

WRITTEN QUESTION E-2256/07  
by Aldo Patriciello (PPE-DE)  
to the Commission

Subject: Molise Water: composition of the awarding committee

By Decision No 110 of 20 March 2006 the C.I.P.E. (Interministerial Economic Planning Committee) approved the definitive work plan relating to the Central Molise water supply system, involving a total cost of EUR 92 960 m, the largest share of which, EUR 92 588 m, was assigned to the contracting authority, Molise Regional Council.

This public procurement procedure is subject to the specific rules laid down by Legislative Decree No 163 of 12 April 2006 adopting a code of practice for public works, service, and supply contracts and transposing directives 2004/17/EC and 2004/18/EC into Italian law.

The contract in question is to be awarded according to the criterion of the economically most advantageous tender within the meaning of Article 83 of Legislative Decree No 163/06. In view of the award procedure chosen, the complexity of the work, the economic scale of the project, and the obligation of producing a technically detailed tender, the awarding committee needed to be staffed by technical experts. Indeed, Article 84 of the legislative decree stipulates that when the best tender is selected according to the criterion of the economically most advantageous tender, the evaluation must be carried out by an awarding committee functioning in accordance with the regulations. The committee, appointed by the organ of the contracting authority empowered to select the contractor, must consist of an odd number of members, not more than five, who must be experts in the specific field to which the subject of the contract relates.

In the particular case being discussed here, the awarding committee, instead of being staffed by five experts in the relevant field (university teachers and engineers), has been staffed by four employees of Molise Acque ('Molise Water'), a public service corporation: none of the people concerned (two electrical engineering experts and two surveyors) appears to satisfy the requirements laid down by Legislative Decree No 163/06.

As the State Council has, moreover, asserted (CDS No 1408, 18 March 2004), it is assumed from the outset that persons serving on a panel of judges hold educational qualifications enabling them to assess the tenders submitted by rival bidders and have sufficient experience of planning and constructing works similar to those concerned.

In this specific case, the four members of the awarding committee apparently do not hold the qualifications that would allow them to bring the necessary expertise to bear when evaluating the candidates' technical tenders.

For the reasons set out above, does not the Commission believe that it should conduct an immediate check to ascertain whether the composition of the awarding committee is compatible with Community law and in particular with directives 2004/17/EC and 2004/18/EC, which have been transposed into Italian law by Legislative Decree No 163/06?