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Commission Implementing Regulation (EU) 2016/7

of 5 January 2016

establishing the standard form for the European Single Procurement Document

(Text with EEA relevance)

Introductory Text

Article 1 From the moment the national measures implementing Directive 2014/24/EU enter...
Article 2 This Regulation shall enter into force on the twentieth day...

ANNEX 1 - 2 (Link to Legislation.gov.gi Website)

Commission Implementing Regulation (EU) 2016/7

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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, and in particular Article 59(2) thereof, and to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC of the European Parliament and of the Council, and in particular Article 80(3) thereof,

Whereas:

(1) One of the major objectives of Directives 2014/24/EU and 2014/25/EU is the lessening the administrative burdens of contracting authorities, contracting entities and economic operators, not least small and medium-sized enterprises. A key element of that effort is the European single procurement document (ESPD). The standard form for the ESPD should consequently be drafted in such a manner that the need to produce a substantial number of certificates or other documents related to exclusion and selection criteria is obviated. With the same objective in mind, the standard form should also provide

the relevant information in respect of entities on whose capacities an economic operator relies, so that the verification of that information can be carried out together with the verification in respect of the main economic operator and on the same conditions.

(2) The ESPD should also be available for use by contracting entities which are subject to Directive 2014/25/EU and which, when applying the exclusion and selection criteria provided for under Directive 2014/24/EU, must do so in the same way and under the same conditions as contracting authorities.

(3) To avoid administrative burdens for the contracting authorities and contracting entities and possible contradictory indications in the different procurement documents, the information which economic operators must provide in the ESPD should be clearly indicated by the contracting authorities and contracting entities in advance in the call for competition or through references therein to other parts of the procurement documents, which the economic operators must in any case examine carefully in view of their participation and possible submission of tenders.

(4) The ESPD should also contribute to further simplification for both economic operators and contracting authorities and entities by replacing various and diverging national self-declarations with one standard form established at the European level. This should also help to reduce problems linked to the precise drafting of formal statements and declarations of consent as well as language issues, since the standard form will be available in the official languages. The ESPD should thereby facilitate an increased cross-border participation in public procurement procedures.

(5) Any processing and exchange of data to be performed in connection with the ESPD should be performed in accordance with the national rules implementing Directive 95/46/EC of the European Parliament and of the Council, and in particular with national rules applicable to the processing of data relating to offences, criminal convictions or security measures under Article 8(5) of said Directive.

(6) It should be recalled that the Commission shall review the practical application of the ESPD taking into account the technical development of databases in the Member States and report thereon to the European Parliament and the Council by 18 April 2017. In so doing, the Commission may also take into consideration possible suggestions to improve its functionality in view of enhancing the possibilities of cross-border participation in public procurement, not least for SMEs, or potential simplifications within the framework set out by Directive 2014/24/EU; it may as well consider possible issues relating to practices of systematic requests of certificates or other forms of documentary evidence of all participants in a given procurement procedure or practices consisting in identifying in a discriminatory manner the economic operators to be requested such documentation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Advisory Committee on Public Procurement,

HAS ADOPTED THIS REGULATION:

Article 1

From the moment the national measures implementing Directive 2014/24/EU enter into force, and at the latest from 18 April 2016, the standard form set out in Annex 2 to this Regulation shall be used for the purposes of drawing up the European single procurement document referred to in Article 59 of Directive 2014/24/EU. Instructions for its use are set out in Annex 1 to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.