



Access to Defence Procurement

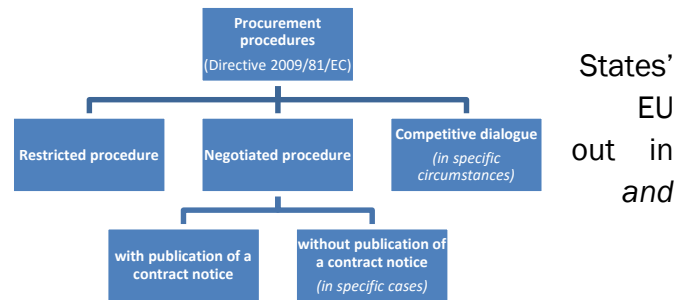
Business opportunities in EU

How does it work?

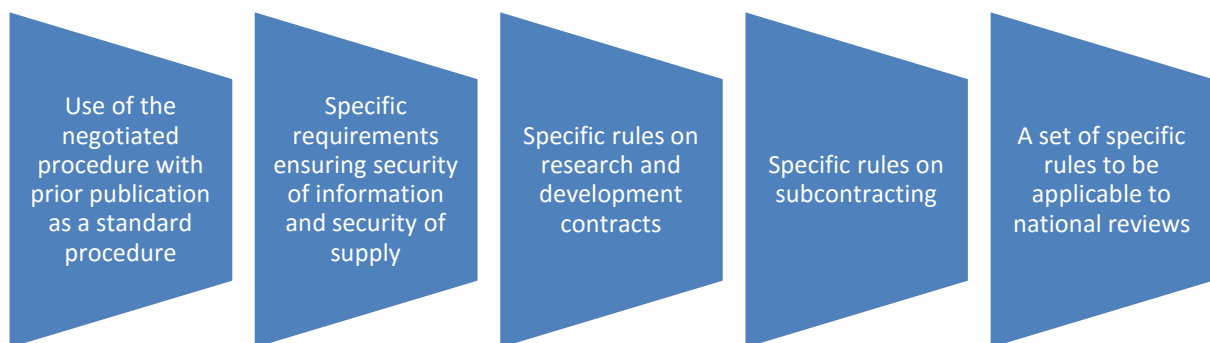
The defence sector market distinguishes itself from the usual business market for several reasons: goods are often unique, defence activities are sensitive and subject to specific national rules for handling classified information and export control, security of information is absolutely essential and procurement is mainly carried out by tendering to Member States' Ministries of Defence as the single national clients in defence procurement.

National defence procurements are individually managed by Member contracting authorities on the basis of defence procurement provisions as set the Directive No. 2009/81/EC (*Defence Security Procurement Directive*). In specific cases, certain exclusions referenced in articles 12 and 13 of this

directive can be applicable. A summary of national legislation transposing this directive can be found at: <http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32009L0081>



This Directive presents a range of innovations tailored to the specific needs of procurements in defence and security markets:



Indicative elements that SMEs should know or do during some specific phases of the procurement procedures under the Directive No. 2009/81/EC are presented below:

1

Publication of notices

Specific information is included in the Prior Information Notice (if any) and the Contract Notice, and is drawn to reduce the number of candidates and eliminate those whose administration, financial management or performance (as described by their history through their references) are not compliant with defence requirements. SMEs should analyse the provisions, conditions and selection criteria to assess if they are able to become a candidate.

What should SMEs know ?

On detecting opportunities for defence procurement

- Map all websites relevant to defence procurement (TED & MoD, national e-procurement portals).
- Register yourself and create alerts on these websites (e.g. RSS feeds) to be fully aware of all contract opportunities.
- Sign up for email alerts on Contracts Finder.

On pre-qualification by the MoD

- Analyse the requested selection criteria mentioned in the published notices (Balance Sheet/Income statement, previous experience, security clearances, defence exclusion particularly regarding terrorism, tax payments) and determine your capacity to comply with these criteria.
- Give particular attention to requirements regarding security clearance. If needed, take action to contact the responsible authority to upgrade your security clearance level. This is a step that might take time.
- Check the deadlines and the type of submission process for your proposal.
- Note that MoDs usually prefer to have one unique contractor. In such a case, check needs and possibilities for grouping (building a consortium, subcontracting) in order to meet the contract scope and specifications.
- Identify the person responsible for the contract (technical and administrative contacts).
- Check if there is an infoday or specific event related to this specific procurement.

What should SMEs do ?

- Don't hesitate to ask for clarifications if necessary. Check the conditions, provisions and exclusions, as well as the associated time-limits.
- Build the budget and have it checked by a financial expert if necessary.
- Prepare the application forms.
- Check all the requested administrative documents and check that all documents have been provided.

2

Selection of the economic operators

The contracting authority will select the economic operators based on their compliance with selection criteria (e.g. personal situation, suitability to pursue the professional activity, economic and financial standing, technical and/or professional ability, quality management systems standards).

What should SMEs know ?

- Be prepared to give a precise and prompt answer to any request for clarifications emanating from the contracting authority on your proposal.

In case of success:

- Know your margins or room for manoeuvre in terms of budget, delivering capacity, quality level, time-limits and reporting to be ready to work on the tenders.

In case of exclusion:

- Know that you can ask for clarifications on the reasons why you were excluded, as well as for detailed evaluation to prepare for a potential remedy. However, a detailed evaluation is subject to business confidentiality; this will affect the level of detail in the feedback.

What should SMEs do ?

- It is advised that you don't contact and/or do something that could be considered as attempts to influence the contracting authorities.
- Stay on the lookout for possible updates and/or changes to the Contract Notice on the procurement portal (TED especially).
- If asked, reply promptly to clarification requests.

In case of success:

- Prepare a dedicated team for tendering.

In case of exclusion:

- You can either:
 - Accept the result of the evaluation, or
 - Contest the result of the evaluation and officially make a recourse as defined in the Contract Notice.

3

Tendering/Negotiation

Selected candidates will be able to submit their tenders or to negotiate, or, in the case of a competitive dialogue, to take part in the dialogue.

What should SMEs know ?

- Knowing that submitting an offer requires far more time and investment than for the pre-selection stage, determine your capacity to be compliant with the Contract Notice's technical specifications' and financial criteria.
- Consult a legal adviser if necessary to clarify legal matters related to the Contract Documentation.
- Check the time-limits and the submission process for your proposal.
- Identify the person responsible for this procedure.
- Understand the process, meaning the number of stages that you have to go through before the final and best offer is chosen, and whether each stage is eliminatory (the process is specific to each country).
- Understand clearly the key provisions included in the contract documentation, which can have significant impact during the performance of the contract.
- Know your rights and obligations and determine your related risks.
- Know your margins or room for manoeuvre in terms of budget, delivering capacity, quality level, time-limits and reporting to be ready to negotiate specific "negotiable" provisions of the contract.

What should SMEs do ?

- Don't hesitate to ask for clarifications if necessary. Check the procedures and associated time-limits.
- Determine if you need subcontractors and make sure they are suitable regarding security clearances and other requirements before involving them in the tender.
- Check all the requested administrative documents and check that all documents have been provided.
- Respond to all criteria and requirements contained in the contract documentation. Not responding to a requirement can lead to disqualification of your tender.
- Prepare a check list for the negotiation process.
- Follow a win-win approach during the negotiation in order to maintain a long-term partnership.
- If necessary, negotiate the negotiable terms of the contract.

4

Contract award

The criteria on which the contracting authorities shall base the award of contracts shall be either the most economically advantageous tender or the lowest price only.

What should SMEs know ?

- Be prepared to give a precise and prompt answer to any request from the contracting authority for clarifications, specifications or fine-tunings at any time during the technical evaluation phase.
- Keep in mind the legal conditions such as contract termination or remedy clauses.

In case of non-acceptance:

- Know that you can ask for clarifications on the reasons why you were not accepted, as well as for detailed evaluation to prepare for a potential remedy. However, a detailed evaluation is subject to business confidentiality; this will affect the level of detail in the feedback.
- Be aware of the procedure to be followed for the clarification request.

What should SMEs do ?

- It is advised that you don't contact and/or do anything that could be considered as attempts to influence the contracting authorities.
- Stay on the lookout for possible updates and/or changes to the Contract Notice on the procurement portal (TED especially).

In case of an unsuccessful tender:

- You can either:
 - Accept the result of the evaluation, or
 - Contest the result of the evaluation and officially make a recourse as defined in the call for proposals.
- If you feel you were unfairly judged, evaluate the risks and opportunities to make a remedy and take into consideration the any legal costs.

Where to find information?

SMEs can find information on defence procurement opportunities, including the opportunities under the thresholds of the Defence and Security Procurement Directive, on EU Member State's procurement portals and also on the TED (Tenders Electronic Daily).



Find business opportunities from the European Union, the European Economic Area and beyond at <http://ted.europa.eu/TED/main/HomePage.do> !

TED is the online version of the "Supplement to the Official Journal" of the EU, dedicated to European public procurement. TED centralises the ongoing tender opportunities at both European and national levels. Furthermore, on the TED platform, the original notice is published in the native language of the contracting authority together with a very short summary of the notice in other EU languages. It is important to know that calls are always published first on TED, ahead of publication on national portals.



Why should you register on TED?

To personalise RSS feeds for your web sites and RSS readers

To personalise search profiles, according to your needs.

To get e-mail alerts based on your search profiles.

It is possible to create an account on the TED platform, however this is not mandatory. You will be able to access documentation and download any document without being registered.

You can also search information related to procurement procedures under the Directive No. 2009/81/EC at:

<http://ted.europa.eu/TED/search/search.do>

The screenshot displays the TED search interface. At the top, there's a navigation bar with 'TED Home - Search' and 'eTendering'. The main search area is titled 'Search' and includes a 'Manage saved search' link. The search form is divided into two columns. The left column contains fields for 'Edition number' (with a hint 'number/year e.g. 123/2009'), 'Country', 'Contract', 'Type of document', 'CPV code', 'Publication date' (with radio buttons for 'from' and 'to'), 'Documentation date' (with a hint 'date e.g. 13-01-2009'), 'Type of authority', and 'European Institutions'. The right column contains fields for 'Full text' (with a hint 'text e.g. pipe" resp. "filling station"'), 'Place' (with a hint 'text e.g. Nottingham'), 'Procedure', 'Regulation', 'NUTS code', 'Document number' (with a hint 'No-year e.g. 135336-2005 or year/5 qjn-no e.g. 2014/5 175-309694'), 'Deadline' (with a hint 'date e.g. 13-01-2009'), 'Authority name' (with a hint 'text e.g. Council'), 'Main activity' (with a hint 'Defence'), and 'Legal basis' (with a hint 'Defence Directive (2009/81/EC)'). At the bottom of the form are 'Clear', 'Search', and 'Switch to expert mode' buttons. The page footer includes links for 'About TED', 'Help', 'Site map', 'Contact', and 'Important legal notice'.

► EDA opportunities and tools



Visiting the EDA website will help you in several ways:

- As EDA publishes its own public procurement on the Procurement Gateway (<https://www.eda.europa.eu/procurement-gateway>), you will find here plenty of information on current business opportunities. EDA mainly provides opportunities related to projects, studies, analysis, etc.;
- The Procurement Gateway also acts as a central information hub on business opportunities, with links to national defence procurement portals, TED (filtered business opportunities by Defence and Security Procurement Directive) and other related EU portals (e.g. OCCAR, EASME, FRONTEX, EASA).
- The European Union Contractor Support to Operations (CSO) platform (<http://cso.eda.europa.eu/Pages/Home.aspx>), launched by EDA, provides a forum for interaction between experts from CSDP operations and potential or actual contractors, in order to support the identification of commercial solutions for operational demands. You can be registered on this platform.

How to maximise your chance of winning defence procurement?

Outlined below is a non-exhaustive list of tips to successfully run a defence procurement project:



Tips to run successful defence business:

Build a trust and transparent interaction with contracting authorities

- Identify the point of contact in the Ministry of Defence (MoD) and inform him/her of your competences and capabilities. This will enable you to build a trustful and transparent relationship with MoD.
- Find out what the MoD current priorities and future plans are, in order to adapt your business accordingly. MoD budgets and plans can be a valuable information source.
- Try to be registered in the MoD database of potential suppliers (if it exists). Participate in “infodays” to get information, meet market players, exchange best practices and find partners to reply to opportunities and enter the networks of market players who are already present in the defence market both at national, European and international levels.
- Keep in mind that building a trustful relationship with MoD takes time and is of paramount importance.

Be familiar with defence procurement specificities

- Submitting an offer involves getting familiar with the defence procurement procedures and regulations. You can get help and expertise from your legal expert and from an external entity such as NDIA's and defence-related clusters.
- The defence sector uses specific standards and requirements, meaning that defence-related SMEs have to adapt to them.