

Voluntary Ex-Ante Transparency Notices

The new Remedies Directive provide for the publication of a "Voluntary Ex-Ante Transparency Notice" (VEAT) where a contracting authority deems that a contract does not require prior publication of a contract notice in the European Journal (OJEU). This may apply, for example, if the contract meets the exceptional conditions justifying direct award of contracts set out in Article 31 of Directive 2004/18/EC or if the contract is considered to be for a non-priority service listed in Annex IIB.

In completing the VEAT notice the contracting authorities must give sufficient information as to the justification for direct award of a contract without OJEU advertising and observe a minimum 14 day standstill period before the contract is awarded. This allows economic operators the opportunity to challenge the decision of the contracting authority and obtain pre-contractual remedies should a challenge be upheld. The advantage to the contracting authority is that the penalty of mandatory ineffectiveness does not apply in the event of a challenge to a contract awarded after the standstill period has elapsed.