



HIGH COUNCIL DECISION N. 5/2014

of 5 December 2014

amending Title V of the EUI's Financial Rules (High Council Decision N^o 2/13)
regarding Public Procurement

THE HIGH COUNCIL,

Having regard to the Convention setting up the European University Institute (EUI), and in particular Article 6(5)(a) thereof,

Having regard to High Council Decision n^o 2/2013 of 7 June 2013 revising the EUI's Financial Rules,

Considering the necessity to reform the EUI's Public Procurement Regulatory Framework in order to further improve the quality and coordination of the public procurement procedures, guarantee a high level of transparency, legal certainty and clarity as well as to harmonise the operational framework by safeguarding at the same time administrative efficiency,

Considering the necessity to streamline, consolidate and update the existing rules concerning public procurement and align them as much as possible with the EU legislation and practises of national and EU authorities,

Whereas:

(1) Pursuant to article 95 of the EUI's Financial Rules, the President shall adopt their relevant implementing rules,

(2) In that respect, a reformed Public Procurement Regulation revising the previous framework and setting out the procedures to be followed in the future for the award of public contracts by the Institute will be adopted along the lines of the present High Council Decision,

(3) For reasons of legal and financial certainty as well as operational consistency, the revised Title V of the Financial Rules and the Public Procurement Regulation will have the same starting date of application,

(4) The Financial Rules and the Public Procurement Regulation should be streamlined in terms of definitions used for the applicable procurement procedures and their respective modalities,

HAS DECIDED AS FOLLOWS:

Article 1

Scope

Title V on Public Procurement of the EUI's Financial Rules (last revised by High Council Decision n^o 2/13 of 7 June 2013) is amended as follows:

(1) The heading of Title V is replaced by the following:

“TITLE V- Public Procurement”

(2) Articles 62-66 of Title V are replaced by the following:

“Article 62

1. Procurement within the meaning of this Regulation means the acquisition by means of a public contract of works, supplies or services by the Institute from economic operators.
2. All procurement procedures and subsequent public contracts shall respect the principles of transparency, proportionality, equal treatment and non-discrimination and shall be subject to open competition, except when the negotiated procedure is used.
3. **‘Public contracts’** means contracts for pecuniary interest concluded in writing between one or more economic operators and the Institute as contracting authority and having as their object to obtain against payment of a price, the execution of works, the supply of products, or the provision of services within the meaning of this Regulation and of any implementing rules laid down by the Principal pursuant to Article 95 of these Financial Rules and mainly the Public Procurement Regulation.
4. Public contracts shall be awarded following an open or restricted procurement procedure. They may also be awarded following the negotiated procedure but only in the cases provided for in Article 65 of these Financial Rules.

The applicable procurement procedures are further detailed in the EUI's Public Procurement Regulation.

5. In open procedures, any interested economic operator may submit a tender in response to a call for tender.

In restricted procedures, any economic operator may submit a request to participate in call for tender in response to a contract notice. Only those economic operators invited to do so by the contracting authority following its assessment of the information provided may submit a tender.

Tenders for contracts with value below the lowest threshold for open and restricted procedures indicated in the EUI's Public Procurement Regulation are normally done by a negotiated procedure. The Institute may negotiate either the quality of the tender or the offered price, or both, if it deems that they can be improved to obtain better quality or a lower price.

Purchases with value below the lowest threshold for negotiated procedure may be made against a simple bill or invoice as defined in the Public Procurement Regulation and any implementing rules laid down by the Principal pursuant to Article 95 of these Financial Rules.

Article 63

1. Calls for tender and contract notice in the context of open and restricted procedures shall be published on the Institute's website. For values above the amount/threshold defined in the Public Procurement Regulation, notification shall also be sent to the High Council representatives.
2. A contract award notice on the results of the open or restricted procedures shall be published on the Institute's website.

Publication of certain information on contract award may be withheld where its release would impede law enforcement, or otherwise be contrary to the public interest or would harm the legitimate commercial interests of economic operators or might prejudice fair competition between them.

Article 64

1. In the open and restricted procedure, the award of contracts shall always follow an invitation to tender or a contract notice as described in these Financial Rules and in the Public Procurement Regulation.
2. Contracts are awarded to the tender submitting the most economically advantageous offer ("best value for money").
3. The responsibility for the final award of the contract lies upon the authorising officer responsible after having taken into consideration the report of the evaluation committee.

The contract notice and the tender specifications will explicitly refer to the procedure used.

Article 65

A negotiated procedure may be used:

- a. where the amount of the contract does not exceed the limits to be laid down by the Public Procurement Regulation or any other specialised acts adopted by the Principal pursuant to Article 95 of these Financial Rules;
- b. where the amount of the contract exceeds the previously-mentioned limits but one of the exceptional cases indicated in the Public Procurement Regulation applies; in this case, this shall be reported as quickly as possible to the Budget and Finance Committee.

Article 66

- 1 As part of the consulting and advisory services provided on specific request by the Internal Audit Service (IAS), the Internal Auditor shall have a general advisory role concerning the application of the EUI's Public Procurement Regulation.

In particular, the Internal Auditor shall be consulted by the responsible officer before the launching of the call for tender in case of open and restricted procedure.

- 2 Competence, tasks and operating rules of the Internal Auditor regarding his/her role in the procurement procedure are specified in the EUI's Public Procurement Regulation."

Article 2

Entry into force

The present decision shall enter into force on the date of its adoption.

Done at Florence, 5 December 2014

For the High Council

The President

(signed)

Andreas GOFAS