

Procurement water, energy, transport and postal sectors: coordination of procedures for award, utilities directive

2000/0117(COD) - 14/08/2003 - Commission opinion on Parliament's position at 2nd reading

The European Commission can accept Parliament's amendment that concerns aligning the terminology with that used in the Postal Directive. It rejected 19 amendments to the common position. It should be noted that these aim to: - include a guarantee of "a high standard of reliable services of general interest at affordable prices"; - introduce an obligation - whenever possible - for public authorities to define their technical specifications in terms of accessibility for people with disabilities and design for all requirements; - restrict the field of application of electronic auctions by prohibiting their use for contracts for works or certain kinds of services (described as "intellectual", "creative" or "complex"); - give purchasing groups set up by the State, local authorities or bodies governed by public law the status of contracting authorities; - amend the definition of "special or exclusive rights"; - introduce a difference in treatment between "reserved postal services" and "other postal services" by eliminating the difference introduced in the common position between these and "ancillary postal services"; - introduce an obligation on the part of contracting entities to respect the fundamental principles of Community law in connection with all contracts, including those falling below the thresholds for the application of the Directive; - increase the obligations of contracting entities as regards respect of the confidentiality of data provided by the economic operators, particularly by giving a list of the information or documents concerned and specifying that these obligations must be respected both during and after the award procedures; - add references to a specific producer or supplier to a provision that prohibits references to a "specific production" other than on an exceptional basis; - increase the scope for awarding contracts for the purpose of research, experiment, study or development without competition by eliminating the conditions provided for in the law as it stands, according to which such contract may not be awarded "for the purpose of securing a profit or of recovering research and development costs, and in so far as the award of such contracts does not prejudice the competitive award of subsequent contracts which do seek, in particular, those ends"; - call for the use of an advanced electronic signature within the meaning of Directive 1999/93/EC and of reliable security if tenders submitted by electronic means are to be accepted; - aim at requiring the use of an accredited third party to safeguard the confidentiality of data sent by tenderers; - stipulate that contracting entities must inform economic operators of their decisions as to qualification within two months. It also adds an obligation for contracting entities to inform applicants in the month following the submission of the application if the decision will take more than two months; extend the existing provisions to three types of contract, and also introduce an obligation to approach third countries if they fail to respect certain ILO Conventions; - introduce a legal presumption of free access to the railway sector in the event of implementation and correct application of Directives 91/440/EEC on the development of the Community's railways, Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC of the European Parliament and of the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification; - introduce a legal presumption of freedom of access to activities comprising exploration for and extraction of coal or other solid fuels in the event of a Member State voluntarily making a Directive (94/22/EC) relating to hydrocarbons licences applicable to the coal sector.