



Metoder för att beakta kvalitet i offentliga kontrakt

English summary

RAPPORT 2025:7

Summary

The Swedish Competition Authority has been tasked by the government with analysing the conditions and proposing a method for assessing the extent to which suppliers meet quality requirements in public contracts.

By procuring goods and services, procuring organisations should have their assignments carried out at the agreed price and to a high standard of quality. However, once a supplier has won a tender, the incentives to deliver at a high standard of quality are often insufficient. This differs from private contracts, where the importance of long-term relationships and mutual trust is more prominent. In order to increase the incentives for suppliers to maintain quality throughout the contract, it is desirable that the performance of suppliers in previously won tenders should, to a greater extent than is currently the case, influence their opportunities to sign new public contracts. Suppliers who have delivered to a high standard of quality should therefore have an advantage when new public contracts are signed over those who have shown shortcomings in previous contract delivery.

One way to take previous contract delivery into account is to increase the opportunities for procuring organisations to exclude suppliers who have shown shortcomings in previous public contracts. Procuring organisations can already exclude suppliers who have shown significant or persistent deficiencies in the fulfilment of a substantive requirement in a prior contract, leading to the contract being terminated early or resulting in damages or comparable sanctions under Chapter 13, Section 3, Paragraph 5 of the Public Procurement Act. An analysis by the Swedish Competition Authority shows that procuring organisations do use this option to exclude suppliers, but it is not particularly common and it mainly concerns suppliers who have demonstrated shortcomings in the same authority's previous contracts. It is even less common for suppliers who have demonstrated shortcomings in other organisations' procurements to be excluded on this basis.

The Swedish Competition Authority proposes that the government commission an inquiry to develop proposals for a register of contracts that have led to sanctions under Chapter 13, Section 3, Paragraph 5 of the Public Procurement Act owing to the supplier having shown significant or persistent deficiencies in the fulfilment of a substantive requirement in the contract. This would make it easier for procuring organisations to determine when there are grounds for exclusion, which in turn would mean greater consequences for a supplier that has shown significant or persistent deficiencies in the performance of a contract.

Another way of strengthening the incentives to maintain the quality of contract delivery is to create systems whereby procuring organisations rate the performance of suppliers. However, there are legal challenges in the current procurement rules that limit the possibility to introducing a comprehensive national rating system. Developing such a rating system and filling it with ratings or reviews on an ongoing basis would also entail extensive administration for procuring organisations and

other parties concerned, without it being able to provide a reliable and legally sound basis for decision-making in many procurements. The Swedish Competition Authority therefore considers that the disadvantages outweigh the advantages and does not propose that a comprehensive national mandatory rating system should be introduced.

However, the Swedish Competition Authority considers that the conditions may exist for using rating systems in limited areas. In limited rating systems, many of the challenges associated with a comprehensive national mandatory rating system could be better addressed. This is the case if the system is limited to contracts with common requirements and terms that are performed under similar conditions.

The Swedish Competition Authority considers that the government can encourage initiatives for limited rating systems within the framework of current legislation, for example through pilot projects. The Swedish Competition Authority is particularly positive toward similar initiatives being encouraged in areas where the risk of criminal and disreputable actors is greatest.

Proper and systematic contract performance by procuring organisations is key to making sure that the agreed quality is actually delivered. The Swedish Competition Authority's analysis shows that there are shortcomings in contract performance in many procuring organisations. It is clear that many procuring organisations need to prioritise contract performance and ensure that it is carried out in a systematic and appropriate manner. Many procuring organisations also need to clarify where the responsibility for contract performance lies within their own organisations.

In the report, the Swedish Competition Authority highlights a number of other possible measures to improve the quality of contract delivery under public contracts. Among other things, the Swedish Competition Authority considers that the government should consider increasing the control of contract performance, for example by appointing an inquiry to investigate how procuring organisations manage their procured contracts and framework agreements and what measures should be taken to improve contract performance.

In the course of this work, a number of other opportunities for improvement have also been identified that can be exploited to increase the possibility to take quality into account in procurement. For example, the Swedish Competition Authority has identified a number of opportunities that can be explored in the ongoing work at an EU level on the review of the procurement directives.