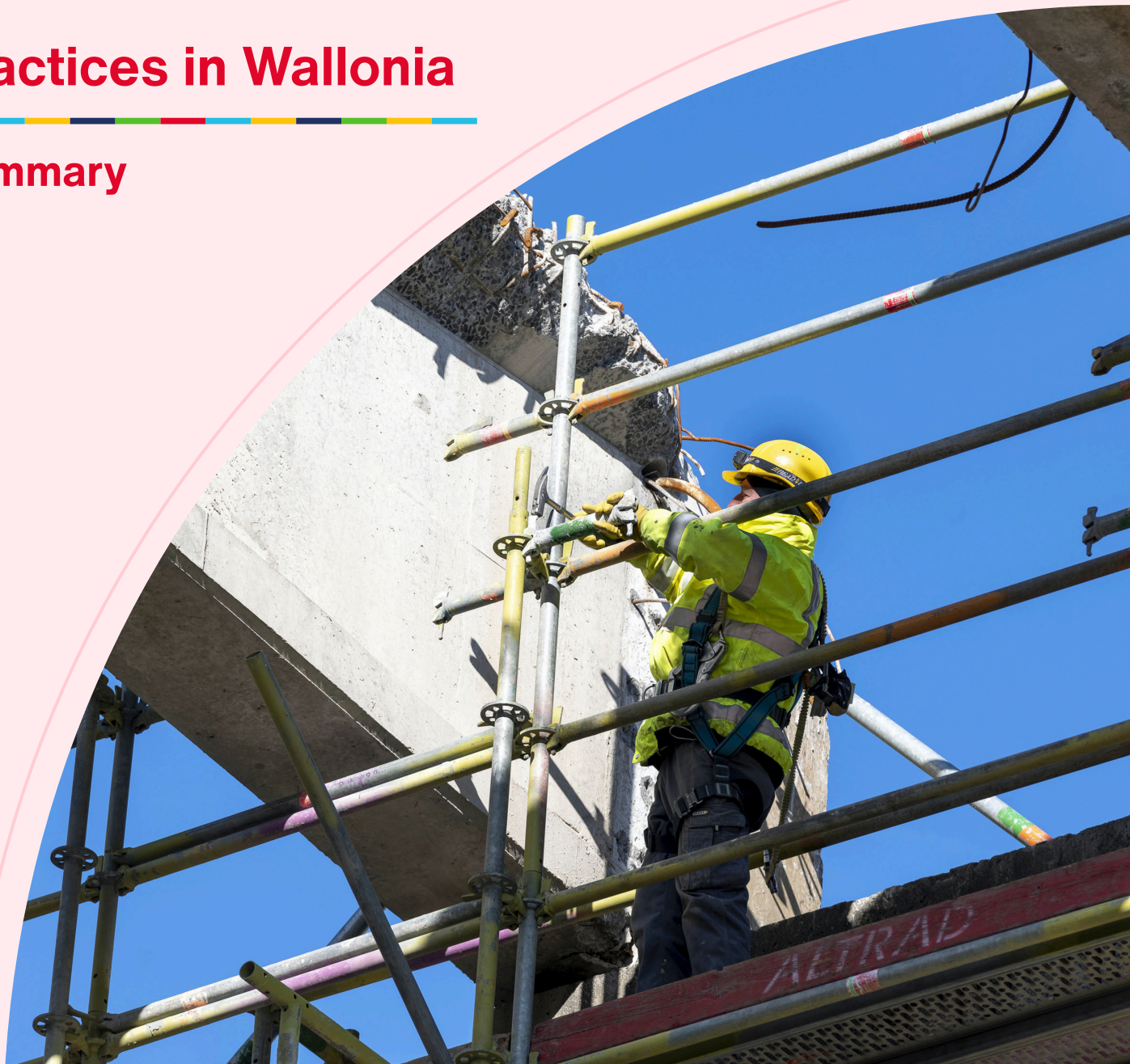


Subcontracting in public procurement for construction works

Practices in Wallonia

Summary



Observatoire de la commande publique wallonne



MAY 2026

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Practices in Wallonia

SUMMARY

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Summary

Context

Subcontracting chains in the construction sector arise when a main contractor engages one or more subcontractors to carry out specific tasks, who in turn may operate in the same way. This practice enables (sub)contractors, among other things, to rely on expertise they do not possess themselves, to organise construction work flexibly, and to control costs. Given the volatile, seasonal, and flexible nature of the construction sector, subcontracting is widely used. However, the frequent use of subcontracting raises several questions, both regarding the access of SMEs to public procurement and the compliance with social and environmental regulations in the execution of public contracts. For instance, available evidence shows that long and complex subcontracting chains in the construction sector are associated with an increased risk of non-compliance with social legislation and pose a challenge for social inspection services in terms of monitoring and enforcement.

In order to gain a better understanding of the specific characteristics of subcontracting chains in public procurement for construction works (namely the formal procedure whereby a contracting authority awards a public works contract, in compliance with the principles of transparency, equality, non-discrimination and, more generally, competition) **in Wallonia, further research on this topic has been carried out at the request of the Walloon Public Service.**

Objectives of the research

The research project has two main objectives:

- To understand the reality of subcontracting in public procurement in Wallonia, particularly for construction works;
- To assess the extent to which the observed practices comply with the four objectives of the “*Walloon strategy for responsible public procurement*”¹, namely:
 - 1) the professionalisation of public procurement;
 - 2) facilitating access to public procurement for Walloon businesses;
 - 3) strengthening economic, social, and environmental sustainability; and
 - 4) enhancing knowledge and governance by enabling ‘decision-makers’ to have an overview of public procurement and allowing stakeholders to steer their procurement policies.

Research methodology

The research is based on a combination of several complementary methods, namely:

- a literature review (legal and economic);
- a quantitative analysis based on the database “*declaration of works*” of the National Social Security Office (NSSO);

¹ <https://marchespublics.wallonie.be/pouvoirs-adjudicateurs/outils/achats-publics-responsables/strategie-de-la-commande-publique-responsable.html>

- an analysis of a questionnaire administered to around twenty Walloon municipalities regarding the public procurements they carry out;
- semi-structured interviews with stakeholders from the sector;
- three focus groups with stakeholders from the sector.

Literature review and good practices

- **At European, Belgian, and Walloon levels, increasing efforts are being made to achieve sustainable public procurement, in which public authorities integrate environmental, social, and economic criteria across all stages of the procurement process (award, execution, monitoring, and control),** in particular with a view to combating unfair competition, social dumping, and promoting sustainability. This approach is also based on the idea that public authorities have an exemplary role to play in this regard. For instance, the “Letta” report highlights the important role of public procurement in achieving social, environmental, and innovative objectives by stating the following: *“the public procurement market should be leveraged as a key instrument for promoting social value, enhancing social capital, and aligning with the EU’s ambitions for green and digital transformations. Prioritising these aspects ensures that public expenditures contribute positively towards these objectives”*.²

- Although public procurement is mainly governed by the European directives³ adopted in 2014 and transposed into Belgian law⁴ in 2016, two observations should nevertheless be taken into account. First, **public procurement is increasingly regulated by specific sectoral instruments, leading to a certain fragmentation of its legal framework and making it more difficult for economic operators and public authorities to navigate these varying requirements and fully exploit all available opportunities.** Second, **the European Union has launched a reform of the public procurement directives⁵** to take into account environmental (“*buying green*”) and social (“*buying social*”) considerations in public procurement, and to better involve SMEs in public procurement. These objectives of the European Union correspond to objectives 2 and 3 of the Walloon strategy for responsible public procurement.

- The analysis of the various legal sources relating to subcontracting shows that its use constitutes a mechanism that enables SMEs to gain access to, and where appropriate participate in, the performance of a public contract. Hence subcontracting is often necessary and is something that must already be taken into account at the design stage of the contract.

- **The applicable legislation on public procurement in Belgium already includes a set of rules that enable contracting authorities to frame subcontracting, make use of it, and manage many of the potential difficulties that may arise.** The effective application of these legal provisions must be fully ensured, which implies, among other things, that *a*) control mechanisms (e.g., supervision and inspection) are put in place with sufficient resources allocated, and *b*) the regulatory instruments are supplemented by an additional framework within the procurement documents themselves (i.e., the tender specifications), in order to address the specific nature of each contract in a proportionate manner.

² E. Letta, *Much More than a Market – Speed, Security, Solidarity Empowering the Single Market to Deliver a Sustainable Future and Prosperity for all EU Citizens*, 2024. <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf> (eigen vertaling).

³ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts; Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors.

⁴ Law of 17 June 2016 on public procurement and the Law of 17 June 2016 on concession contracts.

⁵ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/15492-EU-public-procurement-rules-revision_en

- **Various legal measures can be considered to prevent infringements of social legislation within subcontracting chains, some of which are also facilitated by European regulations.** In a report published by the European Commission on the application and implementation of Directive 2018/957 (amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services)⁶, ‘good practices’ include, among others, limiting the number of levels in the subcontracting chain and/or extending liability for unpaid wages.
- **Belgium has already introduced important preventive measures**, such as limiting subcontracting chains in public procurement to two or three levels and prohibiting purely financial subcontracting. These measures contribute to the implementation of objective 3 of the Walloon strategy for socially responsible public procurement. Moreover, this makes Belgium an interesting case study for assessing the effectiveness of these measures. Nonetheless, there remain opportunities for improvement, for example with regard to joint and several liability for unpaid wages as provided for in Article 12 of Directive 2014/67/EU⁷. In addition, the possibilities offered by Article 71 of Directive 2014/24 on subcontracting in public procurement still appear to be underutilised.
- Regarding the use of subcontracting on construction sites of public and private clients, a 2024 report⁸ shows that, on average, 17 companies are involved in subcontracting chains on large construction sites in Belgium, and that 20% of these chains include three or more levels of subcontracting (based on data from the database ‘*declaration of works*’ for reference year 2022). The largest chain reported in 2022 involved 188 companies, while the longest identified chain comprised seven levels of subcontractors. Furthermore, it appears that the lower one goes down the subcontracting chain, the higher the share of foreign subcontractors. They represent 22% of the total number of subcontractors, increasing to 40% at the fourth level of the chain, and are mainly from Poland. In such long subcontracting chains, the risks of non-compliance with labour conditions, and therefore also the risks of social fraud and social dumping, increase significantly, as shown by various studies. In addition, the lack of transparency and clearly defined responsibility can greatly hinder compliance monitoring, particularly due to difficulties in identifying the liable company, which also jeopardises the recovery of unpaid wages.
- Nevertheless, **legal literature shows, and this was confirmed in the focus groups, that subcontracting remains a topic that receives little attention from contracting authorities.** Its use is generally simply permitted without any real specific treatment, both upstream in the drafting of the tender documents and downstream during the execution of the works.
- **With regard to the use of environmental and social clauses and their compliance, it should be emphasised that the Law of 17 June 2016 on public procurement already provides contracting authorities with a framework within which such clauses can be included, regardless of the stage of the procurement process (needs assessment, selection, award and execution).** At the federal level, reference should also be made to the Guide to Sustainable Procurement,⁹ which notably refers to the European green clauses.

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2024%3A320%3AFIN&qid=1714489010124>

⁷ Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

⁸ L. DE SMEDT et F. DE WISPELAERE, *Unravelling the subcontracting chain in constructions works. Declaration of works in immovable property in Belgium*, Leuven, POSTING.STAT 2.0 HIVA-KU Leuven, 2024. <https://hiva.kuleuven.be/en/research/theme/welfarestate/p/Docs/paper-unravelling-the-subcontracting-chain-in.pdf>.

⁹ <https://qidsvoorduurzameaankopen.be/index.html>

- **The Walloon Region has adopted several circulars aimed at promoting a policy of responsible public procurement, and more specifically at incorporating environmental, social, and ethical clauses into public contracts.** These circulars refer, among other things, to various documents and tools (helpdesks, guides, training, standard specifications, etc.) to support Walloon contracting authorities in implementing this policy.
- The Flemish Region published an online tool in May 2024 that makes it easy to find sustainable clauses to include in procurement documents. This is **the public procurement (MVOO) criteria tool**.¹⁰ With regard to public procurement contracts, however, subcontracting is not directly addressed in the model clauses included in the tool. The Walloon Region is currently developing a similar service, the publication of which is expected in 2026.
- **The analysis of the legal framework and practice in France makes it possible to identify good practices and recommendations regarding subcontracting.** In France, the subcontractor's payment terms must be approved by the contracting authority before the subcontractor begins performing the services. The contracting authority may also access the subcontracting contract upon request. This allows verification of any discrepancies between the provisions in the subcontracting contract and those in the main contract. There is also an obligation to publish essential data on public contracts with a value equal to or above € 40 000 on the national open data portal.¹¹ This includes data relating to subcontracting as well as the environmental and social aspects of the contract. The website "*laclauseverte.fr*"¹² brings together a range of examples of clauses drawn from sustainable public procurement practices in France, particularly in the context of subcontracting. Finally, several reports describe good practices and recommendations in France, such as organising kick-off meetings and other consultation moments involving subcontractors, or imposing penalties in cases of undeclared subcontracting, following prior formal notice and suspension of performance until the situation is rectified.
- **The available academic literature suggests that small and decentralised contracting authorities may not have the necessary structures to effectively carry out planning, design, and monitoring of the construction works.** Several studies show that the smaller the contracting authority, the less well equipped it is to deliver public projects. Conversely, larger contracting authorities, which have more experience, are generally better positioned to develop such capacity and to manage the public procurement for which they are responsible more efficiently, although their size may also entail various challenges.
- **The academic literature indicates that SME participation in public procurement remains challenging due to financial, human, and administrative constraints.** Micro-enterprises in particular have limited resources to access tenders and prepare their bids. Transparency plays a crucial role in enabling companies to identify available opportunities. The publication of notices, allowing sufficient time to prepare bids, and clearly defining performance requirements are especially important for SMEs, which have more limited resources and capabilities to obtain, analyse, and incorporate procurement information into their bids.
- **The academic literature presents a nuanced picture of the impact of splitting contracts on SME participation and success.** Some studies suggest that a coordinated division can encourage SME participation, while other studies show that this practice does not significantly improve their chances of success. Dividing contracts into lots may, however, increase SMEs' likelihood of success without necessarily increasing

¹⁰ <https://www.mvoocriteria.be/nl>

¹¹ <https://www.data.gouv.fr>.

¹² <https://laclauseverte.fr/>

their propensity to submit a tender. This highlights the need to take into account the specific characteristics of contracts rather than systematically resorting to splitting. Overall, the academic literature indicates that contracting authorities can strengthen SME participation not so much by introducing preferential measures, but rather by improving the overall quality of procurement procedures.

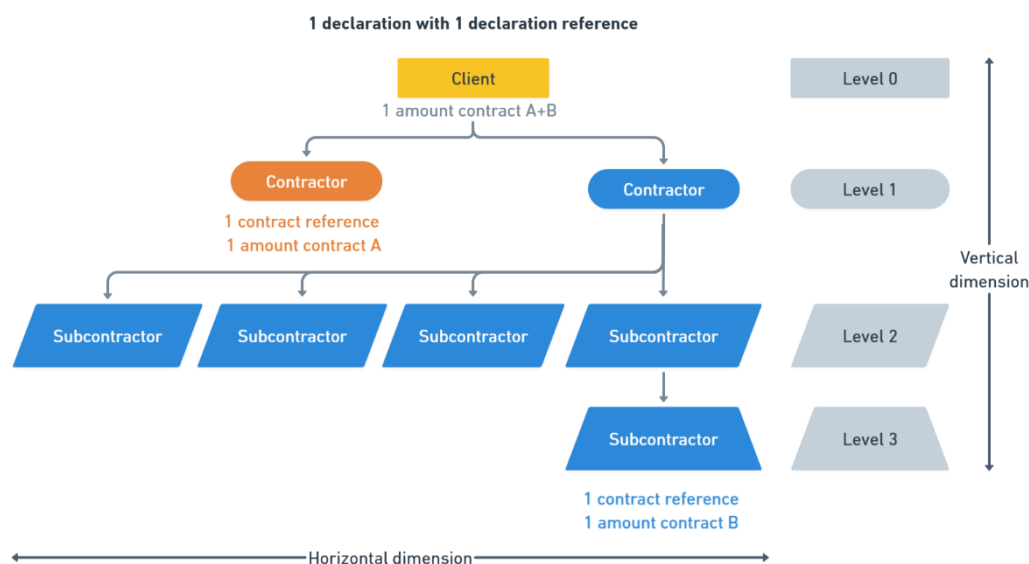
The recommendations formulated at the end of the report take into account all these elements highlighted in the literature.

Results of the quantitative data analysis

To gather empirical evidence and gain insight into on-the-ground practices regarding subcontracting in Walloon public procurement in the construction sector, administrative data from the database ‘Declaration of Works’¹³ applicable to ‘works in immovable property’ in 2024, are analysed. The analysis of data from the “Declaration of Works” database makes it possible to assess the scale of this reality and to compare it with the objectives set out in the Walloon strategy for responsible public procurement.

In total, in 2024, there were 6 160 unique declarations of works ongoing under Walloon public procurement in the construction sector. These declarations involved 568 unique contracting authorities (clients), 1 093 unique contractors, and 11 237 unique subcontractors.

Most clients are municipalities (45%) and public social welfare centres (CPAS/OCMWs) (12.5%).



Example of a subcontracting chain in the “Declaration of Works” database

* This is a fictitious example developed by the authors. This figure was created using the Whimsical tool.
Source: Authors, based on the 2024 declarations of works from the NSSO.

¹³ A ‘declaration of works’ is mandatory for activities falling under Articles 30bis and 30ter of the law of 27 June 1969 revising the decree-law of 28 December 1944 concerning the social security of workers (Belgian Official Gazette, 25 July 1969). The data provided to us concern the declaration of construction works, and therefore fall under Article 30bis. These works are declared to the National Social Security Office (NSSO).

On average, a subcontracting chain in public construction contracts in Wallonia counts 8.5 active companies (the average across the entire subcontracting chain), including 1.2 contractors and 7.3 subcontractors. **More than half of the subcontracting chains (50.5%) consist of a maximum of four companies.**

The vertical dimension of the chains (*see the figure above*) can be analysed by examining the maximum level at which subcontractors operate and by assessing whether the subcontracting chain limitation applicable to public procurement is complied with. **Approximately 8.6% of the declarations do not include any subcontractors. Two out of three chains have one level of subcontracting**, while one out of five chains has two levels. 4.2% reach three levels, and only 0.2% include four levels or more. Regarding the horizontal dimension of the chain, more than three quarters of subcontractors operate at the first level of subcontracting.

With regard to the country of establishment of companies, 21.6% of the declarations include at least one foreign subcontractor or contractor. This percentage is significantly higher in Flanders (31.7%). **In total, 14.3% of subcontractors are established abroad, meaning that 86% of subcontractors active in subcontracting chains in Walloon public construction contracts are based in Belgium.** In addition, it appears that in most cases the share of subcontractors not established in Belgium increases as one moves lower into the chain, partly due to an increase in Polish subcontractors. An interesting combination to analyse is the country of establishment of the foreign subcontractor and the activity performed. **A clear specialisation is observed among Portuguese and Luxembourg subcontractors.** For instance, more than three out of ten Portuguese subcontractors (31.8%) carry out 'masonry and concrete work', while 30.2% of Luxembourg subcontractors are involved in roadworks. Polish subcontractors are mainly active in 'masonry and concrete work' (22.6%) and 'roofing and waterproofing works' (18.9%). For French subcontractors, activities are more diversified: about 15% carry out either roadworks or earthworks. **Furthermore, activities appear to vary depending on geographic proximity.** Wallonia's neighbouring countries (France and Luxembourg) are specialised in roadworks, whereas more distant countries (Portugal and Poland) focus on 'masonry and concrete work'.

In total, 87.4% of the companies present in subcontracting chains on Walloon public procurement sites are established in Belgium. **The vast majority of contractors (98.4%) and subcontractors (85.7%) in subcontracting chains on construction sites of public contracting authorities in Wallonia are companies established in Belgium.**¹⁴ At the first level of subcontracting, 91.3% of subcontractors are established in Belgium. It is only at the second level of subcontracting and at lower levels that the share of subcontractors established in Belgium is clearly lower (79.1% at level 2 and 66.8% at level 3). **This suggests that objective 2 of the Walloon strategy for responsible public procurement has already been largely achieved. This also raises the question of whether limiting subcontracting chains on public procurement sites has an impact on the number of Belgian and foreign subcontractors. The available data do not allow for a clear conclusion on this matter.** A previous study showed that the lower one goes into the subcontracting chain, the higher the share of foreign subcontractors becomes.¹⁵ However, in absolute terms, most foreign subcontractors were present at the second or third level of subcontracting.

¹⁴ Which is in line with the findings of the European Commission in its evaluation of the public procurement directives (SWD(2025) 333 final): "Regarding cross-border participation, the evaluation presents a mixed picture. Whereas only about 4% of the total awarded value and 2% of the number of awards were made directly to firms established in other EU Member States or third countries (with significant variations between Member States), indirect cross-border procurement accounts for around 20% of overall procurement (of which 80% is intra-EU procurement and 20% is extra-EU procurement)."

¹⁵ L. DE SMEDT et F. DE WISPELAERE, Unravelling the subcontracting chain in constructions works. Declaration of works in immovable property in Belgium, Leuven, POSTING.STAT 2.0 HIVA-KU Leuven, 2024. <https://hiva.kuleuven.be/en/research/theme/welfarestate/p/Docs/paper-unravelling-the-subcontracting-chain-in.pdf>.

In 56% of subcontracting chains in Walloon public construction contracts, at least one self-employed person is present.¹⁶ In 7% of the declarations, at least one of the contractors is self-employed. In total, approximately four out of ten companies present in subcontracting chains are self-employed. **These results suggest that self-employed workers represent a significant share of the entities active in public procurement. This is again an empirical finding that is useful in the context of objective 2 of the Walloon strategy for responsible public procurement.**

Finally, **an important question concerns the concentration of collaboration relationships between contractors and subcontractors.** It is possible that a small group of contractors and subcontractors regularly work together on a large number of projects, leading to a high level of concentration. Such a high degree of concentration could make it difficult to achieve objective 2 of the Walloon strategy for responsible public procurement. In this context, **12% of main contractors in the database are involved in ten or more public procurement contracts.**

Analysis of a questionnaire among the Walloon municipalities

In the first quarter of 2025, the Walloon Public Service (SPW) conducted semi-structured interviews with a representative sample of 22 Walloon municipalities. These municipalities were asked about the public procurement process carried out by their departments. A short online survey was conducted prior to each face-to-face interview. The following conclusions can be drawn:

- The prevailing view among representatives of the municipalities surveyed is that, contrary to the importance attached in the literature to problems arising in subcontracting chains, subcontracting issues do not occur frequently, either because subcontracting is uncommon, because the municipalities have no direct contact with subcontractors, or because there are simply no problems related to subcontracting.
- There are significant variations in the controls exercised by municipalities, due to differences in available capacity and expertise.

As regards the compatibility of the subcontracting practices mentioned with the strategic objectives of the Walloon strategy for responsible public procurement, it appears that the focus is primarily on the first objective: *'professionalising public procurement, managing legal risks and optimising procurement procedures'*. During the interviews, the municipalities clearly expressed the need to simplify public procurement processes. The fourth objective was also addressed in the interviews: *'Strengthen knowledge and governance by enabling decision-makers to have an overview of public procurement and operators to steer their purchasing policies.'* The local authorities surveyed indeed indicate that there is a real need in this regard.

Interviews and focus groups

In order to compare the academic literature, the analysis of quantitative data relating to *'declarations of works'*, and the legal analysis with the insights of stakeholders in the field regarding the opportunities and challenges that subcontracting in Walloon public procurement in the construction sector entails, **around ten semi-structured interviews were conducted. Moreover, the preliminary research findings were presented and tested during three focus groups held in Namur on 13, 16, and 17 October 2025.** The participants in these

¹⁶ A self-employed person is a natural person who carries out a professional activity in Belgium without being bound by an employment contract or by the status of a civil servant.

interviews and focus groups included representatives of contracting authorities, the supervisory authority, advisory organisations, professional federations, and social partners.

There are mainly points of convergence regarding the need to professionalise public procurement (see objective 1 of the Walloon strategy for responsible procurement), with some participants advocating for a regional training and structural technical support plan, or even a support centre and technical mediator. **Furthermore, the need to plan public procurement in the long term, not only by contracting authority but also by type of works and geographical area, and to communicate these plans to the relevant stakeholders is deemed necessary.** This would make it possible to secure investments made by companies, to promote the quality of works, and to reduce dependence on foreign subcontractors (among other things through better internal planning of necessary and useful investments).

For other aspects, there is consensus at the level of principles, but the concrete implementation modalities are less clear. For example, monitoring of the execution of public contracts mainly focuses on collecting various certificates, without this information necessarily being systematically verified on the construction sites themselves. **This leads to a consensus on the need to improve on-site monitoring of compliance with social and environmental obligations in general, and of the relevant clauses in particular.**

Yet the concrete problems in the implementation of the public procurement can accumulate, while there is no consensus among the stakeholders on the measures to be taken. *First*, the distribution of responsibilities among the bodies responsible for monitoring is not sufficiently clear, due to administrative capacity, professional specialisation, or an understanding or organisation of roles whereby these are compartmentalised over time (e.g., a role limited to the award procedure, with no involvement in the execution phase). *Second*, the sanctions provided for in the legislation are not being applied to their full potential. These sanctions have recently been strengthened through their incorporation into the Belgian Social Criminal Code. This reform should be supported by credible and proportionate investigative mechanisms to alleviate the existing administrative burden. *Third*, the responsibility of the contractor for supervising its subcontractors can be included in the tender specifications, but when it is included, it is difficult to enforce in practice due to a lack of sufficient manpower and, in some cases, a lack of training of on-site staff. *Fourth*, contracting authorities face a practical dilemma between ensuring that public contracts comply with the tender specifications and social and environmental legislation, on the one hand, and the need to see the works completed on time and within budget, on the other. Any form of control (and the consequences of a negative assessment) requires administrative time. *Finally*, uncertainties and ambiguities arise among various actors regarding certain aspects of subcontracting and the access of SMEs to public procurement in the construction sector. Thus, for some digitalisation is seen as the key to reducing administrative burdens, centralising information, and ensuring traceability. For others, however, the negative experience with the e-Procurement platform and the technical challenges posed by the formal requirements of electronic signatures highlight the limits of digitalisation in this field.

Conclusions

Subcontracting in itself does not create more problems than other aspects of public procurement, even though the challenges related to monitoring compliance with social and environmental requirements certainly represent an important concern within subcontracting. Nevertheless, public procurement currently does not fully meet expectations, as evidenced by European initiatives to reform the applicable directives.

In that respect, subcontracting and, more generally, the access of SMEs to public procurement illustrate the shortcomings of current public procurement practices (e.g., the digitalisation of procedures, which can be complex for some actors to navigate, formal requirements that are sometimes difficult to understand, etc.) in enabling the optimisation of the Walloon strategy for responsible public procurement.

Conclusion 1 – Over the years, numerous instruments have been developed relating to responsible public procurement and the inclusion of SMEs in public procurement, in a fragmented and uncoordinated manner, depending on the competences and interests of the various stakeholders at European, Belgian, and Walloon levels, as well as on the websites of public authorities, professional associations, and organisations supporting vocational training. Nevertheless, a recent and gradual trend toward coordination and consolidation can be observed among various actors, both at the Belgian and Walloon levels.

Conclusion 2 – The political will to better involve SMEs in public procurement is present in the strategies of the Walloon authorities. In general, SMEs (including self-employed persons) are well represented in Walloon public procurement (and in subcontracting chains) in the construction sector. However, there are many types of SMEs. Not all SMEs are on an equal footing with regard to public procurement, due to their size, their experience, or their fields of activity (sectoral or geographic).

Conclusion 3 – Practices of good management of contractual relationships are recognised as promoting the proper execution of public contracts. These include, in particular, planning of the works, communication during implementation, and a clear understanding of the mutual obligations of the parties to the public contract. Such practices notably include pre-tender briefing meetings, kick-off meetings at the start of contract execution, and debriefings. The importance of developing these practices in response to the specific characteristics of subcontracting, and more generally, appears to be unanimously acknowledged.

Conclusion 4 – The quantitative analysis based on data from the database '*declaration of works*' shows that objective 2 of the Walloon strategy for responsible public procurement has largely been achieved, as more than 87% of the companies present in subcontracting chains on public procurement construction sites in Wallonia are companies established in Belgium. However, given the limitations of the available data, it remains difficult to assess the extent to which limiting the number of levels in subcontracting chains in public procurement has contributed to this high percentage of companies established in Belgium.¹⁷

Conclusion 5 – With regard to the achievement of objective 3 of the Walloon strategy for responsible public procurement, namely making public procurement more sustainable by reconciling environmentally sustainable development, economic efficiency, and social fairness without distorting competition, the results of the analysis of inspection data indicate a high rate of infringements of social legislation (despite the limitation of the subcontracting chain). This points to the need to introduce additional measures to ensure the effectiveness of social legislation (as well as environmental legislation, for which no systematic data currently appear to be collected, meaning that no robust conclusions can be drawn on this aspect at present). In addition, the number of inspections carried out to verify compliance with social legislation on public procurement worksites remains low, particularly in comparison with the number of inspections on private worksites.

¹⁷ A previous study (De Smedt & De Wispelaere, 2024) showed that 20% of subcontractors in construction works in Belgium were established abroad (22% for amounts above € 500 000). This study covered all construction sites of both public and private contracting authorities in Belgium for the reference year 2022. The present analysis shows that 17% of subcontractors on public worksites in Belgium are established abroad. This therefore represents a slight decrease, possibly related to the difference in reference years (2022 versus 2024). In this regard, it would be useful to compare, for the same year, the percentage of subcontractors established abroad on construction sites of private contracting authorities with that on construction sites of public contracting authorities.

Conclusion 6 – At the level of contractual design, there is a distinction between environmental aspects and environmental provisions on the one hand, and social provisions on the other, among contracting authorities. On the one hand, the contracting authority can pursue environmental objectives through environmental provisions. On the other hand, the authority also has the possibility to directly incorporate these aspects into the definition of its needs, in the technical specifications, etc., which structures the entire public contract and requires a proactive approach from the outset of the procedure. In contrast, social clauses can be included at a later stage in the drafting of the tender specifications of the public contract.

Conclusion 7 – This study shows that, even when social clauses are subcontracted, this is not necessarily done with the intention of evading them.

Conclusion 8 – At a qualitative level, subcontracting raises questions regarding coordination between the actors present on the construction site and supervision, but it also makes it possible to mobilise competencies that are lacking in certain segments of the Belgian economy, or to involve actors that would not be able to carry out a public contract independently (for example, for social, economic, financial, or geographical reasons).

Conclusion 9 – On the question of whether there is a power imbalance between the parties to a public contract, it is difficult to provide a clear answer, as these relationships may depend on contextual factors (such as the nature of the contracting authority, its level of experience and familiarity with the identified need, the size of the contract, whether or not it is repetitive, and the specific dynamics between the economic operators involved, etc.). Nevertheless, it can be stated that there is a difference in the relationship between the contracting authority and the economic operator, on the one hand during the award phase of the public contract, in which the contracting authority is in a position to terminate the procurement process, and on the other hand during the execution phase of the public procurement, in which economic operators benefit from information asymmetry and from the fact that contracting authorities prioritise the execution of the contract within the specified timeline and budget, leaving them limited room to raise issues and require corrections.

Conclusion 10 – The challenge of public procurement lies in the proper execution of the contract under the conditions laid down in the tender specifications, so that the contracting authority's needs are effectively met. It can be observed that significant attention and resources, both in terms of personnel and time, are devoted to drafting these specifications. In contrast, the execution phase sometimes appears to fall outside this focus and allocation of resources. In general, there seems to be a distance between the teams responsible for awarding contracts and the teams active on-site during the execution of these contracts. In some cases, this observation can be nuanced for larger contracting authorities, which in particular establish feedback mechanisms from the field, either for certain worksites or for recurring contracts. This approach allows for better anticipation of problems, both on the side of the contracting authority and on the side of the contractors.

Conclusion 11 – This report does not resolve certain uncertainties that would merit further clarification in the future.

First, the report seeks to identify certain developments linked to the introduction of recent obligations and prohibitions based on data for reference year 2024. However, the limitation of subcontracting chains in public procurement has already been in force for quite some time, and therefore also the potential impact of this legal provision. This requires data from before 2024.

Second, it will be necessary to assess the impact of European measures that are expected to be adopted during 2026 and that may affect SMEs, the coherence of public procurement, the execution of public contracts, as well as the social and environmental aspects of public procurement.¹⁸

Third, the report is based on data from the database ‘*Declaration of work*’. In that regard, there remains a degree of uncertainty as to the extent to which official declarations actually correspond to the work carried out on construction sites.

Fourth, the report leaves the legal and economic relationships between the contractor and (foreign) subcontractors unclear. It has not been possible to collect direct information from the SMEs (including micro-enterprises and self-employed persons) concerned, despite attempts to contact them. Moreover, it is particularly difficult to identify Walloon SMEs that would wish to access Walloon public procurement, take steps to do so, but ultimately fail. Identifying the specific reasons for this phenomenon falls outside the scope of this study.

Fifth, for similar reason of difficulties in involving micro-enterprises in the research process, it is not possible to present objective data to answer the question of whether micro-enterprises participation in subcontracting is a deliberate and desired strategy or a necessity. Discussions with stakeholders in Walloon public procurement point to possible exogenous causes of this phenomenon, such as micro-enterprises having access to private contracts that allow them to sufficiently fill their order books.

Recommendations

Twelve recommendations are defined, each of which is developed in detail in the report. These recommendations relate to the system in general (*recommendations 1 and 2*), the award phase (*recommendations 3 and 4*), the execution phase (*recommendations 5 to 8*), the end of the contract (*recommendations 9 and 10*), and finally the monitoring tools (*recommendations 11 and 12*).

System-oriented recommendations

Recommendation 1 – Continue and strengthen the alignment of public procurement-related instruments, as well as reinforce the strategy to facilitate access to information and learning about public procurement.

Recommendation 2 – Include all phases of the contract life cycle in the strategic reflection on socially responsible public procurement in the construction sector.

Recommendations relating to the award phase of public procurement contracts

Recommendation 3 – Define the desirable and optimal use of subcontracting.

¹⁸ Moreover, the study examines subcontracting chains in the construction sector involving public contracting authorities. It does not distinguish between the types of procedures that led to these chains, even though such procedures may vary. These may have been organised under the Law of 17 June 2016 on public procurement or the Law of 17 June 2016 on concession contracts. Where the former applies, procedures may fall within either the so-called “classical” or “special” sectors. Furthermore, Directive 2014/24 applies only to contracts whose estimated value reaches the European thresholds (for public works contracts: € 5.404.000 excluding VAT in 2026). This creates a distinction between contracts above and below these thresholds: the former are subject to the European regulatory framework, while the latter fall under the Belgian regulatory framework. In addition, differences also arise as regards the type of procedure that may be followed (e.g. open or restricted procedures, negotiated procedures without prior publication, contracts below a certain threshold). These factors may influence both the characteristics of subcontracting chains and the extent to which the four objectives of the Walloon government can be achieved, as well as the degree of flexibility available to national or regional policymakers. However, data from the “Declaration of works” database indicate only that the contracting authority is public, without specifying which procedure was followed. Future research should therefore examine more closely the (potential) impact of the procedure used and the value of the contract (i.e. whether it is above or below the relevant threshold).

Recommendation 4 – Optimize the use of existing models of tender specifications and relevant standard clauses.

Recommendations relating to the execution phase of public procurement contracts

Recommendation 5 – Develop a communication strategy for site management.

Recommendation 6 – Raise awareness of the challenges of monitoring during the execution phase of public procurement contracts, particularly where subcontracting is involved.

Recommendation 7 – Identify clearly the roles fulfilled by each entity responsible for enforcement, in order to ensure comprehensive coverage.

Recommendation 8 – Strengthen site management and its monitoring, in particular through the application of proportionate sanctions.

Recommendations relating to the end of public procurement contracts

Recommendation 9 – Foster a culture of dialogue based on debriefing.

Recommendation 10 – Make the use of certificates of satisfactory completion standard practice.

Recommendations relating to monitoring instruments

Recommendation 11 – Define indicators related to subcontracting in Walloon public procurement in the construction sector and the collection of data for enhanced monitoring.

Recommendation 12 – Assess the impact of potential/implemented measures concerning subcontracting chains.

Any questions ?

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This document reproduces, without modification, the English summary of the report entitled « **La sous-traitance dans les marchés publics de construction. Pratiques en Wallonie** » (Marique, Y. (UCLouvain) et De Wispelaere, F. (KUL) (coord.). Mai 2026. Namur), carried out on behalf of the Service public de Wallonie, to which reference should be made for any detailed information.

The full report is available on the Portail des marchés publics en Wallonie.



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