

e-Procurement: Directive 2014/24/EU or Directive 2014/25/EU

October 2018

Problem addressed

Public procurement accounts for up to one fifth of the European Union's gross domestic product. Currently most public procurement is done locally within a country using traditional ways of communication – mainly paper. Suppliers from different member states are also interested in bidding for these contracts. There are over 300,000 contracting authorities in the EU, but submitting a tender offer across EU borders can be a cumbersome task. With each new tender, suppliers have to fulfil lots of criteria, and provide the same evidence, over and over again. After all this investment of time and effort, chances of winning the contract can still be low.

e-Procurement is listed as one of five highly prioritised cross-border digital public services of vital importance for the Digital Single Market.

Objective

General EU legislation setting out the rules for public purchasing is contained in Directive 2014/24/EU. These basic rules and principles apply to the water, energy, transport and postal sectors, while Directive 2014/25/EU takes account of the specific features of these sectors which play key roles in meeting society's needs.

Solution

The Directives 2014/24/EU and 2014/25/EU lay down the procedures to be followed and stipulate that national authorities, when using public procurement to invite tenders for work they wish carried out, must treat all applicants equally and avoid any discrimination between them. They must also be transparent in the way in which they operate and take decisions.

The directives require full electronic tendering to be in place throughout Europe by September 2018, and a dramatic reduction in the burden on businesses by making it necessary to request only an Electronic Single Procurement Document (ESPD) at the time of submitting a bid – i.e. no evidence has to be provided.

Timing

The new EU public procurement directives including those on the award of concessions were published in the Official Journal of the EU on 28 March 2014 and entered into force on 17 April 2014. Member States are required to transpose most of the provisions within 24 months; however, for some provisions, for example in the area of electronic communications, longer deadlines for national implementation are provided for. E-procurement will gradually become mandatory in the EU

Given the advantages offered by e-procurement, the new Directives make the use of e-Procurement progressively mandatory. This will happen by:

- making electronic means of communication mandatory by April 2016 for certain phases of the procurement process including the electronic notification of tender opportunities and the electronic availability of tender documents (at the expected transposition of the revised Directive). Central purchasing bodies would also move to full electronic means of communication including the electronic

submission of bids by April 2017.

- making e-submission mandatory for all contracting authorities and all procurement procedures by October 2018
- adopting more detailed provisions to encourage interoperability and standardisation of e-procurement processes.

Use case examples

e-Tendering:

A contracting authority (state, regional or local authority, body governed by public law) from a Member State publishes a business opportunity. Any business from another Member State can express interest and participate in the procedure using their own tendering system. The interested company knows how to respond to the opportunity, because it can find all the relevant information in the contract notice. Firstly, it sends a subscription message to the contracting authority to let it know that it is interested in the call for tender. This puts the company on the list of interested economic operators. Next, the company sends a request to receive all the tender documents, and finally is able to submit its bid. The tender is signed electronically, and the transport protocol will provide proof that the tender has been received. All possible communication, including necessary questions, replies and the final award notification, is performed electronically.

Virtual Company Dossier:

A company from country A receives a call for tender-related information from the contracting authority. The most relevant documents received initially are the contract notice and the call for tender, including the specification of qualification criteria (criterion template). The economic operator uses the VCD Designer to create a Tenderer Structure and uploads the criteria template to the VCD Designer. The authority is able to open the bid and the VCD on its own platform. The contracting authority confirms the submitted qualifications and evaluates the bid. After awarding the contract, the authority sends an award notice to the company chosen.

Used Building Blocks:

- e-Delivery
- e-Documents
- e-ID
- e-Signature
- Semantics