Financial rules applicable to the general budget of the Union: procurement procedure

2014/0180(COD) - 18/06/2014 - Legislative proposal

PURPOSE: to amend the Financial Regulation (FR) to take account of the new directives on public procurement and on the award of concession contracts awarded by the European institutions on their own account.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council lays down the rules for the establishment and the implementation of the general budget of the European Union. In particular, it also contains rules on public procurement.

Following the adoption of Directive 2014/24/EU of the European Parliament and of the Council on public procurement and repealing Directive 2004/18/EC and of Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts, provision should be made for the rules contained in these Directives to apply to contracts awarded by the European institutions on their own account.

CONTENT: the proposal aims to **amend Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union** in order to take account of the new directives on public procurement and on the award of concession contracts awarded by the European institutions on their own account.

The modifications brought about to the text of the Financial Regulation (FR) can be classified into three main groups.

Alignment with the Directive: new provisions are introduced, such as market consultation, the new innovation partnership as a procedure, the introduction of compliance with environmental, social and labour law as a key requirement, evaluation of criteria in no particular order, award methodology based on the most economically advantageous tender.

In addition, concessions for works and services are introduced for the first time in the FR and are subject to the same types of procedures as public contracts.

Provisions on exclusion: the grounds for exclusion are clarified and aligned with the Directive as well as the possibility for the economic operator concerned to take remedial measures. Exclusion is clearly separated from the rejection from a given procedure to avoid confusion.

A single system is set up for increasing the protection of the Union financial interests which takes into account the existing Central Exclusion Database. The aim of the system is to ensure the early detection and prevention of risk as well as the publication of information related to excluded economic operators. An exclusion panel is set up to take exclusion decisions after the analysis of the case and it guarantees the right of defence of economic operators.

Clarifications of the text and simplifications: these concern publicity measures above and below thresholds, requirements for opening and evaluation, rejection of non-compliant tenders, bank guarantees for works and complex services contracts, the fact that Union institutions are considered central contracting authorities according to the Directive, the reference to applicable Directive thresholds, electronic procedures and the opening up of procurement by institutions to international organisations.