

## **Public consultation on Public Procurement and Concessions Directives**

### **EFIEES' remarks**

**EFIEES**, the European Federation for Intelligent Energy Efficiency Services, is a Brussels-based European association representing at EU level private energy service companies (ESCOs) and their national associations. EFIEES' members are located in 9 EU countries and represent over 100.000 professionals committed to the design and implementation of energy efficiency measures in public and private buildings, industrial facilities, as well as to the efficient operation of district heating & cooling networks.

The private companies represented by EFIEES conclude energy efficiency services contracts with contracting authorities/entities, under the Public Procurement Directive 2014-24, notably Energy Performance Contracts, Energy and Carbon Performance Contracts, or other contracts allowing for energy management solutions, possibly in the context of public buildings renovations. Their contractual partners are public entities such as municipalities or other local authorities engaged in public buildings energy renovation programmes, public entities owning sports installations, public hospitals, schools, universities, public bodies owning housing buildings.

EFIEES' members (companies) also happen to be District Heating & Cooling (DHC) networks operators, after the award of a contract under the Concessions Directive 2014-23. Once they are DHC operators, they purchase the works, equipment and services, if needed, externally, under the public procurement directive 2014-25.

Public Procurement and Concessions Directives were adopted in 2014, and their philosophy and provisions are still relevant. They set up a legal frame which took time to be transposed by Member States, and is not obsolete, bringing legal clarity, competitive and transparent procedures, while innovation, environment, social aspects are also covered.

Moreover, as regards energy efficiency, the Energy Efficiency Directive 2023/1791 stipulates in its article 7 that "contracting authorities purchase only products, services, works with high energy performance", with an obligation for Member States to ensure the "energy efficiency first" principle is integral to a public procurement process, and for contracting authorities to "assess the feasibility of long term energy performance contracts that provide long term energy savings when procuring service contracts with a significant energy content ". The same article also mentions that "the Commission may provide further guidance in the application of energy efficiency requirements in the procurement process". In addition to this article, the article 29 of the same Directive requests Member

States to promote and ensure the use of energy performance contracts for the renovation of buildings owned by public bodies. The latter must assess the feasibility of such contracts prior to starting such renovations in non-residential buildings with a minimum surface of 750 m<sup>2</sup>.

As a matter of facts, a key issue for the EU legislator is how to **ensure** the Energy Efficiency Directive provisions related to public procurement are fully implemented on the ground. Improving public entities' knowledge and capacity building is essential to pave the way for scaling up public purchase of energy efficiency services/energy performance contracting. Accompanying and training public, local authorities, to gaining expertise, is essential for allowing them to give consideration to long term, guaranteed, energy performance. A dedicated guidance to ensure that public procurement directives fully integrate all energy efficiency criteria when transposed by Member States, should be a first step."

In its recently adopted Clean Industrial Deal, the European Commission foresees to make a proposal in 2026 on how to make public procurement and concessions a key tool for a sustainable, resilient EU economy. EFIEES is ready to contribute to further, in-depth consultations ahead of this proposal in case it would refer to energy efficiency.