

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (Text with EEA relevance)

TITLE I

SCOPE, DEFINITIONS AND GENERAL PRINCIPLES

CHAPTER I

Scope and definitions

Section 2

Thresholds

Article 4

Threshold amounts

This Directive shall apply to procurements with a value net of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:

- (a) EUR 5 186 000 for public works contracts;
- (b) EUR 134 000 for public supply and service contracts awarded by central government authorities and design contests organised by such authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, that threshold shall apply only to contracts concerning products covered by Annex III;
- (c) EUR 207 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities; that threshold shall also apply to public supply contracts awarded by central government authorities that operate in the field of defence, where those contracts involve products not covered by Annex III;
- (d) EUR 750 000 for public service contracts for social and other specific services listed in Annex XIV.

Article 5

Methods for calculating the estimated value of procurement

1 The calculation of the estimated value of a procurement shall be based on the total amount payable, net of VAT, as estimated by the contracting authority, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents.

Where the contracting authority provides for prizes or payments to candidates or tenderers it shall take them into account when calculating the estimated value of the procurement.

2 Where a contracting authority is comprised of separate operational units, account shall be taken of the total estimated value for all the individual operational units.

Notwithstanding the first subparagraph, where a separate operational unit is independently responsible for its procurement or certain categories thereof, the values may be estimated at the level of the unit in question.

3 The choice of the method used to calculate the estimated value of a procurement shall not be made with the intention of excluding it from the scope of this Directive. A procurement shall not be subdivided with the effect of preventing it from falling within the scope of this Directive, unless justified by objective reasons.

4 That estimated value shall be valid at the moment at which the call for competition is sent, or, in cases where a call for competition is not foreseen, at the moment at which the contracting authority commences the procurement procedure, for instance, where appropriate, by contacting economic operators in relation to the procurement.

5 With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.

6 In the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value net of VAT of the research and development activities to take place during all stages of the envisaged partnership as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership.

7 With regard to public works contracts, the calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the contracting authority provided that they are necessary for executing the works.

8 Where a proposed work or a proposed provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots.

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in Article 4, this Directive shall apply to the awarding of each lot.

9 Where a proposal for the acquisition of similar supplies may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots when applying points (b) and (c) of Article 4.

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in Article 4, this Directive shall apply to the awarding of each lot.

10 Notwithstanding paragraphs 8 and 9, contracting authorities may award contracts for individual lots without applying the procedures provided for under this Directive, provided that the estimated value net of VAT of the lot concerned is less than EUR 80 000 for supplies or services or EUR 1 million for works. However, the aggregate value of the lots thus awarded without applying this Directive shall not exceed 20 % of the aggregate value of all the lots into which the proposed work, the proposed acquisition of similar supplies or the proposed provision of services has been divided.

11 In the case of public supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:

- a either the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
- b or the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.

12 With regard to public supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:

- a in the case of fixed-term public contracts, where that term is less than or equal to 12 months, the total estimated value for the term of the contract or, where the term of the contract is greater than 12 months, the total value including the estimated residual value;
- b in the case of public contracts without a fixed term or the term of which cannot be defined, the monthly value multiplied by 48.

13 With regard to public service contracts, the basis for calculating the estimated contract value shall, where appropriate, be the following:

- a insurance services: the premium payable and other forms of remuneration;
- b banking and other financial services: the fees, commissions payable, interest and other forms of remuneration;
- c design contracts: fees, commissions payable and other forms of remuneration.

14 With regard to public service contracts which do not indicate a total price, the basis for calculating the estimated contract value shall be the following:

- a in the case of fixed-term contracts, where that term is less than or equal to 48 months: the total value for their full term;
- b in the case of contracts without a fixed term or with a term greater than 48 months: the monthly value multiplied by 48.

Article 6

Revision of the thresholds and of the list of central government authorities

1 Every two years from 30 June 2013, the Commission shall verify that the thresholds set out in points (a), (b) and (c) of Article 4 correspond to the thresholds established in the World Trade Organisation Agreement on Government Procurement (GPA) and shall, where necessary, revise them in accordance with this Article.

In accordance with the calculation method set out in the GPA, the Commission shall calculate the value of these thresholds on the basis of the average daily value of the euro in terms of the special drawing rights (SDRs), over a period of 24 months terminating on 31 August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand euros so as to ensure that the thresholds in force provided for by the GPA, expressed in SDRs, are observed.

2 When carrying out the revision pursuant to paragraph 1 of this Article, the Commission shall, in addition, revise:

- a the threshold established in point (a) of the first paragraph of Article 13 by aligning it with the revised threshold applying to public works contracts;
- b the threshold established in point (b) of the first paragraph of Article 13 by aligning it with the revised threshold applying to public service contracts awarded by sub-central contracting authorities.

3 Every two years from 1 January 2014, the Commission shall determine the values, in the national currencies of the Member States, whose currency is not the euro, of the thresholds referred to in points (a), (b) and (c) of Article 4, revised pursuant to paragraph 1 of this Article.

At the same time, the Commission shall determine the value, in the national currencies of the Member States, whose currency is not the euro, of the threshold referred to in point (d) of Article 4.

In accordance with the calculation method set out in the GPA, the determination of such values shall be based on the average daily values of those currencies corresponding to the applicable threshold expressed in euros over the 24 months terminating on 31 August preceding the revision with effect from 1 January.

4 The Commission shall publish the revised thresholds referred to in paragraph 1, their corresponding values in the national currencies referred to in the first subparagraph of paragraph 3, and the value determined in accordance with the second subparagraph of paragraph 3 in the *Official Journal of the European Union* at the beginning of the month of November following their revision.

5 The Commission shall be empowered to adopt delegated acts in accordance with Article 87 to adapt the methodology set out in the second subparagraph of paragraph 1 of this Article to any change in the methodology provided in the GPA for the revision of the thresholds referred to in points (a), (b) and (c) of Article 4 and for the determination of the corresponding values in the national currencies of the Member States, whose currency is not the euro, as referred to in paragraph 3 of this Article.

The Commission shall be empowered to adopt delegated acts in accordance with Article 87 to revise the thresholds referred to in points (a), (b) and (c) of Article 4 pursuant to paragraph 1 of this Article and to revise the thresholds referred to in points (a) and (b) of the first paragraph of Article 13 pursuant to paragraph 2 of this Article.

6 Where it is necessary to revise the thresholds referred to in points (a), (b) and (c) of Article 4 and the thresholds referred to in points (a) and (b) of the first paragraph of Article 13 and time constraints prevent the use of the procedure set in Article 87 and therefore imperative grounds of urgency so require, the procedure provided for in Article 88 shall apply to delegated acts adopted pursuant to the second subparagraph of paragraph 5 of this Article.

7 The Commission shall be empowered to adopt delegated acts in accordance with Article 87 to amend Annex I, in order to update the list of contracting authorities following notifications from Member States, where such amendments prove necessary to correctly identify contracting authorities.