



Expert public procurement consultancy for Buyers and Suppliers at your service



PASS CONSULTANCY

BiP's *Procurement Advice and Support Service (PASS)* provides organisations with access to experts in public procurement practices and procedures, thus helping you develop and deliver effective and efficient procurement. Our team offers a range of services to meet your specific needs. Whichever area you wish evaluated and improved, we have the experts to help.

The *PASS* consultancy's mission is to help you deliver the best in government procurement through:

- Practical solutions to improve procurement performance
- Innovative approaches to knowledge transfer within government
- Joined-up government
- Improved performance indicators
- Strategic direction and performance
- Opportunities offered by e-government
- Capacity to deliver change to meet identified needs
- Continuous improvement of services and challenging poor performance
- Sustainable development within decision-making processes and delivery of services
- EU-compliant processes
- Best practice procurement training

PASS HEALTH CHECK

The *PASS* service can help your organisation examine its current procurement organisational structures, strategies, processes, practices and related strengths and weaknesses. It delivers a detailed *PASS Mark Health Check Outcome Highlight Report (OHR)* that outlines areas of strength as well as those requiring further attention, and provides an outline *Project Initiation Document (PID)* designed to deliver a more effective and efficient tendering process that will help you achieve optimum performance and better value-for-money procurement.

PASS – HELPING YOU MEET KEY OBJECTIVES

The key objective of public procurement professionals is to ensure that the most suitable supplier is selected to provide goods and services on terms which are likely to offer the best value for money. The *PASS* service helps you meet this requirement and deliver contracts that offer best value-for-money terms with suppliers who will execute them efficiently.

PASS TRAINING

Our consultants can provide you with bespoke training packages to suit your needs. Consultancy and training is available for the following: environmental purchasing, partnering, evaluation, e-government, supplier debriefing, UK legal processes and precedents, contract management, EU-compliant tendering and much more.

PASS ONLINE GUIDANCE

The *PASS* service provides online guidances on all aspects of the public procurement process and legal requirements: www.bipsolutions.com/html/briefing.php

PASS – CAPS SERVICE

Introducing *CAPS* – the public sector's guardian through the EU public procurement process, helping you to quickly access in-depth, authoritative EU public procurement procedure assistance. We are now pleased to offer your organisation access to this vast knowledge base as and when required, through subscription to BiP's new *Contract Administration & Process Support (CAPS)* helpline service. The *CAPS* service level agreement aims to answer 99% of your enquiries within one working day and 85% of these within one working hour.

PASS IN-HOUSE PRESENTATIONS

PASS consultancy can provide you with in-house presentations directed to buyer or supplier. Each presentation will be bespoke to your requirements, whether they be with regards to improving your tendering practices or your procurement strategy or processes. Contact: pass@bipsolutions.com



The *PASS Mark Health Check* is a process-based evaluation technique that helps identify how your company can develop more effective processes when tendering for public sector contracts.

For further information on the *PASS* service, contact our **PASS Team** on 0845 270 7055, email pass@bipsolutions.com or visit www.bipsolutions.com/pass/



GUIDANCE 8

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THE NEW SME DEFINITION



Micro, small and medium-sized enterprises (SMEs) play a central role in the European economy. They are a major source of entrepreneurial skills, innovation and employment. In the enlarged European Union of 25 countries, some 23 million SMEs provide around 75 million jobs and represent 99% of all enterprises.

However, they are often confronted with market imperfections. SMEs frequently have difficulties in obtaining capital or credit, particularly in the early start-up phase. Their restricted resources may also reduce access to new technologies or innovation.

Therefore, support for SMEs is one of the European Commission's priorities for economic growth, job creation and economic and social cohesion.

IMPORTANCE OF A EUROPEAN SME DEFINITION

In a single market with no internal frontiers, it is essential that measures in favour of SMEs are based on a common definition to improve their consistency and effectiveness, and to limit distortions of competition. This is all the more necessary given the extensive interaction between national and EU measures to help SMEs in areas such as regional development and research funding. In 1996, a recommendation establishing a first common SME definition was adopted by the Commission.

This definition has been widely applied throughout the EU. On 6 May 2003, the Commission adopted a new recommendation in order to take account of economic developments since 1996. It entered into force on 1 January 2005 and will apply to all the policies, programmes and measures that the Commission operates for SMEs.

For Member States, use of the definition is voluntary, but the Commission is inviting them, together with the European Investment Bank (EIB) and the European Investment Fund (EIF), to apply it as widely as possible.

Since the average European enterprise employs no more than six people, most can be considered as SMEs. However, the new definition takes into account possible relationships with other enterprises. In certain cases, those relationships, particularly if they create significant financial links with other enterprises, may imply that an enterprise is not an SME. The new definition is the result of wide-ranging discussions between the Commission, Member States, business organisations and experts as well as two open consultations on the internet.

The changes reflect general economic developments since 1996 and a growing awareness of the specific hurdles confronting SMEs. The new definition is more suited to the different categories of SME and takes better account of the various types of relationship between enterprises. It helps to promote innovation and foster partnerships, while ensuring that only those enterprises which genuinely require support are targeted by public schemes.

TO UPDATE THRESHOLDS

Developments in prices and productivity made it necessary to adjust the financial thresholds.

Their significant increase will allow an important number of enterprises to maintain their SME status and ensure their eligibility for support measures. The staff headcount thresholds remain at their previous levels, since to have raised them would have diluted the measures tailored for SMEs.

TO PROMOTE MICRO ENTERPRISES

Throughout the Union, more and more micro enterprises are being created. The new definition takes this development into account by setting financial thresholds for them. This refinement aims to encourage the adoption of measures addressing the specific problems micro enterprises face, especially during the start-up phase.

TO IMPROVE ACCESS TO CAPITAL

Access to capital is a perennial problem SMEs encounter, largely because they are often unable to give the guarantees traditional lenders require. To help tackle this, the new definition facilitates equity financing for SMEs by granting favourable treatment to certain investors, such as regional funds, venture capital companies and business angels without the enterprise losing its SME status. The same applies to small local autonomous authorities with an annual budget of less than €10 million (£6,704,663.36) and fewer than 5000 inhabitants. They can invest in an SME up to a certain percentage without the enterprise concerned being at a disadvantage when applying for grants.

TO PROMOTE INNOVATION AND IMPROVE ACCESS TO RESEARCH & DEVELOPMENT

Specific provisions now apply to universities and non-profit research centres enabling them to have a financial stake in an SME. This cooperation will benefit both parties. It strengthens an enterprise by giving it a worthwhile financial partner and access to R&D. It also offers universities and research centres a route for the practical application of their innovative work.

TO TAKE ACCOUNT OF DIFFERENT RELATIONSHIPS BETWEEN ENTERPRISES

One of the main objectives of the new definition is to ensure that support measures are granted only to those enterprises which genuinely need them. For this reason, it introduces methods to calculate the staff and financial thresholds to gain a more realistic picture of the economic situation of an enterprise.

To this end, a distinction has been introduced between different types of enterprises: autonomous, partner and linked. The new definition also contains safeguards to prevent abuses of SME status.

Clear instructions are given on how to treat particular relationships between an SME and other enterprises or investors when calculating the enterprise's financial and staff figures. In essence, the new definition takes into account an SME's ability to call on outside finance. For example, enterprises which are linked to others with large financial resources could come above the ceilings and would not qualify for SME status.

The new definition introduces three different categories of enterprises. Each corresponds to a type of relationship which an enterprise might have with another. This distinction is necessary in order to establish a clear picture of an enterprise's economic situation and to exclude those that are not genuine SMEs.

In general, most SMEs are autonomous since they are either completely independent or have one or more minority partnerships (each less than 25%) with other enterprises. If that holding rises to no more than 50%, the relationship is deemed to be between partner enterprises. Above that ceiling, the enterprises are linked.



Depending on the category in which your enterprise fits, you may have to include data from one or more other enterprises when calculating your own data.

The result of the calculation will allow you to check whether you comply with the staff headcount and financial thresholds set by the definition.

Enterprises coming above these lose their SME status.

AM I AN ENTERPRISE?

The first step to qualify as an SME is to be considered as an enterprise.

According to the new definition, an enterprise is 'any entity engaged in an economic activity, irrespective of its legal form'.

The wording is not new. It reflects the terminology used by the European Court of Justice in its decisions. By being formally included in the recommendation, the scope of the new SME definition is now clearly marked out. Thus, the self-employed, family firms, partnerships and associations regularly engaged in an economic activity may be considered as enterprises.

It is the economic activity that is the determining factor, not the legal form.

WHAT ARE THE NEW THRESHOLDS?

Once you have verified that you are an enterprise, you have to establish the data of your enterprise according to the following three criteria:

- staff headcount
- annual turnover
- annual balance sheet

Comparing your data with the thresholds for the three criteria will allow you to determine whether you are a micro, small or medium-sized enterprise.

It is necessary to note that while it is compulsory to respect the staff headcount thresholds, an SME may choose to meet either the turnover or balance sheet ceiling. It does not need to satisfy both and may exceed one of them without losing its status.

The new definition offers this choice since, by their nature, enterprises in the trade and distribution sectors have higher turnover figures than those in manufacturing. Providing an option between this criterion and the balance sheet total, which reflects the overall wealth of an enterprise, ensures that SMEs engaged in different types of economic activity are treated fairly.

As the table shows, the category of micro, small and medium-sized enterprises consists of enterprises which employ fewer than 250 persons and which have either an annual turnover not exceeding €50 million (£33,523,316.82), or an annual balance sheet total not exceeding €43 million (£28,830,052.47).

Within this category:

- Small enterprises are defined as enterprises which employ fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed €10 million (£6,704,663.36).
- Micro enterprises are defined as enterprises which employ fewer than 10 persons and whose annual turnover or annual balance sheet total does not exceed €2 million (£1,340,932.67).

STAFF HEADCOUNT

The staff headcount is a crucial initial criterion for determining in which category an SME falls.

It covers full-time, part-time and seasonal staff and includes the following:

- Employees
- Persons working for the enterprise being subordinated to it and considered to be employees under national law
- Owner-managers
- Partners engaged in a regular activity in the enterprise and benefiting from financial advantages from the enterprise

Apprentices or students engaged in vocational training with apprenticeship or vocational training contracts are not included in the headcount. Nor do you include maternity or parental leave.

The staff headcount is expressed in annual work units (AWU). Anyone who worked full-time within your enterprise, or on its behalf, during the entire reference year counts as one unit. You treat part-time staff, seasonal workers and those who did not work the full year as fractions of one unit.

ANNUAL TURNOVER AND BALANCE SHEET TOTAL

The annual turnover is determined by calculating the income that your enterprise received during the year in question from its sales and services after any rebates have been paid out. Turnover should not include value added tax (VAT) or other indirect taxes.

The annual balance sheet total refers to the value of your company's main assets.

WHAT IS THE DEFINITION OF AN 'EMPLOYEE'?

National labour rules apply. They vary from country to country, for instance for temporary staff working as independent contractors or on hire from an interim employment agency. You should contact your own authorities (the UK Department for Work and Pensions, for example) to establish how your national legislation defines the term 'employee'.

WHAT HAPPENS IF I GO ABOVE A PARTICULAR THRESHOLD?

If your enterprise exceeds the headcount or financial ceilings during the course of the reference year, this will not affect your situation.

You retain the SME status with which you began the year. However, you will lose the status if you go above the ceilings over two consecutive accounting periods. Conversely, you will gain SME status if you were previously a big enterprise, but then fall below the ceilings for two consecutive accounting periods.

WHAT ELSE DO I TAKE INTO ACCOUNT WHEN CALCULATING MY DATA?

To work out your individual data, you will have to establish whether your enterprise is autonomous – by far the most common category – a partner or linked. To do this, you must take account of any relationships you have with other enterprises. Depending on the category in which your enterprise fits you may then need to add some, or all, of the data from those enterprises to your own. The calculations for each of the three types of enterprise are different and will ultimately determine whether you meet the various ceilings established in the SME definition.

Enterprises which draw up consolidated accounts or which are included in the accounts of an enterprise which does so are usually considered as linked.

AM I AN AUTONOMOUS ENTERPRISE?

You are autonomous if:

- You are totally independent, ie you have no participation in other enterprises and no enterprise has a participation in yours.
- You have a holding of less than 25% of the capital or voting rights (whichever is the higher) in one or more other enterprises and/or outsiders do not have a stake of 25% or more of the capital or voting rights (whichever is the higher) in your enterprise. If you are autonomous, it means that you are not a partner or linked to another enterprise.

AM I A PARTNER ENTERPRISE?

This type of relationship represents the situation of enterprises which establish major financial partnerships with other enterprises, without one exercising effective direct or indirect control over the other.

Partners are enterprises which are neither autonomous nor linked to one another.

You are a partner enterprise if:

- You have a holding equal to or greater than 25% of the capital or voting rights in another enterprise and/or another enterprise has a holding equal to or greater than 25% in yours.
- You are not linked to another enterprise. This means, among other things, that your voting rights in the other enterprise (or vice versa) do not exceed 50%.

THE NEW THRESHOLDS

Enterprise category	Headcount: Annual Work Unit (AWU)	Annual turnover	or	Annual balance sheet total
Medium-sized	<250	≤ €50 million (in 1996 €40 million)	or	≤ €43 million (in 1996 €27 million)
Small	<50	≤ €10 million (in 1996 €7 million)	or	≤ €10 million (in 1996 €5 million)
Micro	<10	≤ €2 million (previously not defined)	or	≤ €2 million (previously not defined)

AM I A LINKED ENTERPRISE?

This type of relationship corresponds to the economic situation of enterprises which form a group through the direct or indirect control of the majority of voting rights of an enterprise by another or through the ability to exercise a dominant influence on an enterprise.

Such cases are, thus, less frequent than the two preceding types.

Two or more enterprises are linked when they have any of the following relationships:

- One enterprise holds a majority of the shareholders' or members' voting rights in another.
- One enterprise is entitled to appoint or remove a majority of the administrative, management or supervisory body of another.
- A contract between the enterprises, or a provision in the memorandum or articles of association of one of the enterprises, enables one to exercise a dominant influence over the other.
- One enterprise is able, by agreement, to exercise sole control over a majority of shareholders' or members' voting rights in another.

A typical example of a linked enterprise is the wholly owned subsidiary.

CONCLUSION

The definition is an important tool for implementing efficient measures and programmes to support the development and success of SMEs. Therefore Member States, together with the European Investment Bank and the European Investment Fund, are invited to apply it as widely as possible. Further refinements may be made to the new definition and the Commission will, if necessary, adapt it in the coming years to take account of experience and economic developments in the EU.

DISCLAIMER

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