



The SMEs Accessibility to Public Procurement in Romania. The Grounds for Bids Rejection

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ABSTRACT

The paper proposes an approach of the small and medium-sized enterprises activity process in the field of public procurement, given the fact that these companies are the basis for the development of the European economy. The involvement of Romanian SMEs in public procurement represents more than 60% of the total concluded contracts during the period 2018-2020. The originality and novelty of the research derives from the analysis carried out on the SMEs attendance to public procurement in Romania and from highlighting the main causes for bids rejection. Public procurement can be an incentive tool for the development of innovative products/technologies and to support SMEs. The development of public sector contracts is one of the growing opportunities for these companies. Research has shown that the chance of SMEs being awarded public contracts decreases by around 15% due to lack of skills required by the tendering procedure or lack of staff training.

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1. Introduction

In 2020, at European Union (EU) level, small and medium-sized enterprises (SMEs) accounted for about 99.8% of all non-financial enterprises, generating about 65% of all jobs (EISMEA, 2021). Playing a key role in increasing competitiveness and economic development, these companies are often referred to as the backbone of the European economy (Mihalcova and Hvastova, 2008).

Through the Directive 2014/24 regarding the Public Procurement, the EU draws the attention to the Member States to the need of supporting the SMEs and to create some legislative facilities in the field of public procurement, in order to allow these companies to participate in tenders and carry out contracts with public institutions.

This paper presents first of all a literature review (highlighting SMEs' participation in public procurement, the obstacles they face in bidding). Subsequently, the monitoring indicators of procurement in Romania are analysed, as they are determined and published annually by the National Agency for Public Procurement (NAPP).

The next section focuses on the research methodology (where the methods applied and the means used are explained). The study continues with results and discussion (section presenting the research interest on SMEs, the place that the SMEs occupy out of the total number of non-financial companies in the EU as well as in Romania; the SMEs involvement in the public procurement from Romania, the contracting level). Also, in the results and discussion section, reasons for bids rejection are presented. The last part of the study is dedicated to the conclusions in which the topicality and originality of the research are highlighted and new research topics are suggested.

2. Literature Review

The public procurement reform act of 2014, which resulted in the publication of the Directive 2014/24/EU, has put the focus on SMEs participation in the market of public procurement contracts. Through the Directive, the EU drew the attention of Member States to facilitate SMEs' access to public procurement procedures. Contrary to the major contribution that small and medium-sized enterprises make to a country's economy (through the many jobs they create, through investment, but also through their participation in innovation), the involvement of SMEs in public procurement is low (Akenroye et al., 2020). The public procurement regulations are certainly an area of interest for the whole business environment due to the opportunity for firms to develop and to evolve (Stam and van de Ven, 2019).

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In recent years, researchers have paid increasing attention to the barriers SMEs face in public procurement (Flynn and Davis, 2017; Loader, 2015; Saastamoinen et al., 2017; Akenroye et al., 2020), to the ways to remove these barriers, but also to the opportunities for these enterprises to grow (Ancarani et al., 2019; Hoekman and Taş, 2019).

The most important of the benefits brought to SMEs by the 2014 legislative reform, is the division of the contract into lots. The rule concerning the divisions of contracts into lots, introduced by Directive 2014/24/EU, removes the main barrier to SMEs' access to public procurement procedures: the estimated value of contracts. Because of the high values, these categories of enterprises were not able to demonstrate that they had the capacity to fulfil the contract. The contract division into lots has the advantage of attracting more SMEs to compete, but the amounts of the won contracts are small (Hoekman and Taş, 2022).

Small and medium enterprises also face insufficient technical capacity to execute the contract, lack of experience, and misunderstanding of procurement procedures too (Offei, Kissi and Nani, 2019). The inability to meet the requirements and needs of the beneficiary leads to the exclusion of SMEs from public procurement procedures (Olusegun and Akinbode, 2016).

The lack of proper management, legal, administrative and also computer skills, the reluctance to engage in a tendering procedure they do not trust, are also barriers to SMEs participation in public procurement (Loader, 2015).

Fernández-Viñé et al. (2012) argue that the public administration, through the instruments it possesses, has the capacity to stimulate SMEs to improve their business. Green procurement legislation, innovation support, pricing policies represent tools that can promote these enterprises.

3. Research Methodology

This paper is based on a factor analysis of SMEs participation in the public procurement market from Romania. The objectives of the study are to investigate the factors influencing the contracting process, as well as the rejection rate of tenders submitted by SMEs as part of the public procurement procedures.

The empirical research is carried out along 3 lines, in order to establish the correlations between: (1) the number of contracts signed by SMEs and the types of contracts; (2) the bids rejection rate and (3) the causes for bids rejection, from the perspective of insufficient training of the staff carrying out the bidding and insufficient digitalisation of the procurement process.

In order to carry out the research, it was necessary to collect and process existing information from the statistics produced by EUROSTAT for the period 2010-2019, as well as from the reports produced by NAPP, for the years 2018-2020, which are based on the data sets provided by EPPS and published on the website www.anap.gov.ro, under the section "Statistical analysis and reports". Only the period 2018-2020 was included in the research since, as of 02 April 2018, the tools in the EPPS platform made it possible to easily identify economic operators from the SMEs category, thus making it possible to analyse the degree of access of these enterprises to public procurement (NAPP, 2018).

4. Results and Discussions

4.1 SMEs in the EU and in Romania

The European statistics show that SMEs constitute the majority of non-financial economic operators (European Commission, 2021). The European Commission, in its Recommendation 2003/361/CE, includes in the SMEs category those enterprises with less than 250 employees and a turnover of up to EUR 50 million, or total assets of up to EUR 43 million.

According to the data centralised by Eurostat (2021) for the period 2010-2019, it can be seen that of all enterprises in the EU27, more than 99% had fewer than 250 employees. The data presented in Table no. 1 do not refer to economic information, i.e. neither to the turnover, nor to the total assets, but strictly to the number of employees.

Table 1. The number of enterprises in the EU and in Romania

Year	Total enterprises EU	enterprises < 250 employees - EU	% EU < 250 employees	Total enterprises RO	enterprises < 250 employees- RO	% RO < 250 employees
2014	21,535,291	21,497,187	99.82	455,852	454,247	99.65
2015	21,559,394	21,520,300	99.82	458,122	456,480	99.64
2016	22,309,822	22,269,533	99.82	465,607	463,951	99.64
2017	22,234,234	22,192,743	99.81	485,215	483,552	99.66
2018	22,710,033	22,670,033	99.82	501,974	500,312	99.67
2019	N/A	N/A	N/A	516,703	515,051	99.68

Source: Authors, by using Eurostat (2022)

According to the same source of information, in terms of the share of enterprises with less than 250 employees, Romania follows the EU statistical course, having annually more than 99% SMEs of all non-financial companies.

In its 2019-2024 Agenda, the Council of Europe considers that, in order to achieve a solid economic base, investments in SMEs should be supported, especially as they contribute with more than 50% of the added value achieved by all enterprises in the EU, and in the private sector they generate about two thirds of all the jobs (The European Parliament, 2021).

As public procurement is allocated significant amounts of GDP, SMEs' interest in winning contracts with public institutions is high, with competition between these operators having an impact on the tendering process.

4.2 SMEs Involvement in the Public Procurement from Romania

The advantages created by the Directive 2014/24 for SMEs are reflected in their increasing participation in public procurement. Every year, NAPP publishes a report with "The Indicators for Monitoring the Efficiency of Public Procurement Procedures Completed with a Contract", among these indicators are those concerning SMEs. According to the information centralized by NAPP, in each of its reports, for the years 2018-2020, more than 60% of the contracts total value was awarded to SMEs.

For the year 2018, the information in Table no. 2 refers to contracts registered in the EPPS platform (<https://www.e-licitatie.ro>) as of 02 April 2018 (NAPP, 2018), when the electronic system facilitated the type of enterprise marking - SME.

For 2021, there is no centralised information on the number and value of contracts concluded by SMEs.

Table 2. The value of the contracts concluded by SMEs

Year	SMEs (thousands RON)	All economic operators (thousands RON)	(%)
2018	10,284,469.22	12,250,244.21	83.95
2019	26,746,304.57	42,385,233.00	63.10
2020	30,873,447.01	49,391,417.00	62.51

Source: Authors, by using NAPP, 2018-2020

Although the value of contracts awarded to SMEs has increased continuously over the 3 years, the percentage value of contracts awarded has been on a downward trend, with SMEs obtaining a lower percentage value of all contracts signed (Figure no. 1).

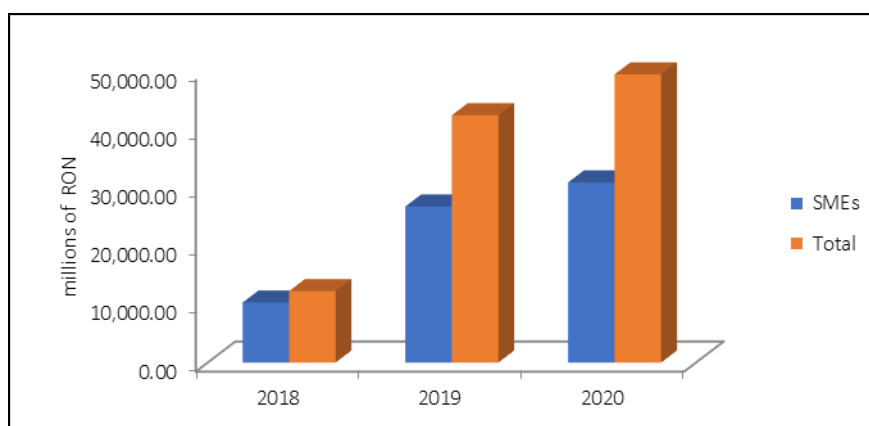


Figure 1. The evolution of the value of SMEs awarded contracts (2018-2020)

Source: Authors, by using NAPP

In terms of the three types of contracts (supply, works, services), works contracts ranked first over the three years (Table no. 3) because of their complexity and high costs respectively.

Table 3. The value of SMEs awarded contracts, by categories

Contract type	2018	% 2018	2019	% 2019	2020	% 2020
Supplies	1,501,238.40	14.6	4,069,528.67	15.22	4,038,420.49	13.08
Works	8,211,661.53	79.85	20,559,111.64	76.87	23,939,256.76	77.54
Services	571,569.29	5.56	2,117,664.27	7.92	2,895,769.76	9.38
Total	10,284,469.22		26,746,304.58		30,873,447.01	

Source: Authors, by using NAPP, 2018-2020

Although the highest values are found in the area of works, followed by services and supply, numerically, SMEs have concluded more supply contracts, with those for services and works alternating in the ranking at insignificant differences (Table no 4).

In contrast to the high share of SMEs of the total number of companies (over 99.6%), the number of contracts is not at the same level, for various reasons, such as inability to meet the purchaser's requirements, lack of knowledge on the bidding procedure, insufficient human, material and financial resources. The bids rejection rate is a useful indicator that reflects part of the reasons why SMEs do not end up contracting with the state.

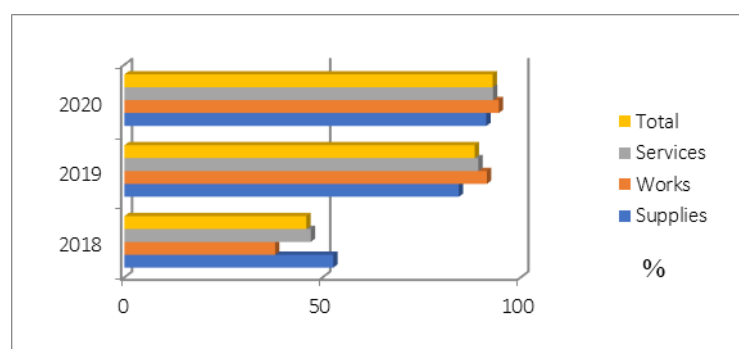
Table 4. The number of contracts awarded, by categories

Contract type	Number of awarded contracts								
	SMEs	All economic operators	%	SMEs	All economic operators	%	SMEs	All economic operators	%
	2018			2019			2020		
Supplies	7,189	13,645	52.69	10,846	12,852	84.39	11,507	12,601	91.32
Works	3,260	8,575	38.02	5,905	6,457	91.45	5,264	5,573	94.46
Services	3,221	6,849	47.03	5,754	6,442	89.32	5,450	5,861	92.99
Total	13,670	29,069	45.91	22,505	25,751	88.39	22,221	24,035	92.92

Source: Authors, by using NAPP, 2018-2020

An analysis of the total number of contracts according to the three types (supply, works and services) shows a relatively constant level. In percentage terms, the trend is slightly downward in 2019 and 2020. Similarly, those concluded by SMEs are close in number in 2019 and 2020 (the data for SMEs, from 2018, do not cover the whole year).

However, on a percentage level, SMEs have carried out a higher number of contracts out of the total contracts awarded even if the total number of contracts has slightly decreased. This means that SMEs have become increasingly involved in public procurement, managing to win an increasing number of contracts. Thus, the public procurement is also in line with EU statistics in terms of SMEs share out of all enterprises.

**Figure 2. The number of SMEs awarded contracts out of the total contracts**

Source: Authors, by using NAPP

Even though the total number of contracts concluded saw a slight decrease in 2020 compared to 2019, SMEs participation, especially in the products/equipment supply, increased compared to 2018 with approximately 35%. Also in the area of service provision, as well as in that of works execution, the competition among SME competitors has increased, with SMEs being awarded an increasing number of

contracts. This demonstrates an encouragement for their participation in tenders, implicitly motivating them to develop sales techniques, to strengthen their position in the market (Stanciu et al., 2019).

The upward trend in the percentage of SMEs awarded contracts is generated by a number of external and internal factors of the public procurement system.

An *external factor* with a significant influence on the increase in the number of SMEs awarded contracts seems to be the increase in the number of companies with fewer than 250 employees (in 2018 there were 500,312 economic operators, and in 2019, there were 515,051, thus, an increase of only 3%, according to Eurostat statistics previously presented).

The decrease in the total number of contracts from the year 2020, but also in the participation of SMEs, is a consequence of the effect of the pandemic on the whole economy, this being a period when many companies reduced the personnel number (The European Commission, 2021) going as far as closing down/suspending activities in many companies, leading to a reduction in the number of competitors in public procurement procedures. Furthermore, a great number of institutions have been unable to carry out contracts and various investment projects, either due to the suspension of funding or due to the lack of workforce affected by COVID-19. Another reason for the reduction in the number of contracts is the redirection of financial resources to the purchase of medical equipment, or to the provision of health protection materials.

The recovery of companies after the crisis created by the COVID-19 pandemic can also be achieved by boosting procurement, but mostly through coherent fiscal policies applicable especially to small and medium-sized enterprises. The tax policies are one of the main instruments to stimulate economic activities (Minea and Turcu, 2021).

Green procurement legislation, support for innovation, pricing policies represent tools that can promote these enterprises.

SMEs should be allowed easy access to various forms of funding for those business plans that shall be oriented towards innovation, the circular economy, but also engage in digital transformation (The European Parliament, 2020). It is important that enterprise development policies are tailored to the specifics of each region, of the place they will be implemented so that the territorial advantages of that region should be properly exploited (Săracu et al., 2019).

Among *the internal factors* of the public procurement system, SMEs participation is influenced by the complexity of the procedures (such as open tenders, restricted tenders, or competitive negotiations), respectively by excessive conditions for the execution level/capacity of these enterprises. Given the high requirements of tender procedures, SMEs are unable to compete with large companies (Akenroye et al., 2020). In complex contracts, they are involved either as subcontractors of the contractor bidder or as service provider/supplier (Farca and Dragoş, 2020). Therefore, SMEs generally do not bid in open tenders, restricted tenders, for which the estimated values are above the threshold for publication of a contract notice in the Official Journal of the European Union (OJEU).

The tendering policy, as well as the ability of firms to meet public sector requirements is reflected in the types of tendering procedures. In Romania, in 2020, most contracts (out of a total of RON 49,391,417.00 thousand), were awarded through simplified procedures, followed by open and restricted tenders (Table no. 5).

Table 5. The types of procedures by which the contracts were awarded in 2020

Award procedure type	Contract value (thousands RON)	Number of contracts	% Value	% number
Request for offer	114,861.51	41	0.23	0.17
Simplified procedure	15,204,743.65	16,849	30.78	70.11
Competitive dialogue	39,177.81	1	0.08	0
Competitive negotiation	173,954.88	27	0.35	0.11
Restricted procedure	107,984.56	9	0.22	0.04
Open procedure	33,658,496.68	6,951	68.15	28.92
Accelerated open procedure	92,197.87	157	0.19	0.65
Total	49,391,416.96	24,035		

Source: Authors, by using NAPP, 2020

Although the number of simplified procedures more than doubled the number of open tenders (70.11% versus 28.92%), the value ratio between them is the opposite (Figure no. 3). Because of their high complexity and high estimated values, the open tenders generated contracts worth twice as much as those concluded as a result of the other types of procedures, including simplified procedures.

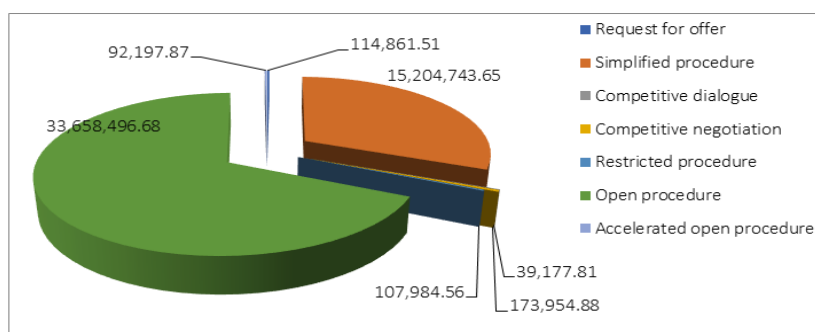


Figure 3. The types of procedures by which the contracts were awarded in 2020

Source: Authors, by using NAPP

By superimposing the analysis of the number of contracts awarded to SMEs over the analysis of the initiated procedures, it can be seen that SMEs have mainly signed supply contracts concluded as a result of the initiation of simplified procedures. The high proportion is the result of the "light" conditions for participation, but also of the qualification requirements limitations for simplified procedures by the Romanian Procurement Law. In such simplified procedures, there will be no requirements regarding the economic and financial situation and the technical and professional capacity is limited to similar experience. In addition, the participation guarantee does not have values that require a heavy financial effort before the contract is signed.

4.3 The reasons for bids rejection

SMEs participation in public procurement is an extensive tender preparation process in which all requirements set by the contracting authority must be met. Failure to comply with even one of the dozens of conditions set out in the tender documentation, may lead to the bid's rejection. In order to avoid exclusion from the competition, the economic operators must pay particular attention to the preparation of bids.

According to the monitoring indicators determined by NAPP, in the period 2018-2020, the bids rejection rate (established as the ratio between the number of rejected bids and the number of bids received) by type of concluded contracts, was between 15-28% (table no. 6).

Table 6. The bids rejection rate

Contract type	Offers rejection rate %		
	2018	2019	2020
Supplies	15	17	14
Works	22	27	21
Services	13	19	28
Average offers rejection rate	16.67	21.00	21.00

Source: Authors, by using NAPP

The need for specialists with experience in performing various intellectual activities has led to the establishment of certain qualification requirements in this respect. The inability of the companies to demonstrate that this condition has been met, has led to a linear increase of the bids rejection in the procedures for awarding service contracts (Figure no 4).

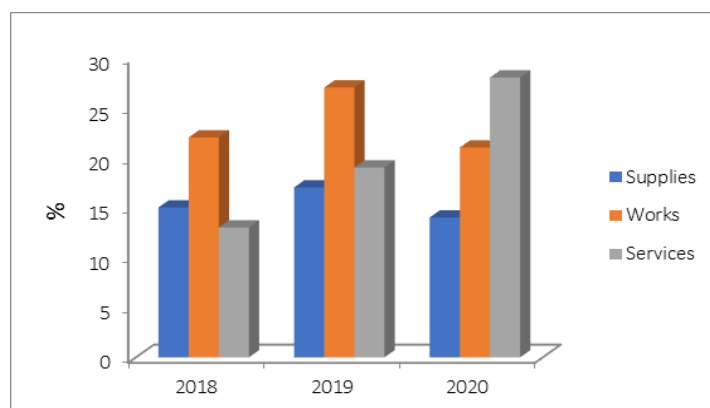


Figure 4. Bids rejection rate

Source: Authors, by using NAPP

The rejection rate reflects the competition in the procurement market, but also the efficiency, effectiveness and transparency of the whole public procurement system (NAPP, 2019). At the same time, it also reveals the accuracy of compliance with the tender documentation, the conditions imposed by the purchaser. The situations leading to the rejection of the bid can be diverse and come from both the bidder, and the bid evaluation committee.

For example, rejection may occur when the bidder:

- ✚ does not include all the required documents in the bid;
- ✚ does not know how to bid via the EPPS platform;
- ✚ does not provide a participation guarantee;
- ✚ does not meet the qualification criteria (does not have the required experience in executing the contract; does not have the necessary specialists etc.);
- ✚ the technical proposal does not meet the required technical specifications;
- ✚ the financial proposal is not correlated with the technical proposal; it does not include all the costs necessary to carry out all the activities;
- ✚ does not submit the bid or the replies to clarification requests within the deadline set etc.

The bids may also be rejected due to misinterpretation of the award documentation by the evaluation committee. In fact, the main cause of these rejection decisions is the insufficient training of staff involved in public procurement, both in tendering, and in evaluation of tenders.

The training of staff involved in tendering must be a priority for the economic operators if they are to stand a chance of being the winner of an award procedure.

The reasons for bids rejection include, as mentioned above, failure to include all the documents in the bid and failure to send the bid or replies to clarification requests on time. Some of these problems were caused by delays in taking a managerial decision or by late issuance or approval of documents. Some of them would not have existed if the economic operator had implemented a digitalised tendering system that allowed for standardisation of some documents, electronic archiving of documents and the possibility for several operators to work electronically on a document from any distance.

Such a system would have substantially reduced the time needed for drafting, for electronic signature, the document circulation and the internal bureaucracy. The SMEs business strategy must be structured on both compliance with quality standards and performance achievement so as to support quality improvement of all activities in the organisation (Sârbu et al., 2009).

5. Conclusions

The topicality of the paper is built on the approach of the SMEs bidding process, given that these companies are the basis for the development of Romania's economy (accounting for over 99% of all non-financial companies). The involvement of SMEs can also be found in public procurement where they executed more than 60% of all contracts awarded by contracting authorities in the period 2018-2020. The originality and novelty of the research are given by the analysis carried out on the participation of SMEs in the public procurement from Romania, as well as the study of some reasons for bids rejection.

The execution of public sector contracts is one of the opportunities for the development of these enterprises. Their chances of being awarded public contracts decrease by about 15% due to lack of tender management skills, lack of staff training and insufficiently developed contracting strategy.

The chances of any SME to conclude contracts with the state increase substantially if the business strategy, dedicated to the public sector, is designed in detail, taking into account the identification of all costs, material resources, human resources, training of staff involved in bidding and contract execution.

On the basis of this work, research can be carried out on other advantages deriving from the Procurement Law that SMEs can take advantage of for tendering and consequently for their development, such as participation in the procedures divided into lots or as an associate/subcontractor/third party supplier. Studies can also be carried out on the involvement of SMEs in innovation or green procurement.

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