opportunities for setting criteria for environmental consideration, which now more than before can be taken into account at all stages of the public procurement process.

The National Agency for Public Procurement is tasked by the Government to promote increased environmental consideration in public procurement and is responsible for a wide-ranging criteria-defining programme aimed for contracting authorities and entities in their work on setting criteria, for example regarding animal welfare and resource efficiency in their public procurements. The National Agency for Public Procurement's criteria, in the form of environmental and social criteria, apply to around ten product categories, comprising some 100 products. Part of the National Agency for Public Procurement's work is to report on key indicators that show the internal and external impact of environmental and social criteria.

Increased use of environmental criteria in public procurements not only makes environmental gains possible but also economic gains. By making use, for example, of the National Agency for Public Procurement's benefit calculators, it is possible to estimate how much money and energy can be saved and how much climate impact (carbon dioxide emissions) can be reduced by setting environmental and energy criteria in public procurements.

Stipulate animal welfare criteria in food procurements-

Public procurement of food and catering services is an area in which the criteria specified should reflect citizens' expectations that Sweden's animal welfare criteria are observed. The specification by contracting authorities and entities of relevant animal welfare criteria in public procurements will help to ensure good conditions during the life of the animal, irrespective of country of production.

Central government authorities fulfil an important role by setting an example for how animal welfare can – and should – be ensured in public procurements in a non-discriminatory way

Example: SIC (the National Procurement Services)

SIC at the Legal, Financial and Administrative Services Agency made an inventory of all the environmental criteria specified in its framework agreements. The framework agreement categories were analysed on the basis of qualification criteria, award criteria, contract performance clauses and the environmental criteria that may be specified for call-offs. SIC identified in its inventory, a number of environment-critical technical areas and a number of goods and services that the Agency deemed to have major environmental impact. The environmental criteria specified by SIC are presented by the Agency's environmental coordinators, who then annually report these criteria to the Swedish Environmental Protection Agency.

National food strategy

The Government is working in 2016 on developing a food strategy. As part of that strategy, the Government will emphasise that Sweden should have high ambitions for animal welfare and animal health, and should continue its work on raising standards of animal welfare in the EU.

How can this objective be achieved?

By ensuring that your authority makes use of the National Agency for Public Procurement's environmental criteria and other tools, such as the criteria directory and benefit calculation tools.

By ensuring that your authority actively focuses on specifying environmental criteria in your public procurements. SIC's experiences may serve as a guide to good practice.

By ensuring that your authority makes use of The National Agency for Public Procurement's support tools for specifying animal welfare criteria, on a non-discriminatory basis, in public procurements.

7

Responsible public procurement that contributes to a socially sustainable society.



Public procurement that contributes to a socially sustainable society

Criteria for social considerations should be stipulated in public procurements whenever possible and appropriate. Social considerations may, for example, mean promoting employment opportunities for disadvantaged groups, such as individuals experiencing difficulties in entering the labour market. Equal opportunity is part of social considerations. It requires equal opportunities to be assured for women, men and children, and goods, services and products to be available and fit for use by everyone, of all ages, irrespective of any disability. Social considerations also include respect for the conditions and needs of different groups, such as national minorities. It is important that, at an early stage of the public procurement process, contracting authorities and entities apply the principle of universal design, that is, they should think strategically so as to ensure that products and services can be used by as many people as possible and should not exclude certain users in advance. This may be done, for example, by conducting an equal opportunity analysis regarding the specifications stipulated. Social considerations may also contribute to foster free and fair trade. It is also important to weigh up any risks in the supplier stage of the public procurement in terms, for example, of respect for human rights.

Public procurements should also promote respect on the part of businesses for human rights in their operations, as described in the UN's guidelines.

The State shall not contribute to deficiencies in respect for human rights or contribute to social dumping. This applies regardless whether work is performed in Sweden, in any EU Member State or in any country

outside the EU. Central government authorities should act as a model to others and should be at the forefront in including social considerations in public procurements.

Increase the presence of social concern in public procurements

By producing, for example, an internal code of conduct or a sustainability policy, contracting authorities and entities demonstrate clearly the responsibility they assume for ensuring a socially sustainable society.

The Government will provide the conditions for contracting authorities and entities to obtain the necessary support from The National Agency for Public Procurement for identifying, for example, areas where it is important for social criteria to be stipulated as well as by means of public procurement, to draw attention to any risks in the particular area, including at the supplier stage.

Stipulate criteria for reasonable conditions of employment

Competition in public procurement must never be at the expense of good work environment or reasonable working conditions. The Government wishes to strengthen the possibilities for stipulating criteria for conditions in line with Swedish collective agreements in public procurement. Criteria for conditions corresponding to Swedish collective agreements are an important means of combating social dumping in public procurement. By requiring suppliers to guarantee reasonable working conditions for their employees, the services procured

can be performed at a high quality while still combating social dumping.

In partnership with the authorities concerned and the labour market parties, the National Agency for Public Procurement is an important factor in raising levels of competence and actively focuses on ensuring that these concerns are included in public procurements.

Play a part in increasing employment via public procurements

Contracting authorities and entities, being in many cases major purchasers of services and contracts, have excellent opportunities during public procurement for encouraging industry actors to employ unemployed individuals who find it difficult to enter the labour market. This can be achieved, for example, by requiring that work, internship or an apprenticeship be offered to the long-term unemployed with the right skills, or alternatively that work experience or an apprenticeship be offered to young unemployed people who would otherwise be at risk of long periods of unemployment. Specifications of this kind should be designed so as to counteract a gender-segregated labour market.

The Government has been able to observe how other Member States, such as the United Kingdom, have successfully implemented social contract clauses in public procurements in order to increase employment. The Government is striving to improve the performance of the public sector in Sweden in increasing employment via public procurement.

Enable participation by voluntary organisations

Voluntary organisations – social enterprises, cooperatives, societies, foundations and non-profit organisations – represent an

important resource in society and contribute to diversity. The Government considers it important to make it easier for organisations of this kind to operate in the welfare markets. Such organisations play a part, above all, in raising the quality of the welfare services and adapting them to the needs and wishes of users. In addition, several of these voluntary organisations serve as an important voice for groups in society that otherwise may find it difficult to be heard. These voluntary initiatives create added value in the form of democratic reinforcement, a sense of community and social cohesion. One way of increasing the scope for voluntary organisations to act as suppliers to the public sector may be, subject to the relevant legal conditions, to establish a voluntary public partnership. While Sweden has a robust and active non-profit sector, voluntary organisations are to a major extent absent from sectors such as health and social care.

In the view of the Government, increased dialogue, within the limits of the law, before, during and after public procurement is one way of lowering the barriers to participation by voluntary organisations.

Example: Swedish Transport Administration

In June 2015, The Swedish Transport Administration was commissioned by the Government to investigate different ways in which employment-promoting requirements could be incorporated into public procurements, and the possible consequences of this. As the Administration's report indicated that such requirements can be effective tools for promoting increased employment, the Government's view is that more central government authorities should actively focus on incorporating employment-promoting requirements in their procurements.

How can this objective be achieved?

- By ensuring that your authority develops internal procedures in which management's expectations of the organisation regarding social responsibility in public procurements are clearly defined.
- By ensuring that your authority makes use of The National Agency for Public Procurement's criteria and support for socially responsible public procurement.
- By ensuring that your authority works actively with combating social dumping and ensuring reasonable working conditions in public procurements.
- By ensuring that your authority actively focuses on stipulating employment specifications in your public procurements. The Swedish Transport Administration's experiences may serve as a guide to good practice⁵.
- By ensuring that your authority makes use of support from the National Agency for Public Procurement in formulating employment specifications in public procurements.
- By ensuring that your authority is aware that excessive criteria for economic and financial capacity or excessively large contracts can represent unjustified barriers to the ability of voluntary organisations to participate in public procurements.
- By your authority ensuring that voluntary organisations are offered the opportunity, where justified, to participate in public procurements. Be aware that the resources of voluntary organisations are in many cases limited.
- By ensuring that your authority works with voluntary organisations, where legal conditions allow, for example via partnership..
- By ensuring that your authority uses the support offered by the National Agency for Public Procurement with regard to obtaining the right knowledge of how public procurements can be performed so that they make it possible for voluntary organisations to participate.

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⁵ In the Swedish Transport Administration report *Krav på sysselsättning i upphandlingar (Requirements for Employment in Procurements)* from 13 November 2015, the Administration estimates that employment-promoting actions carried out can create between 200 and 1,500 work experience placements and jobs annually (including apprenticeships and jobs subsidised by The Swedish Public Employment Service).



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