

New EU directives on public procurement and e-invoicing

Status; a short summary and
- focus on the e-procurement and
- e-invoicing,
-goals and challenges

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New directives, public procurement

- **New EU directives on public procurement and concessions were approved by Parliament in January 15, 2014 after negotiations (trialogue) with the Council and the European Commission ^{x)}**
- **The directives /adopted text are published in The official Journal and**
- **The directives will enter into force April 17, 2014**
- **After this date, Member states will have 24 months to implement the provisions of the new rules into national law**

^{x)} The Council agreed upon the new legislation already in June 2013

New directives, public procurement; focus on "e"

- **"Electronic means" mandatory for Central purchasing bodies and general obligation for all after a transition period of 30 months. (first 24 months for implementation of the directives +30 months transition period.)**
- **This is for e-submission.**
- **There are no mandatory obligations to use electronic means for the rest of the procurement procedure (evaluation, awarding etc).**

New directives, public procurement

- **Rules applicable to communication in Art 22.**
- **The Member States shall ensure that the communication, especially submission of bids , shall be made by use of electronic communication.**
- **The tools must be non-discriminatory, generally available and not restrict economic operators access to the procurement procedure**

New directives, public procurement

Communication, Art 22.

- Also exemptions from usage of electronic means
- Information about the specifications necessary for e-submission must be available
- The Member States shall prescribe the security level of the electronic means in the different parts of the procurement procedure. Proportional in relation to the risks.
- The European Commission will be able to use delegated acts for the technical formats and process, especially regarding e-submission, e-catalogues and electronic authentication. The standards shall be tested and their usability proved.

New directives, public procurement

Rules regarding eCatalogues; art 36

- If electronic means are required the Contracting Authorities may require tenders in a format of an electronic catalogue or that they shall include an electronic catalogue.**
- Member states may render use of e-catalogues mandatory in connection with certain types of procurement**
- Tenders presented in the form of an e-catalogue may be accompanied by other documents, completing the tender**

New directives, public procurement

Rules regarding eCatalogues; art 36

- **When usage of framework agreements and more than one economic operator, the CA may use re-opening of competition based on updated catalogues.**
- **This can be done by inviting economic operators to resubmit their catalogues or notify the economic operators that they intend to collect from the catalogue which already have been submitted.**
- **E-catalogues can also be used when Dynamic Purchasing Systems are used and tenders are required to be submitted in a format of an ecatalogue.**

New directives, public procurement

- Rules regarding Dynamic Purchasing Systems (DPS) in Article 34.
- Includes detailed rules about the procedure (following the rules of the restrictive procedure), about when it can be used, requirement to inform about the DPS in the call for tender etc.
- Rules regarding electronic auctions in Article 35. They include detailed rules of the procedure, exemptions, the requirement to inform about the auction in the call for tender etc.

Directive on e-invoicing in public procurement; background

- Proposal for a Directive presented June,26 COM (2013) 449 final
- Communication from the Commission ” End-to end e-procurement to modernise public administration COM (2013) 453 final

Directive on e-invoicing in public procurement; status today

- The European Commission, The European Parliament and the Council reached an agreement (the trialogue) January, 24 2014
- The Parliament adopted the directive March, 11
- The Council will adopt it in April, and the publish it in the Official Journal
- What does the Directive say now?

Directive on e-invoicing in public procurement

Article 3 x)

- The Commission shall request that the European standardisation organisation draft a European standard for the ***semantic datamodel of the core elements of an electronic invoice (the European standard on electronic invoicing)***
- The Commission require that the European standard is technological neutral,
- complies with relevant international standards on e-invoicing
- it allows for the establishment of practical, user friendly, flexible and costefficient e-invoicing systems

- **x) text preliminary version European Parliament**

Directive on e-invoicing in public procurement

The standard shall also

- Take into account special needs of small and medium-sized enterprises as well as of sub-contracting authorities and contracting entities
- Is suitable for the use in commercial transactions between enterprises
- Etc

Directive on e-invoicing in public procurement

The Commission shall also request that the relevant European standardisation organisation

- provide a list with a limited number of syntaxes which comply with the European standard on e-invoicing,
- the appropriate syntax bindings and
- guidelines on transmission interoperability in order to facilitate the use of such standard.

The publication of the standard shall be completed by 36 months after the entry into force of the directive

Directive on e-invoicing in public procurement

- Art 4 : formal objections to the European standard
- Art 5 : rules regarding maintenance and further development of the standard and the list of syntaxes
- Art 6: core elements from the VAT directive
- Article 7: Member states shall ensure that contracting authorities and entities *recieve and process* electronic invoices which comply with the European standard on electroni invoicing *and* with any of the syntaxes on the list that has been published

Directive on e-invoicing in public procurement

- Article 11: Transposition
- Member states shall adopt and apply the laws, regulations and administrative provisions necessary to comply with the directive 54 months following the entry into force of the directive
- This means that Member States shall no later than 18 months after the publication of the reference to the European standard adopt, publish and apply the provisions that are necessary.
- Member States may postpone the date with regard to the sub contracting authorities and entities until 30 months after the publication .
i e Standard development 36months+ 18 (30) months.

Directive on e-invoicing in public procurement

- The Commission now works with the Request to CEN for developing the standard, list of syntaxes and guidelines.
- Comments on the draft request was sent before end of January and now the Commission will present in end of April a new request to CEN.
- Technical consultation after that and the formal procedure in CEN before establishing a TC or PC

Directive on e-invoicing in public procurement; Goals and challenges?

- Interoperable standards means both on process, business terms and communication level.
- By developing a standard for a semantic datamodel:
- It will facilitate the interpretation of business terms; the end users (both buyers and seller), the audit sector, the lawyers etc will understand what business terms means and how they are related to each other
- By using international technical formats/syntaxes it will facilitate for not only an operational internal market but also for global trade
- It will be a step towards interoperable peer to peer trade and also facilitate conversion between different technical formats

Directive on e-invoicing in public procurement; Goals and challenges?

But challenges?

- Of course
- A tight timeframe for the development of standard, guidelines etc and also tests
- The risk of a "stand still period"; "we will wait until the standard and legislation is in place"
- Also, the suppliers can continue to send both paper invoices and invoices in other technical formats (even if the receivers have no obligation to receive these)
- The legislation is for the contracting authorities and not for the suppliers

Directive on e-invoicing in public procurement; Goals and challenges?

How to tackle these challenges?

- Development of the standard; there are already much to build upon (also referred to in the directive)
- Member states and the actors should not just wait; continue with e-invoicing or start with it. There are already standards that are used and well functioning.
- It will be possible to use Structure Funds etc for preparing enterprises etc for e-invoicing and also small contracting authorities should be promoted and informed when acquire IT solutions and when preparing the organisation for the new way of working. This must be clearly communicated
- Key actions from the Commission according to the Communication end to end eprocurement

Directive on e-invoicing in public procurement; experiences from Sweden

- Our experience in public sector in Sweden is that standards are crucial for e-procurement /e-invoicing
- A joint initiative between the governmental level and the local and regional level (where 2/3 of the goods and services are procured) since it was important in order to promote e-procurement
- Recommendation of standards was one of the most important issue
- We started with Edifact in 1995 and have supported the work in UN/CEFACT since then
- Technical development led to usage also of XML

Directive on e-invoicing in public procurement goals and challenges

- For the governmental sector ; now a regulation making receiving and sending of e-invoicing mandatory
- Without regulation, today appr 60 % of the local authorities have e-invoicing and 90 % of the county councils/regions.

Conclusions:

- A strong promotion of e-procurement and e-invoicing is very important
- And usage of standards is crucial
- The combination of e-invoicing standard combined with promotion and awareness activities will hopefully make e-invoicing a reality

Thank you for your attention!

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