

Public procurement, service and works contracts: coordination of procedures for the award, classical directive

2000/0115(COD) - 10/05/2000 - Legislative proposal

PURPOSE: to amend the Directive on the coordination of procedures for the award of public supply contracts, public service contracts and public works contracts. **CONTENT:** In 1996, the Commission presented a Communication entitled 'Public Procurement in the European Union (EU)'. The main theme to emerge from the Green Paper debate was the need to simplify the legal framework and adapt it to the new electronic age while maintaining the stability of its basic structure. The Commission recognised the need to simplify the existing legal framework by clarifying provisions which were obscure or complex and by amending legislation where the problems to be addressed could not be solved through interpretation of the provisions. In addition, it announced the consolidation of the three 'classic Directives' (Directive 92/50/EEC, Directive 93/36/EEC and Directive 93/38/EEC) and then their merger into a single text. Against this background, the proposal for a Directive meets these objectives. Moreover, the proposed amendments to the Directive are grouped into two parts as follows: 1) Simplification of the Directive. This proposal is presented in the form of a single text for supply, works and service contracts. At the same time, it provides a means of proposing that the public sector Directives mentioned above, be amended, simplified and combined in a single text. This approach will make it easier to maintain consistency during the legislative process, and also offers real advantages for users. As far as the structure is concerned, the provisions in the proposed Directives have been set out in six Titles. In these Titles, and particularly in Title II with regard to the specific rules applicable to contracts, the provisions have been ordered in such a way as to follow logically the course of a contract award procedure, starting with the principles and the scope. Chapters and Sections have been introduced to make it easier for the reader. In addition, each Chapter, Section and Article has a heading for quicker identification of the provisions sought by the reader. 2) Substantive Amendments The Commission has identified seven areas for substantive amendments as follows: - the introduction of electronic purchasing mechanisms, and their consequences in terms of reducing the length of an award procedure (point 2); - the introduction of a new case for the use of the negotiated procedure, which - for particularly complex contracts - permits a "dialogue" between the contracting authority and the different candidates, while ensuring that there is competition and compliance with the principle of equality of treatment (point 3); - the possibility for public purchasers of concluding so-called "framework agreements", not all of whose conditions are fixed, and on the basis of which contracts can be awarded without applying all the obligations of the Directive (point 4) to each one; - clarification of provisions relating to technical specifications; this will encourage effective competition through the participation of the greatest possible number of tenderers and, in particular, innovative businesses (point 5); - a strengthening of the provisions relating to award and selection criteria (point 6); - a simplification of the thresholds (point 7) - the introduction of a common procurement vocabulary (point 8). Moreover, following the amendments proposed by the Commission concerning the "Utilities Directive" 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, in particular the amendments to its scope in light of the gradual liberalisation in those sectors, it is also necessary to amend some provisions contained in the public sectors Directive (point 9).