

Types of procedure – more choice, easier access

The new Directives follow a “**tool box approach**” which gives contracting authorities more flexibility, greater options and new routes to procurement. They have much greater freedom to choose the type and design of procedure best suited to their needs:

- **Access to procedures** involving negotiations is a great deal larger and more flexible than under the current Directives, so that contracting authorities can effectively use such procedures in all situations where negotiations are required.
- The **new competitive procedure with negotiation** replaces the current negotiated procedure with prior publication of a contract notice. To ensure fairness, transparency and efficiency, this new procedure is more clearly structured. It focusses on the improvement of the tenders and provides contracting authorities with effective instruments to obtain the best possible procurement outcome in the negotiations.
- The **competitive dialogue** has been simplified and made more practicable. It is now accessible under the same conditions as the competitive procedure with negotiation giving the contracting authority full choice.
- The **new innovation partnership** broadens the choice for contracting authorities. It allows them to procure highly innovative solutions by offering a smart combination of research services with purchase elements (cf. FACTSHEET No. 9).

More flexible and efficient proceedings

Contracting authorities will also have much more freedom to organise contract award procedures in the most flexible and efficient way. The rules on the management of procurement procedures have received a major overhaul to make them more efficient and practicable. Among the most important novelties:

- **Time-limits** for participation and submission of tenders have been shortened giving contracting authorities a maximum of flexibility for quicker and more streamlined procurement procedures.
- A **new standard e-based European Single Procurement Document** will allow self-certification replacing the submission of documentation at the qualification stage. Normally, contracting authorities will only have to check the actual documentation for the winning tenderer at the end of the procedure, prior to the award decision. For this purpose, they will have access to electronic databases in the Internal Market, ensuring speedy access to reliable up-to date documentation.
- Contracting authorities can require that works, services or supplies have a specific **label** to proof that they comply with environmental, social or other standards set for the procurement. This concerns, for example, **environmental or fair-trade labels**.
- In open procedures, contracting authorities are free to decide on the order in which they want to proceed. They may follow the conventional order by deciding first on the admission

of tenderers before assessing the tenders and making the award decision. Alternatively, they may in suitable cases decide to inverse that order and to examine first the tenders before verifying the absence of grounds for exclusion and the fulfilment of selection criteria.

- Contracting authorities can **exclude a bidder** from the procedure if that bidder has shown in the past significant or persistent deficiencies during the execution of a public contract.
- In assessing tenders, contracting authorities may take into account the **qualification and experience of the staff** assigned to performing the contract where this can significantly impact the level of performance.

Additional flexibility for local and regional authorities

The new Directive gives Member States the choice to opt for a **simplified publication system** for certain categories of contracting authorities:

- **Authorities concerned:** the so-called "**sub-central contracting authorities**", i.e. basically all contracting authorities below the central government level, such as municipalities, regional authorities or bodies governed by public law;
- **Procedure:** instead of publishing a full EU-wide contract notice for each contract above the threshold, privileged contracting authorities may for certain contracts simply publish a **prior information notice** with an indication that:
 - the contract will be awarded without further publication of a contract notice and
 - companies may express their interest in the contract in order to be kept informed directly about the procedure.

This gives authorities more flexibility in the launching of the award procedure, saving time and money.

Teaming up

- The new Directives make it easier for contracting authorities to bundle their purchases by:
 - using **joint procurement procedures** or
 - purchasing **through a central purchasing body**.

This can be done on a **national or cross-border level**.

- Experience has shown that **cross-border joint procurement** can considerably improve procurement outcomes by reaping the full benefit of the single market. The new Directives provide for the first time **explicit and clear rules on joint cross-border procurement** ensuring the necessary legal certainty for contracting authorities and central purchasing bodies.