

E-invoicing in EU public procurement (3/2/17)

Invoicing in an electronic environment ensures a fast and efficient flow of data interchange, which is crucial for organising processes in both the private and the public sector. Unfortunately member states are currently using a number of international, regional and local standards that are often not compatible, with extra costs being incurred in aligning those standards. To minimise obstacles to cross-border trade, legal uncertainty and the administrative burden and to standardise the process of data interchange, it is important that member states should adopt common requirements for electronic data interchange.

Under Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement,¹ the public sector must from 27 November 2018 become a user of the electronic invoice, an essential step towards standardising the process of electronic invoicing across the EU. This article explores guidelines of the directive.

The directive lays down requirements for procurement procedures in the following areas:

- the award of contracts for works, supplies and services in defence and security (Directive 2009/81/EC²);
- the award of concession contracts (Directive 2014/23/EU³);
- public procurement (Directive 2014/24/EU⁴); and
- procurement in the water, energy, transport and postal services sectors (Directive 2014/25/EU⁵).

Where the performance of a contract has been declared secret or where special security measures need to be taken, electronic invoicing may be released from the requirements of Directive 2014/55/EU in the award of contracts for works, supplies and services in defence and security under Directive 2009/81/EC.

Section 125(6) of the VAT Act (as well as Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁶) provides that a tax invoice in electronic form means a tax invoice that is issued and received by any electronic means. It is important to note that Directive 2014/55/EU gives a narrower definition of the electronic invoice, namely an invoice that is issued, sent and received in a structured electronic format allowing the invoice to be processed automatically and electronically.

Directive 2014/55/EU provides for developing a European electronic invoicing standard. It is strictly determined that before the standard can be implemented, its practical application must be properly tested with the involvement of users. The directive provides that the standard must be technologically neutral, easy to use, aligned with international electronic invoicing standards, compliant with data protection requirements, and having due regard for the needs of small and medium companies. It is important to note that Directive 2014/55/EU also provides that relevant conditions of Directive 2006/112/EC must be satisfied, yet it is stipulated that Directive 2014/55/EU does not affect the requirements of Directive 2006/112/EC for VAT treatment.

Directive 2014/55/EU prescribes the following basic elements of an electronic invoice:

- process and invoice identifiers;
- the invoice period;
- details of the seller;
- details of the buyer;
- details of the beneficiary;

- details of the seller's fiscal representative;
- a reference to the contract;
- delivery terms;
- payment instructions;
- details of discounts or fees;
- details of items appearing on the invoice;
- the total amount being invoiced; and
- VAT details.

According to the guidelines of Directive 2014/55/EU the purpose of implementing electronic invoicing in public procurement is to ensure the consistent disclosure and processing of information between company systems regardless of their technology, software or platform. Achieving this purpose will not only reduce the administrative burden and costs but also expand the scope for data processing and analysis in both the public sector and later in the private sector.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0055>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009L0081>

³ <http://eur-lex.europa.eu/legal-content/LV/TXT/HTML/?uri=CELEX:32014L0023&from=LT>

⁴ <http://eur-lex.europa.eu/legal-content/LV/TXT/?uri=CELEX%3A32014L0024>

⁵ <http://eur-lex.europa.eu/legal-content/LV/TXT/?uri=CELEX%3A32014L0025>

⁶ <http://eur-lex.europa.eu/legal-content/LV/TXT/HTML/?uri=CELEX:32006L0112&from=EN>