

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

2000/0115(COD) - 14/08/2003 - Commission opinion on Parliament's position at 2nd reading

As regards the amendments accepted by the Commission, these aim to : - amend a recital on the exclusion of certain audiovisual service contracts in order to clarify that "broadcast" should be taken to include also transmission and distribution using any form of electronic network. This is a useful clarification; - amend point VIII of Annex III to add ANAS S.p.a. to the list of Italian public-law bodies. The company meets the criteria laid down in the Directive for identifying such bodies. Concerning the amendments accepted subject to reformulation, these concern in particular the statement that this Directive shall not apply to public service contracts for: the acquisition, development, production or co-production of programmes by broadcasters and contracts for broadcasting time. The Commission has rejected 20 amendments which aim to : - point out that contracting authorities are obliged to observe the principles in the Treaty even for contracts which fall below the thresholds for application of the Directive; - insert the obligation on contracting authorities to respect the fundamental principles of Community law in connection with all contracts, including those falling below the thresholds for application of the Directive; - changes a recital regarding the technical specifications to state that whenever possible contracting authorities must systematically lay down and refer to specifications that take in to account accessibility for people with disabilities; - oblige contracting authorities whenever possible to define their technical specifications in terms of accessibility for people with disabilities and adds that these specifications must be clearly indicated in the contract documents; - change the definition of an "electronic auction"; - add to the list of contracting authorities purchasing groups set up by such authorities; - amend the text concerning competitive dialogue; - allow adjustments to final bids after the dialogue phase has been concluded, provided the basic features of the tender are not "fundamentally" changed; - strengthen the obligations of the contracting authority with regard to respecting the confidential nature of the information supplied by economic operators, by imposing these obligations throughout and after the award procedure; - introduce an exemption from the application of the Directive for the purchase of schoolbooks where the price of these books in the contracting authority's country is laid down by law; - exclude from the scope of the Directive contracts concluded by a contracting authority with an entity over which it has complete control or with a joint venture formed by that contracting authority with other contracting authorities; - require a contracting authority that decides a tender has not satisfied its requirements in an equivalent manner to inform the tenderer, on request, of the grounds for the non-equivalence; - introduce into the Directive qualification systems similar to those allowed by the special-sectors Directive; - introduce the possibility of launching the competition procedure by means of a notice, the content of which is not regulated, stating that a qualification system exists; - require contracting authorities to use an accredited thirdparty to guarantee the confidentiality of the information transmitted by tenderers; - require the use of advanced electronic signatures within the meaning of Directive 1999/93/EC and of reliable security if tenders submitted by electronic means are to be accepted; - introduce a new article in order to force the Member States to set up effective, open and transparent mechanisms to ensure implementation of the Directive; - change point 1 of Annexe VII, Part A, Prior information notice, to make it compulsory to: give the contracting authority's telephone number and, in the case of service and works contracts, give details of the departments from which information can be obtained concerning the rules and regulations on taxes, environmental protection, employment protection and working conditions applicable in the place where the contract is to be performed.