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## Current status of public procurement in the UK

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# Current status of public procurement in the UK

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## Abstract

*This paper summarizes the current status of public procurement in the UK by time, region, contract type and award mechanism. It is based on data of all the UK public procurement contracts from April 2010 to June 2015 with values above EC procurement thresholds.*

**Keywords:** *public procurement, UK, award mechanism.*

## Introduction

The public procurement forms an essential part of government expenditure (OJEC, 2015). As part of data description of a more comprehensive paper on public procurement, this short paper describes some basic features of the public procurement in the UK. Data were downloaded as PDF files from the digital version of *the Official Journal of the European Union (OJEU)* and substantive efforts were taken to transfer data into organized tables in EXCEL spreadsheet. All public procurement above EC procurement thresholds are required to be published in the *OJEU*. Thus data in this study is not only unique but also sufficiently representative of the UK public procurement.

## Public procurement

The public procurement is a government activity to purchase works, goods and services that enable the government to perform its duties (Arrowsmith et al., 2010). Alternative names of public procurement are government procurement, government contracts and public contracts (ibid.).

### *Type of contract*

The EU directives 2004/18/EC, 2014/24/EU, 2004/17/EC and 2014/25/EU classify all contracts of public procurement into three types: works, supply and service contracts. Works contracts contain “either the execution, or both the design and execution” and involve “building or engineering works”, e.g. construction of building and road, test drilling and boring, and installation and demolition of equipment with operator (European Parliament and the European Council, 2004a, 2004b, 2014a, 2014b). Supply contracts aim at supplying products by leasing, renting or hire-purchasing, “with or without the option to buy” (ibid.). Common examples of supply contracts are contracts for water, electricity, gas, and agriculture products. Contracts about supplying equipment that are excluded from works contracts are supply contracts as well, e.g. medical equipment, computers, motor vehicles. Service contracts have an objective of providing services and some service contracts offers incidental products (ibid.). Objectives of service contracts can be maintenance and repair services, transport services, telecommunication services, financial services, cleaning services etc.

### *Award Mechanism*

The open procedure, the restricted procedure, the negotiated procedure and the competitive dialogue procedure are the main award mechanisms documented in the EU directives (European Parliament and the European Council, 2004a, 2004b, 2014a, 2014b).

In the UK, whichever procedure is chosen the public authority may require private sector supplier to satisfy minimum levels of “economic and financial standing” or “technical or professional ability” provided that those requirements are specified in contract notice published in the OJEU and are justifiable by the matter of the contract (Her Majesty's Stationery Office (HMSO), 2006; The Queen's Printer for Scotland, 2006). The minimum number of candidates invited to tender is five in the restricted procedure and is three in the competitive dialogue procedure and the negotiated procedure.

### *The open procedure*

The EU directive 2004/18/EC (European Parliament and the European Council, 2004a) defines the open procedure as “procedures whereby any interested economic operator may submit a tender”.

This procedure does not have prequalification and it allows any suppliers who have expressed an interest to contract notice to bid (European Investment Bank, 2015; UK Office of Government Commerce, 2008; Yescombe, 2007). An invitation to tender (ITT) containing tender documents with extensive and detailed information about the project is issued to suppliers that request it (European Investment Bank, 2015; European Parliament and the European Council, 2004a). Tenders are asked to be submitted by a pre-specified date. No negotiation or dialogue between the public sector and the private sector suppliers is allowed during the procedure (European Commission, 2015; European Investment Bank, 2015).

### *The restricted procedure*

The definition of the restricted procedure provided in the EU directive 2004/18/EC (European Parliament and the European Council, 2004a) is “procedures in which any economic operator may request to participate and whereby only those economic operators invited by the contracting authority may submit a tender”.

Bidders that respond to the contract notice are sent an invitation to prequalify. They must complete and return the prequalification questionnaire before a set date. ITTs are issued to short-listed candidates from whose bids submitted the successful bid is selected (European Commission, 2015; UK Office of Government Commerce, 2008). Like the open procedure, the restricted procedure doesn't permit negotiation or dialogue during the procedure (European Commission, 2015; European Investment Bank, 2015).

### *The negotiated procedure*

The EU directive 2004/18/EC (European Parliament and the European Council, 2004a) describes negotiated procedures as “procedures whereby the contracting authorities consult the economic operators of their choice and negotiate the terms of contract with one or more of these”.

Prequalification is allowed in a negotiated procedure to short-list bidders who respond to a contract notice. Short-listed candidates are invited to negotiate with the contracting public authority about the terms of the contract based on their tenders. Negotiation is allowed throughout the whole procedure until the project contract is signed (European Investment Bank, 2015). In practice there may be a multi-stage bidding procedure (Yescombe, 2007). Time limit for negotiations and for iterative tendering are not specified in law (The European Union, 2011).

### *The competitive dialogue procedure*

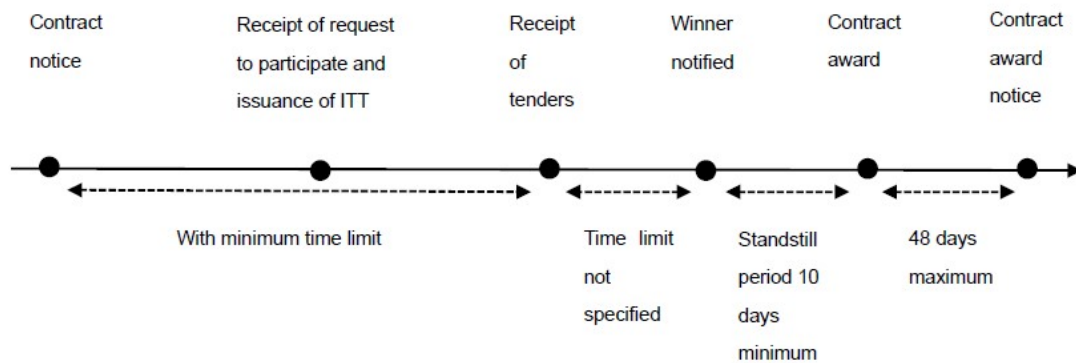
The competitive dialogue procedure was introduced by the EU directive 2004/18/EC (European Parliament and the European Council, 2004a) and has been in effect in the UK since 31 January 2006. The directive prescribes that this procedure should be used only in “particularly complex contract” in technical, legal or financial aspects when the open or restricted procedure are unlikely to be effective in contract awarding.

The competitive dialogue procedure may have a prequalification process (European Parliament and the European Council, 2004a) and the invitation to participate dialogue is issued to qualified candidates (The European Union, 2011). The public authority separately conducts a dialogue with each short-listed candidate on the basis of its proposed solution(s) to develop better solution(s) (European Commission, 2015). To keep the selection process equal and impartial, the contracting authority is not allowed to provide additional information to any particular candidate and to disclose ideas or confidential information of one candidate to the other candidates without the candidate’s permission (European Parliament and the European Council, 2004a). After the public authority can identify the solution(s) that meet its needs it concludes the dialogue and invites candidate suppliers to submit their final tenders (European Parliament and the European Council, 2004a). Once final tenders are submitted participants are only permitted to “clarify, specify and fine-tune” their tenders at the request of the public authority and are not allowed to change the basic features of the tender (European Parliament and the European Council, 2004a). A potential problem is that no law prescribes time limit for the dialogue (The European Union, 2011).

For all the four procedures, a standstill period of at least 10 days is required to allow rejected bidders to decide whether to challenge the award and to initiate a review procedure (European Parliament and the European Council, 2007). A contract award notice is required to be published in the OJEU within 48 days after a contract is awarded (European Parliament and the European Council, 2004a).

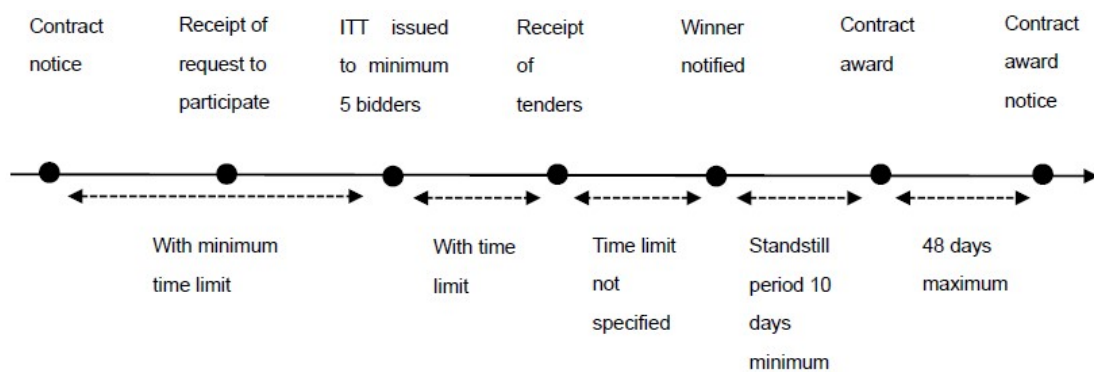
Figure 1 to Figure 4 summarizes each award mechanism in a flow chart:

**Figure 1. The open procedure**



Negotiation is not allowed

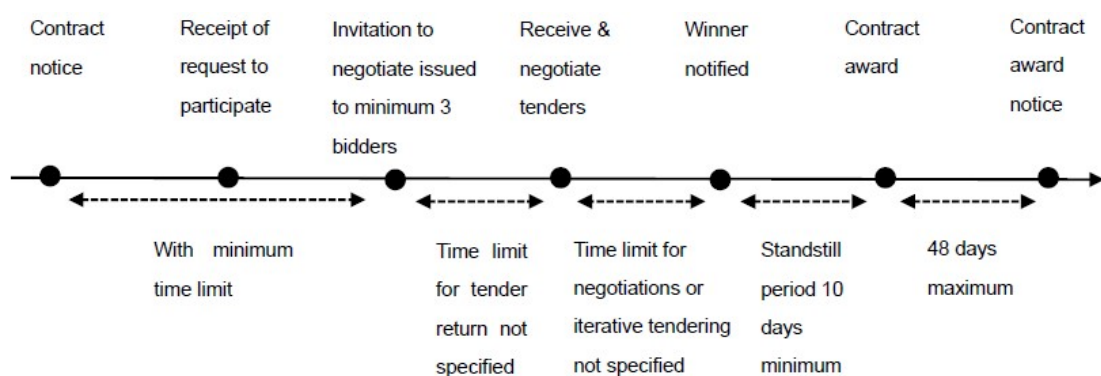
**Figure 2. The restricted procedure**



Negotiation is not allowed.

Source: (The European Union, 2011)

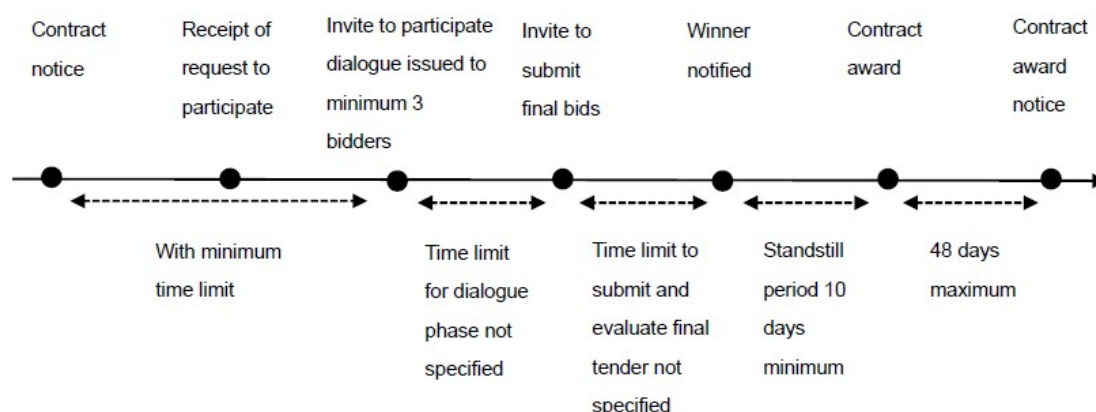
**Figure 3. The negotiated procedure**



Negotiation is allowed throughout the procedure.

Source: (The European Union, 2011)

**Figure 4. The Competitive Dialogue Procedure**



Negotiation is not allowed after final bids are submitted

Source: (The European Union, 2011)

### Data collection

The initial data of UK public procurement are downloaded from the Tenders Electronic Daily (TED) database as individual PDF files. The TED database is the digital version of Supplement to the OJEU, which is also known as the S series. All public procurement above certain EC procurement thresholds (which are reset annually) are required by EU directives to have a contract notice published in the S series. As a result, data from this database is sufficiently representative of UK public procurements. The database retains data for only five years. The time span of data in this study is from April 2010 to June 2015.

Table 1 Number of observations

No. of files from the database	54168
No. of files extracted	54167
Extraction rate	0.999981539

Table 1 shows the number of observations in this study. 54,168 contract notice files are downloaded from the TED database. MATLAB R2014b is used to read data from those PDF files and to transform those data into organized tables in EXCEL spreadsheets. Except for one damaged file all files are extracted.

### Current status of public procurement in the UK

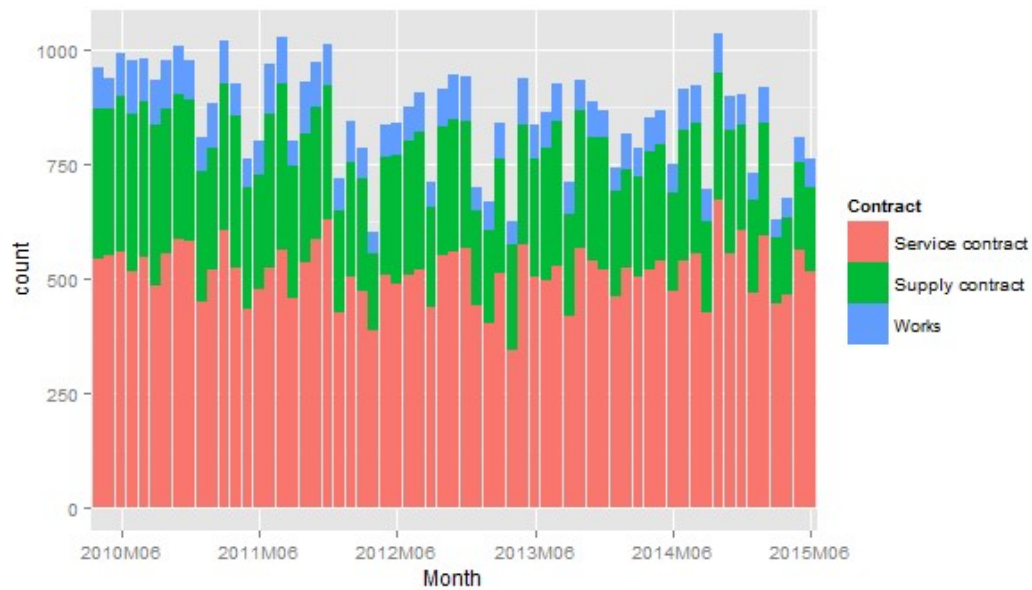
Data of UK public procurement are summarized by four dimensions: time, region, contract type and award mechanism.

#### Time

Figure 5 and Table 2 show that the number of public procurement contracts in the UK has been declining in the past five years, although the year of 2014 saw a slight rebound (see Table 2).

This result is consistent with the finding from Vällilä et al. (2005) that public investment has been on a downward trend in most industrial countries since the 1970s.

**Figure 5.** Histogram of contract opportunities announced in each month



**Table 2.** Average of number of contract opportunities announced in each month

Year	2010	2011	2012	2013	2014	2015
Number	973.44	910.50	828.00	818.17	849.75	754.83

**Table 3.** Distribution of contracts by region

Country/Region	No. of observations	Percentage (%)
England	41908	77.37
North East	2111	3.9
North West	5338	9.85
Yorkshire and The Humber	4590	8.47
East Midlands	3378	6.24
West Midlands	4278	7.9
East of England	3480	6.42
London	8786	16.22
South East	5410	9.99
South West	4537	8.38
Scotland	6551	12.09
Wales	2664	4.92
Northern Ireland	3007	5.55

British Overseas Territories	37	0.07
Jersey	32	0.06
Gibraltar	5	0.01
Total	54167	100.00

### *Region*

Table 3 reveals an imbalanced distribution of contracts by country and region. The majority of public procurement contracts are offered by contracting entities in England, which is 77.36% of all contracts in the database. Scotland ranks the second with 12.09% of the contracts, followed by Northern Ireland with 5.55% and Wales with 4.92%. Entities in the British Overseas Territories also offer some contracts which takes up 0.03% of all contracts. It is noticeable that contracts in London make up 16.22% of all contracts which is more than the proportions taken up by any individual countries of Scotland, Wales, and Northern Ireland.

### *Contract type*

Table 4 demonstrates distribution of UK public procurement by contract types. Service contracts take up the largest proportion which is nearly 60%, works contracts are the minority which is less than 10%, and supply contracts are in between which is around 30%.

**Table 4.** Distribution of public procurement by contract types

Type of contract	No. of observations	Percentage (%)
Supply contract	16826	31.06
Service contract	32465	59.94
Works	4876	9.00
Total	54167	100

**Table 5.** Distribution of contracts by type of award mechanisms

Type of award mechanism	No. of observations	Percentage (%)
Open procedure	22513	41.56
Restricted procedure	24344	44.94
Accelerated restricted procedure	2250	4.15
Negotiated procedure	3429	6.33
Accelerated negotiated procedure	153	0.28
Competitive dialogue	1464	2.70
Other/not applicable/not specified	14	0.03
Total	54167	100.00



### *Award mechanism*

Table 5 presents the distribution of public contracts by award mechanisms. Restricted procedures are the most popular award mechanism in UK public procurement – nearly half of the contracts are awarded under restricted procedure and accelerated restricted procedure. The open procedure is used by just over 40% of contracts. The two negotiated procedures together cover nearly 7% of procurements whereas the competitive dialogue procedure accounts for around 3%.

### **Conclusion**

The UK public procurement has some clear features: (1) the number of new contracts has been declining over the past five years; (2) The majority of public procurements take place in England and the number of public procurement in London far exceeds that in other regions; (3) though lots of studies are on works contract, the number of works contract is quite small compared with that of supply contract and service contract; (4) the open and restricted procedures, which are often referred to as the auctions in the literature, are the most popular award mechanisms in the UK, while the negotiated and the competitive dialogue procedures are only used in a small proportion of contracts.

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Chusu He, supervised by Dr. Ali Ataullah and Professor Alistair Milne, is currently a PhD student in the School of Business and Economics, Loughborough University. She was admitted to the MSc degree with Distinction in Banking and Financial Markets at Loughborough University. She received her BA degree in English, Minor degree in Finance and Minor degree in Foreign Chinese Teaching from Beijing Language and Culture University. Her research interests are project finance, public procurement and contract award mechanism.