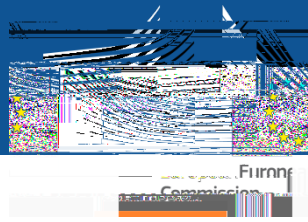


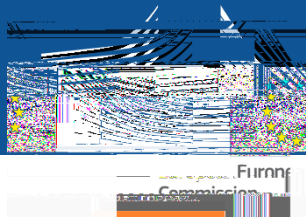


European
Commission



Current Rules

Classical Directive (2004)



New Rules: Preparatory works

Green paper on modernisation (January 2011)

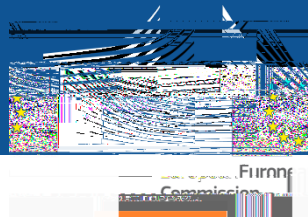
Evaluation of existing rules – Impact Assessment

Results of public consultation (June 2011)

623 replies (Business, public authorities, civil society, academics & legal experts, citizens...)

Public procurement conference (June 2011)

European Commission proposal (December 2011)



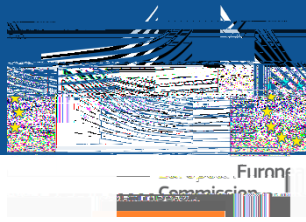
New Rules: Legislative process

February 2014: Adoption

Directive – needs to be transposed by EU Member States

2 years for transposition

4.5 years for e-procurement (at the latest)



New Rules: Legislative process

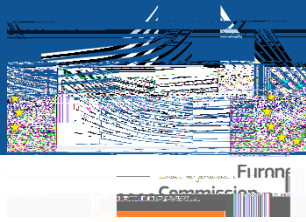
Directive 2014/24/EU on public procurement

Directive 2014/25/EU on procurement in water, energy, transport and postal services sectors

Directive 2014/23/EU on the award of concession contracts

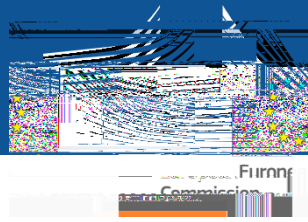
Published in the Official Journal L94 of 28.03.2014

http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/index_en.htm



Objectives of the reform

1. Simplification,
fl



I: Simplification, more flexibility

Increased use of negotiated procedure

competitive procedure with negotiations

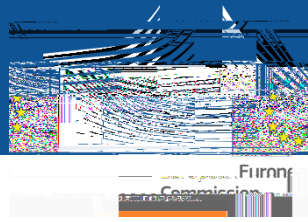
New: Innovation Partnership (Research and development)

Simplified advertising for sub-central authorities

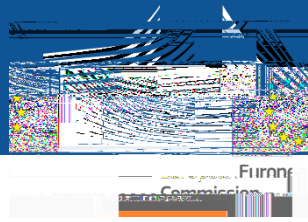
Prior information notice

Reduced time limits

Light touch regime for social and other services

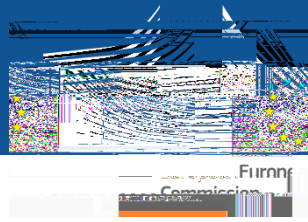


I: Reduction of administrative burden^{96d3}.



II: Strategic procurement

- (1) Strategic policies may be considered in award decision
- (2) Technical specifications may refer to production process
- (3) Integration of disabled & disadvantaged workers
- (4) Innovation Partnership
- (5) Use of labels



III: SME-friendly measures

Division into lots

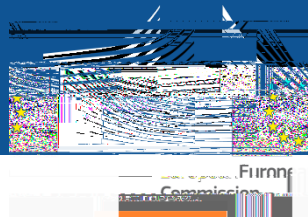
"apply or explain" principle;

Proportionate criteria for financial standing

limited to twice contract value

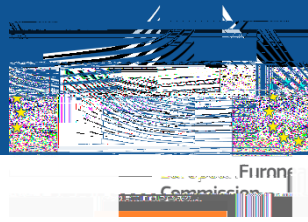
Reduced documentary requirements

"European Single Procurement Document"



IV: Sound procedures

- Conflicts of interests clarified
- Exclusion grounds strengthened and extended
- Compulsory exclusion in case of abnormally low tender
- Modifications of contracts simplified



IV: Sound procedures

Main changes:

Competitive procedures with negotiation

Replaces current negotiated procedure with publication

Competitive dialogue

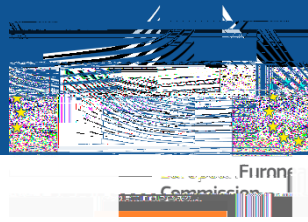
slightly broader scope for negotiations in the final stages

Innovation partnership

Research services for the development of an innovative product by one or more providers **plus supply** contract

Negotiations without publication

no substantial changes



V: Governance

Monitoring, reporting (3 years)

level of SME participation

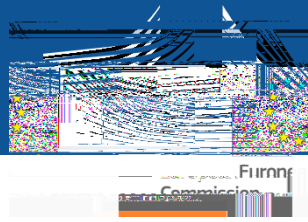
procurement fraud, corruption, conflict of interest and other serious irregularities

Keeping of contracts (1 million, 10 million)

Guidance and support

Statistical reports (below threshold estimates)

Individual reports

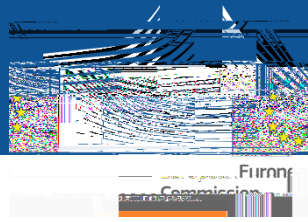


Utilities Directive

- Procurement for services, supplies or works
- By utilities (public or private)
- Utility activity (water, energy, transport, postal)

Private entities subject to procurement rules if "operating on the basis of special and exclusive rights"

More flexible regime for utilities



Utilities Directive

Essentially same changes for the Utilities as for the Classic Directive

Differences

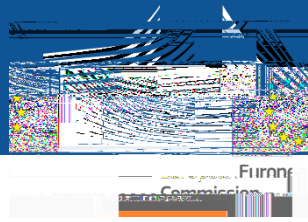
Framework contracts:

max 8 years (classic 5 years)

Contract modifications

Unforeseen circumstances: unlimited (classic: max 50%)

Definition of special or exclusive rights

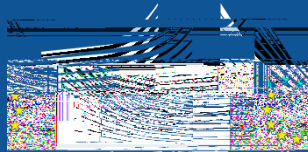


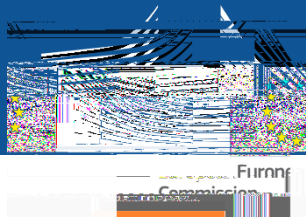
New Directive on Concessions

Works & service concessions € 5 million

Classical & utilities sector

Contracting authorities and entities





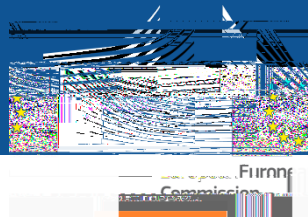
Duration of Concessions

The duration of concessions shall be limited

General principle for concessions lasting more than 5 years:

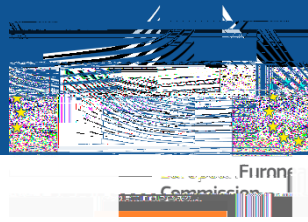
Shall not exceed time necessary to recoup investments made for operating works/services with return on invested capital

Possibility to take into account investments at beginning and during life of concession and those necessary to achieve specific contractual objectives.



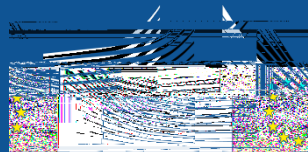
Concessions: few procedural rules

- Publication (ex-ante & ex-post)
- Transparency, equal treatment, non-discrimination
- Procedural guarantees, not defined procedures
- Exclusion (=), selection criteria (light)
- Objective award criteria



Introduction

- Single Market Scoreboard – 28 Member States
 - First published 2013, paper scoreboard successor.
 - http://ec.europa.eu/internal_market/scoreboard.
- Raises awareness and provides information about important policy issues.
- Functions as a motivating benchmark, highlights strengths and weaknesses, helps finding best practice.



Firm
Commission

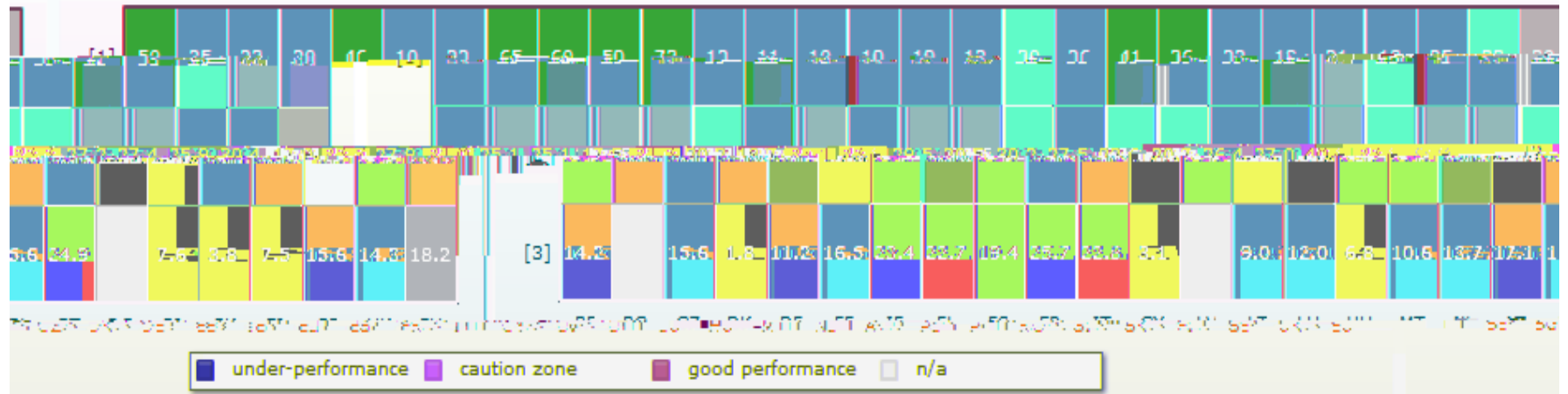
TOP ▲ Performance

per indicator

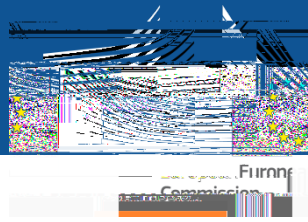
Performance

readings (in months)

[2] Duration of infringement proce



and [2]: An average (+/- 10 %) score was rated as "yellow": a score below it as "red" and a score above it as "green". Indicators [1] and [2]: An average (+/- 10 %) score was rated as "yellow", between 8 and 18 months, as "yellow", and less than 8 months as "green". Indicator [3]: Duration of more



A simplifying yet useful perspective

- Indicators provide rough and simplifying information. They disregard:
 - Structure of procurement
 - Structure of the economy
 - Interdependency of tendering options
- They still reflect crucial aspects of public procurement.
 - Clear normative interpretation
 - Comparable even with underlying differences
 - Transparent and simple

