



## Improving SMEs' Access to Cross-Border Public Procurement

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# Public procurement in France

## Overview

Public procurement refers to the process by which public authorities (government departments or local authorities) purchase work, goods or services from companies.

It constitutes an important economic lever. In France, procurement contracts represent more than €70 billion per year, for 240 00 call for tenders published.

French institutions are numerous and can make contracts in various areas (national, regional and local governments, public hospitals, public museums etc.).

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## European regulation—useful links

Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0024>

Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0025>

Directive on the award of concession contracts: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0023>

## The European Framework

Expect in some specific cases, public procurements are submitted to European Law (European Directive 2014/24/EU) which provides the following thresholds:

	Thresholds	€25 000 net of VAT	€90 000 net of VAT	€5 225 000 net of VAT
WORK	At the discretion of the contracting authority	Sufficient advertising regarding the value and object of the contract	BOAMP or JAL + trade press	BOAMP and JOUE (TED)
				State: €135 000 net of VAT Local government: €209 000 net of VAT
SUPPLY SERVICE	At the discretion of the contracting authority	Sufficient advertising regarding the value and object of the contract	BOAMP or JAL + trade press	BOAMP and JOUE (TED)
				State: €135 000 net of VAT Local government: €209 000 net of VAT

BOAMP : bulletin officiel des annonces de marchés publics - JAL : journal d'annonces légales - JOUE : Official Journal of the European Union

*These European directives are implemented into national French law.*

## French regulation—Useful links

Ordonnance n°2015-899 of July 23, 2015:

[https://www.legifrance.gouv.fr/affichTexte.do?](https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030920376)

[cidTexte=JORFTEXT000032295952&cat](https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&categorieLien=id)

Décret n°2016-360 of March 25, 2016:

[https://www.legifrance.gouv.fr/affichTexte.do?](https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&categorieLien=id)

[cidTexte=JORFTEXT000032295952&cat](https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&categorieLien=id)

Forms DC1:

<https://www.economie.gouv.fr/daj/formulaires-declaration-du-candidat>

Forms DC2:

<https://www.economie.gouv.fr/daj/formulaires-attribution-marches-2016>

## National Regulation

New public procurement regulation in France was implemented the 1st April 2016. It transposes into French Law the European Directive 2014/24/EU on public procurement. These new rules encourage a simplification of purchasing techniques, a frame to foster innovation procurement and the integration of social and environmental management criteria in public procurement.

A specific vocabulary is related to French public procurement:

- ◆ **MAPA** (“Marchés à procédures adaptées”): this procedure is possible when procurement are below € 90 000 (European threshold).
- ◆ **RC** (“Règlement de consultation”) : this document constitutes the consultation Framework.
- ◆ **DCE** (“Dossier de consultation des entreprises”) : This file is the proposition made by enterprises.
- ◆ **ATTRI** : **this form seals the deal between the public buyer and the economic operator.** It is a legal commitment.

In order to submit an application, a bidder may have to provide the following documents (non-exhaustive list):

- ◆ **DC1** (application letter): presentation of the bidder (company, group etc.)
- ◆ **DC2** (bidder’s statement): form needed to ensure that the bidder meets the requirements concerning technical, economic and financial standings to fulfill the contract.

## Good to know

Several dispositions aims at increasing SMEs' access to public procurement:

### Lots:

To facilitate SME participation and to foster competition, **public buyers are encouraged to divide contracts into lots**. Bidders can bid on one or several lots. Except in exceptional cases, contracts should be divided into lots when their object allows the identification of separate performances.

### Variants:

The bidder must verify whether or not he needs to answer the basic offer in order to submit a variant (**alternative offer which is still meeting the need**).

### Innovation partnership:

The innovation partnership aims at the acquisition of an innovative product, service or works by the contracting authorities. The partnership takes form of a competitive dialogue. The contracting authority may decide to set up the innovation partnership with one partner or with several partners conducting separate research and development activities.

## Databases

The most useful databases to monitor calls for tenders in France are:

- ◆ EU Official journal: <https://ted.europa.eu>
- ◆ BOAMP: [www.boamp.fr](http://www.boamp.fr)
- ◆ A few platforms (such as [www.marchesonline.com](http://www.marchesonline.com)) gather contract notices above €90 000 net of VAT.
- ◆ Public buyers' profiles such as:
  - ◇ PLACE (platform for State purchases): [www.marches-publics.gouv.fr](http://www.marches-publics.gouv.fr)
  - ◇ Achat-hôpital (platform for publicly-funded hospital purchases): [www.achat-hopital.com](http://www.achat-hopital.com)

To monitor closely calls for tenders in France, companies usually use private providers (paid subscriptions).

### Specificities at the French level

#### Contract below €25 000:

The contracting authority can negotiate a deal without any obligation of publicity. Public buyers must publish a contract notice if the contract value is exceeding the value of €25 000 net of VAT.

#### Subcontracting:

In France, when the subcontract is exceeding the value of €600 net of VAT, the contracting authority may transfer payments directly to the subcontractor.

#### Central purchasing body:

The UGAP (*Union des groupements d'achats publics*) is a French central purchasing body dedicated to public procurement.

## Social Networks

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Twitter:

[https://twitter.com/sesam\\_eu](https://twitter.com/sesam_eu)

YouTube:

<https://www.youtube.com/user/pargovpl>

Website:

<http://www.sesamproject.eu/>

## SESAM

Initiated in 2017, the project SESAM intends to improve SME's access to Cross-Border Public procurement. This project provides knowledge and support for a successful participation in public procurement within European Union, in particular in Germany, Italy, France and Poland.

The following tools are available for SMEs:

- ◆ Seminars
- ◆ Webinars
- ◆ Training sessions
- ◆ Factsheets and guidelines
- ◆ B2B (business to business) and B2P (business to procurer) events
- ◆ Lists of potential partners/public buyers
- ◆ Advisory service

## Contact

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