Letter from the European Ombudsman to the Publications Office on the transparency of the EU portal for managing tenders for contracts awarded by EU institutions

Correspondence - 17/06/2021

Case SI/2/2021/AMF - **Opened on** 17/06/2021 - **Decision on** 28/09/2021 - **Institution concerned** Publications Office of the European Union |

Dear Mr X,

Last year, in the context of my inquiry into the European Commission´s decision to award a contract to BlackRock investment management [1] , my team encountered difficulties when trying to access comprehensive information on the Tenders Electronic Daily (TED) portal [2] about the contracts awarded by EU institutions. As the Publications Office acknowledges in its 2017-2025 Strategic Objectives [3] , it is currently " *virtually impossible to get appropriate information about all the procurement awarded by a certain entity, or about all contracts given to a certain economic operator"* on the TED portal.

Openness in public procurement helps to track, monitor and improve spending and service delivery [4] . Being able to review past contracts awarded by public administrations for similar work helps economic operators to understand where they have a realistic chance of winning and to submit higher-quality tenders at lower cost [5] .

I was therefore pleased to note that the Publications Office is in the process of enhancing the transparency of the information published on the TED portal, including the information related to contracts awarded by the EU institutions. This should help achieve the important goal of allowing effective monitoring by the wider public of all EU public procurement activities.

On this basis, I would like to make the following observations, which, from the Ombudsman´s perspective, would be important to take into consideration when carrying out the revision of the TED portal:

1) In 2016, the European Court of Auditors [6] recommended that, " *to allow effective and easily accessible monitoring by stakeholders [...] minimum information needs to be* **available in a single place on the internet and continually updated for every contract above 15 000 euros** *once it has been signed by an EU institution".* I am aware that it is mandatory to publish

1

contract award notices in the Official Journal [7] only for contracts above a certain value [8] . However, it could enhance the transparency and accountability of EU public spending if the lists of awarded contracts above 15 000 EUR (currently published on the websites of EU institutions [9]) were also published on the TED portal, as a "one-stop-shop" for all relevant information concerning EU public procurement. This could easily be achieved through a dedicated page on the TED site containing the relevant links to the lists of awarded contracts above 15 000 EUR published by all EU institutions.

2) The search function of the TED portal should provide easy access to accurate information on all the contracts awarded to a certain economic operator. Ideally, the TED portal should also provide statistics on the number of contracts awarded to a certain tenderer by different EU institutions. The TED portal could include a yearly list of the "top 10 contractors" per EU institution [10] .

3) An improved visual display of the information on contracts awarded by different EU institutions will make it more accessible to the wider public. As an example, the European Commission publishes charts presenting relevant data on EU spending in Structural and Investment Funds [11] .

I would be grateful if you could reply to this letter by **30 September 2021** . If there are any queries on this initiative, your staff can contact Ms Ángela Marcos Figueruelo.

Thank you in advance for your cooperation.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 17/06/2021

[1] See Ombudsman´s Decision in case 853/2020/KR, available at: https://www.ombudsman.europa.eu/en/decision/en/135363 [Link]

[2] https://ted.europa.eu/TED/search/canReport.do [Link]

[3] Available at: https://op.europa.eu/documents/10530/8448480/Strategic+objectives+2017-2025+-+Revision+June+2020.pdf/ [Link]

[4] See the "Open Procurement" project: https://www.open-procurement.eu/ [Link], a collaboration of non-government organisations and professionals working to ensure that public procurement is conducted fairly, openly, efficiently, and creates the best value for money and best outcomes for Europeans.

2

[5] See "Publishing Government contracts: addressing concerns and easing implementation", a report of the Center for Global Development Working Group on Contract Publication. Available at: https://www.cgdev.org/sites/default/files/publishing-government-contracts-report.pdf

[6] . See ECA Report: "The EU institutions can do more to facilitate access to their public procurement":
https://www.eca.europa.eu/Lists/ECADocuments/SR16_17/SR_PROCUREMENT_EN.pdf

[7] As established under Article 163 of the Regulation on the financial rules applicable to the general budget of the Union, see:
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1046

[8] The thresholds are currently set at EUR 5 350 000 for public works contracts and EUR 139 000 for public supply and service contracts, see article 4 of Directive 2014/24:
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014L0024-20200101 [Link]

[9] In line with the obligations set in article 38 of the Financial Regulation (see footnote 5). See, for example, Parliament´s list:
https://www.europarl.europa.eu/contracts-and-grants/en/public-procurement/contracts-awarded [Link]

[10] There are specialised sites run by private consultancy firms that offer customers the possibility to search all awarded contracts to a certain economic operator, and to access the statistics on contract award notices for each EU institution, such as the number of procedures and the list of awarded contracts by country (see, for example, https://europeaidcontracts.com/ [Link]). This information is accessible online because private consultancy firms have collected the data made publicly available by the EU institutions and invested in making it more transparent and easy to consult.

[11] See: https://cohesiondata.ec.europa.eu/browse?limitTo=charts [Link]