

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

2000/0115(COD) - 29/12/2004

This Communication proposes an Action Plan for the implementation of the new legal framework for electronic public procurement adopted in April 2004 as part of the legislative package of Procurement Directives, 2004/18/EC and 2004/17/EC. These provide a coherent framework for conducting procurement electronically in an open, transparent and non-discriminatory way, establish rules for tendering electronically and fix the conditions for modern purchasing techniques based on electronic means of communication. If online procurement is generalised, it can save governments up to 5% on expenditure and up to 50-80% on transaction costs for both buyers and suppliers.

Building upon existing efforts to modernise European public procurement markets and to make these more open and competitive, the Commission proposes measures along three axes:

- Ensure a well functioning Internal Market when public procurement is conducted electronically : Member States are required to implement the new legal framework by 31 January 2006, but slippages cannot be excluded. The Commission will monitor transposition closely and encourage appropriate exchanges with the Member States at the draft stage in order to facilitate understanding of the legal framework. It will issue an interpretative document on the legal requirements for e-procurement. At the same time training demonstrators simulating the new electronic environment will be available to support initiation of administrations and businesses. The Commission will adopt in early 2005 a Regulation on standard forms adjusting the existing forms to the elements introduced by the new Directives, e.g. e-auctions, dynamic purchasing systems and buyer profiles. By the end of 2006, the Commission will propose a new generation of structured electronic standard forms to allow for the electronic collection, processing and dissemination of all procurement notices covered by the Directives. This new generation should facilitate the automatic production of summaries in all official EU languages, and should be easy to integrate into all operational e-procurement systems. The establishment of an electronic directory of EU public purchasers should also be considered.

The Commission will also aim to remove / prevent barriers in carrying public procurement procedures electronically;

- Achieve greater efficiency in procurement and improve governance: Moving public sector procurement online requires legal, institutional and organisational changes at many levels. Member States will have to decide on the type and scope of purchases to computerise, the policies to implement, the systems and tools to use and the level of administrations involved. The risks of failure are not negligible. It is therefore essential to plan and monitor these efforts.

Greater efficiency will depend on the degree of automation in the field of public procurement as a whole, although a phased development of e-procurement is most likely to maximise benefits for both the public and the private sector. The Commission invites all Member States to transpose into national law all aspects of the legislative package in a comprehensive manner. Governments should, however, be able to modulate and adjust implementation of the new electronic tools and techniques over time. In particular, they should pay attention to potential excessive or abusive centralisation of purchases, inappropriate use of electronic auctions and preferences for closed purchasing systems (e.g. framework agreements) over open systems. In the second half of 2005 the Commission is considering proposing services for the

electronic supply of business information and certificates in public procurement for implementation under the IDABC programme. In 2005-2006, Member States and the Commission should agree on a common set of frequently required electronic certificates for use in e-procurement procedures. In 2005, the Commission proposes launching a study on e-catalogues in dynamic purchasing systems and electronic framework agreements using work by CEN/ISSS under the IDABC programme.

- Work towards an international framework for electronic public procurement : the Commission will monitor developments to ensure that implementation of the new EU procurement regime fully respects the international obligations of the Union, while accordingly taking initiatives to adapt international disciplines. It will also follow attentively current and future international standardisation initiatives.

The Commission shall be assisted by the Advisory Committee for Public Contracts who will monitor overall progress in implementing the Action Plan. By the end of 2007, the Commission will review the situation and report on the results achieved.

FINANCIAL IMPLICATIONS :

- Budget lines concerned : the administrative and operational expenditure are covered by the budget lines and the existing programmes therefore do not need additional appropriations compared to the Commission's official financial programming : 12.0201: Implementation and development of the Internal Market; 260201: Procedures for awarding and advertising public supply, works and services contracts; 020403 : standardization; 02020401: pan-European eGovernment services to public administrations, businesses and citizens (IDABC); 02010405 : pan-European eGovernment services to public administrations, businesses and citizens (IDABC) - administrative expenses.

- Duration of the action and of the financial impact: 2005-2007.

- Impact on human resources : (commitment appropriations) : operational expenditure : EUR 3.205 million; technical assistance : EUR 0.240 million; human resources EUR 1.782 million; other administrative costs EUR 0.327.

- Total cost : EUR 5.554 million.