



EUROPEAN COMMISSION

Brussels, 13.12.2012
C(2012) 8956 final

Dear President,

The Commission would like to thank the Senát for its Opinion on the proposals for a directive on public procurement {COM(2011) 896 final}, a directive on procurement by entities operating in the water, energy, transport and postal services sectors {COM(2011) 895 final} and for a directive on the award of concession contracts {COM(2011) 897 final}.

The Commission takes note of the Senát's support for a European legal framework that would ensure the most effective use of public funds, and of the agreement with a progressive transition to electronic public procurement that will bring significant financial and time savings. The Commission has also duly noted the Senát's concerns as regards the measures proposed in favour of SMEs such as splitting contracts into lots.

The Commission would, however, like to stress that its proposals only aim at encouraging contracting authorities to split contracts into lots and not at obliging them to do so (contracting authorities are not prevented from doing so on the basis of the current Directives). Furthermore, and in order to avoid circumvention of EU public procurement rules, the Commission has proposed to clarify the notion of "public procurement" as follows: "an entirety of works, supplies and/or services, even purchased through different contracts, constitutes a single procurement within the meaning of this Directive, if the contracts are part of one single project" (see Article 1 (2) 2nd subparagraph of both public procurement proposals). As concerns the experience, equipment and human and financial resources of the economic operators (whether SMEs or not), it is up to the contracting authorities to clearly define the level of competence required in the selection criteria.

The Commission hopes that these clarifications address the concerns expressed by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

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