



EUROPEAN COMMISSION

Brussels, XXX  
[\[...\]](#)(2011) XXX draft

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on public procurement**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

- **Grounds for and objectives of the proposal**

The Europe 2020 strategy for smart, sustainable and inclusive growth [COM(2010) 2020] is based on three interlocking and mutually reinforcing priorities: developing an economy based on knowledge and innovation; promoting a low-carbon, resource-efficient and competitive economy; and fostering a high-employment economy delivering social and territorial cohesion.

Public procurement plays a key role in the Europe 2020 strategy as one of the market-based instruments to be used to achieve these objectives by improving the business environment and conditions for business to innovate and by encouraging wider use of green procurement supporting the shift towards a resource efficient and low-carbon economy. At the same time, the Europe 2020 strategy stresses that public procurement policy must ensure the most efficient use of public funds and that procurement markets must be kept open European-wide.

In the face of these challenges, the existing public procurement legislation needs to be revised and modernised in order to make it better suited to deal with the evolving political, social and economic context.

In its communication of 13 April 2011 on “The Single Market Act: Twelve levers to boost growth and confidence”, the Commission included among its twelve key priority actions to be adopted by the EU institutions before the end of 2012 a revised and modernised public procurement legislative framework to make the award of contracts more flexible and enable public contracts to be put to better use in support of other policies.

This proposal has two complementary objectives:

- Increase the efficiency of public spending to ensure the best possible procurement outcomes in terms of value for money. This implies in particular a simplification and flexibilisation of the existing public procurement rules. Streamlined, more efficient procedures will benefit all economic operators and facilitate the participation of SMEs and cross-border bidders.
- Allow procurers to make better use of public procurement in support of common societal goals such as protection of the environment, higher resource and energy efficiency, combating climate change, promoting innovation and social inclusion and ensuring the best possible conditions for the provision of high quality social services.

- **General context**

Public procurement plays an important role in the overall economic performance of the European Union. In Europe, public authorities spend around 18% of GDP on goods, works and services. Given the volume of purchases, public procurement can be used as a powerful lever for achieving a Single Market fostering smart, sustainable and inclusive growth.

The current generation of public procurement Directives – Directives 2004/17/EC<sup>1</sup> and 2004/18/EC<sup>2</sup> – are the product of a long evolution that started in 1971 with the adoption of Directive 71/305/EEC. By guaranteeing transparent and non-discriminatory procedures, these Directives principally aim to ensure that economic operators from across the Single Market benefit fully from the basic freedoms in competing for public contracts.

A comprehensive economic evaluation has shown that the public procurement Directives have achieved their objectives to a considerable extent. They have resulted in greater transparency and higher levels of competition while achieving measurable savings through lower prices.

Shareholders have nevertheless voiced demand for a review of the public procurement directives to simplify the rules, increase their efficiency and effectiveness and make them better suited to deal with the evolving political, social and economic context. Streamlined, more efficient procedures will increase flexibility for contracting authorities, benefit all economic operators and facilitate the participation of SMEs and cross-border bidders. Improved public procurement will also allow contracting authorities to make better use of public procurement in support of common societal goals, such as the protection of the environment, higher resource and energy efficiency and combating climate change, promoting innovation and social inclusion, and ensuring the best possible conditions for the provision of high quality social services. These orientations were confirmed by the results of a consultation of stakeholders conducted by the Commission in spring 2011, where a very large majority of stakeholders supported the proposal to review the public procurement Directives in order to adapt them better to the new challenges faced by public procurers and economic operators alike.

- **Existing provisions in the area of the proposal**

Together with the proposed new utilities Directive, the proposal will replace Directives 2004/17/EC and 2004/18/EC as the core elements of the European Union public procurement legislative framework.

The Directive will be complemented by the further elements of that legislative framework:

- Directive 2009/81/EC<sup>3</sup> sets specific rules for defence and sensitive security procurement,
- Directive 89/665/EEC<sup>4</sup> establishes common standards for national review procedures to ensure that rapid and effective means of redress is available in all EU countries in cases where bidders consider that contracts have been awarded unfairly.

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<sup>1</sup> Directive 2004/17/EC of 31 March 2004 coordinating the procurement procedures of entities in the water, energy, transport and postal services sectors, OJ L 134, 30.4.2004, p. 1.

<sup>2</sup> Directive 2004/18/EC of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, OJ L 134, 30.4.2004, p. 114.

<sup>3</sup> Directive 2009/81/EC of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, OJ L 216, 20.8.2009, p. 76.

<sup>4</sup> Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, OJ L 395, 30.12.1989, p. 33.

- **Consistency with the other policies and objectives of the Union**
- This initiative implements the Europe 2020 strategy for smart, sustainable and inclusive growth [COM(2010) 2020] and the Europe 2020 Flagship Initiatives on a Digital Agenda for Europe [COM(2010) 245], the Innovation Union [COM(2010) 546], an Integrated Industrial Policy for the Globalisation Era [COM(2010) 614], Energy 2020 [COM(2010) 639] and a Resource Efficient Europe [COM(2011) 21]. It also implements the Single Market Act [COM(2011) 206], in particular its twelfth key action “Revised and Modernised Public Procurement Legislative Framework”. It is a CWP 2011 strategic initiative.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

### Consultation methods, main sectors targeted and general profile of respondents

The Commission published on 27 January 2011 a *Green Paper on the modernisation of EU public procurement policy – Towards a more efficient European Procurement Market*<sup>5</sup> with the aim of launching a broad public consultation on options for legislative changes to make the award of contracts easier and more flexible and enable public contracts to be put to better use in support of other policies. The purpose of the Green Paper was to identify a number of key areas for reform and ask for stakeholders’ views on concrete options for legislative change. Among the issues covered were the needs for simplifying and flexibilising procedures, strategic use of public procurement to promote other policy objectives, improving access of SMEs to public contracts and combating favouritism, corruption and conflicts of interest.

The public consultation closed on 18 April 2011 and met with a high response. In total, 623 replies were received, coming from a wide variety of stakeholder groups including central Member State authorities, local and regional public purchasers and their associations, undertakings, industry associations, academics, civil society organisations (including trade unions) and individual citizens. The majority of replies originated from the United Kingdom, Germany, France and, to a lesser degree, Belgium, Italy, the Netherlands, Austria, Sweden, Spain and Denmark.

The results of the consultation were summarised in a synthesis paper<sup>6</sup> and presented and discussed at a public conference on 30 June 2011<sup>7</sup>.

### Summary of responses and how they have been taken into account

A very large majority of stakeholders appreciated the initiative of the Commission to review the current public procurement policy. Amongst the different subjects discussed in the Green Paper, stakeholders put a particularly strong emphasis on the need to simplify procedures and

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<sup>5</sup> COM(2011) 15: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0015:FIN:EN:PDF>

<sup>6</sup> [http://ec.europa.eu/internal\\_market/consultations/docs/2011/public\\_procurement/synthesis\\_document\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2011/public_procurement/synthesis_document_en.pdf)

<sup>7</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/modernising\\_rules/conferences/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/conferences/index_en.htm)

make them more flexible. For instance, a clear majority of all stakeholder groups supported the idea of allowing a greater use of the negotiated procedure. There was also strong support for measures to alleviate administrative burdens related to the choice of bidder.

On the strategic use of public procurement to achieve the societal goals of the Europe 2020 strategy, stakeholders' opinions were mixed. Many stakeholders, especially businesses, showed a general reluctance to the idea of using public procurement in support of other policy objectives. Other stakeholders, notably civil society organisations, were strongly in favour of such strategic use and advocated far-reaching changes to the very principles of the European Union public procurement policy.

- **Collection and use of expertise**

In addition to the Green Paper consultation, the Commission conducted in 2010/2011 a comprehensive evaluation of the impact and effectiveness of EU public procurement legislation drawing on an extensive body of evidence and new independent research. The studies assessed mainly the cost and effectiveness of procurement procedures, issues of cross border procurement, SMEs' access to public procurement markets and the strategic use of public procurement in Europe.

The findings of the evaluation showed clearly that the public procurement Directives 2004/17/EC and 2004/18/EC have helped to establish a culture of transparency and outcome-driven procurement, generating savings and improvements in the quality of procurement outcomes that far exceed the costs, for public purchasers and suppliers, of running those procedures. The evaluation has also found that differences in implementation and application of the Directives have led to different outcomes in different Member States. The time taken to complete procedures and the cost to public purchasers vary widely across Member States.

- **Impact assessment**

The impact assessment and its executive summary give an overview of the different options for each of the five groups of basic problems (administrative organisation, scope, procedures, strategic procurement and access to procurement markets). Based on an analysis of the advantages and disadvantages of the different options, a package of preferred options was identified that should optimise the synergies between the different solutions allowing savings due to one type of action to neutralise related costs caused by another (e.g. possible increased procedural requirements caused by strategic procurement actions could partially be neutralised by savings related to the improved design of procurement procedures). These preferred options form the basis for the present proposal.

The draft Impact Assessment report was scrutinised by the Impact Assessment Board and the recommendations for its improvement were integrated in the final report. The opinion of the Impact Assessment Board on the report is published together with this proposal, as well as the final Impact Assessment report and its executive summary.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Legal basis**

The proposal is based on Articles 53(1), 62 and 114 of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the EU.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason:

The coordination of procedures for public procurement above certain thresholds has proven an important tool for the achievement of the Internal Market in the field of public purchasing by ensuring effective and equal access to public contracts for economic operators across the Internal Market. Experience with Directives 2004/17/EC and 2004/18/EC and the earlier generations of public procurement Directives has shown that European-wide award procedures provide transparency and objectivity in public procurement resulting in considerable savings and improved procurement outcomes that benefit Member States' authorities and, ultimately, the European taxpayer.

This objective could not be sufficiently achieved through action by Member States which would inevitably result in divergent requirements and possibly conflicting procedural regimes increasing regulatory complexity and causing unwarranted obstacles for cross-border activities.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle since it does not go beyond what is necessary in order to achieve the objective of ensuring the proper functioning of the Internal Market through a set of European-wide coordinated award procedures. Moreover, the proposal is based on a “tool box” approach, allowing Member State a maximum of flexibility in adapting the procedures and tools to their specific situation.

Compared to the current public procurement Directives, the proposal will considerably reduce administrative burden related to the conduct of the procedure both for contracting authorities and economic operators; where new requirements are foreseen (for instance, in the context of strategic procurement), these will be compensated by the removal of constraints in other areas.

- **Choice of instruments**

Since the proposal is based on Articles 53(1), 62 and 114 TFEU the use of a Regulation for the provisions applying both to the procurement of goods and services would not be permitted by the Treaty. The instrument proposed is therefore a Directive.

During the impact assessment process, non-legislative options were discarded for reasons set out in detail in the impact assessment.

#### **4. BUDGETARY IMPLICATION**

The proposal has no budgetary implications.

## 5. ADDITIONAL INFORMATION

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation (Directive 2004/18/EEC).

- **Review/revision/sunset clause**

The proposal contains a review clause concerning the economic effects of the threshold amounts and the timing of the entry into force of the mandatory use of electronic means of publication (Art. 104).

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

- **Detailed explanation of the proposal**

### *1) Simplification and flexibilisation of award procedures*

The proposed Directive provides for a simplification and flexibilisation of the procedural regime set by the current public procurement Directives. For this purpose, it contains the following measures:

*Clarification of scope:* The basic concept of “procurement” which appears also in the title of the proposed Directive has been newly introduced in order to better determine the scope and purpose of procurement law and to facilitate the application of the thresholds. The definitions of certain key notions determining the scope of the Directive (such as body governed by public law, public works and service contracts, mixed contracts) have been revised in the light of the case-law of the Court of Justice. At the same time, the proposal endeavours to keep continuity in the use of notions and concepts that have been developed over the years through the Court’s case-law and are well known to practitioners. In this context, it should be noted that minor deviations from the wording and presentation known from the previous Directives do not necessarily imply a change of substance, but may be due to simplification of texts.

The traditional distinction between so-called priority and non-priority services (“A” and “B” services) will be abolished. The results of the evaluation have shown that it is no longer justified to restrict the full application of procurement law to a limited group of services. However, it became also clear that the regular procurement regime is not adapted to social services which need a specific set of rules (see below).

*Toolbox approach:* Member State systems will provide two basic forms of procedure, open and restricted procedure. They may, in addition, foresee either as standard procedures or subject to certain conditions, the negotiated procedure with publication, the competitive dialogue and/or the innovation partnership, a new form of procedure for innovative procurement (see below).

Contracting authorities will furthermore have at their disposal a set of six specific procurement techniques and tools intended for aggregated and electronic procurement: framework agreements, dynamic purchasing systems, electronic auctions, electronic

catalogues, central purchasing bodies and joint procurement. Compared to the existing Directive, these tools have been improved and clarified with a view to facilitating e-procurement.

*Lighter regime for sub-central contracting authorities:* In line with the WTO Government Procurement Agreement, the proposal provides a simplified procurement regime that applies to all contracting authorities below the central government level, such as local and regional authorities. These purchasers may use a prior information notice as a means of calling for competition. If they make use of this faculty, they don't have to publish a separate contract notice before launching the award procedure. They may also set certain time limits in a more flexible way by mutual agreement with participants.

*Promotion of e-procurement:* The use of electronic communications and transaction processing by public purchasers can deliver significant savings and improved procurement outcomes while reducing waste and error. The proposal aims at helping Member States to achieve the switchover to e-procurement enabling suppliers to take part in online procurement procedures across the Internal Market. For this purpose, the proposed Directive provides for the mandatory transmission of notices in electronic form, the mandatory electronic availability of the procurement documentation and imposes fully electronic communication on Central Purchasing Bodies. It streamlines and improves Dynamic Purchasing Systems and electronic catalogues, fully electronic procurement tools that are particularly adapted to highly aggregated procurement done by Central Purchasing Bodies.

*Modernisation of procedures:* The proposal provides a more flexible and user-friendly approach for certain important features of award procedures. Time-limits for participations and submission of offers have been considerably shortened, allowing for quicker and more streamlined procurement. The distinction between selection of tenderers and award of the contract which is often a source of errors and misunderstandings has been made more flexible, allowing at for contracting authorities to decide on the most practical sequencing by examining award criteria before selection criteria and to take into account the experience of the staff used for the contract as an award criterion.

The grounds for exclusion of candidates and tenderers have been reviewed and clarified. Contracting authorities will be entitled to exclude economic operators which have shown significant or persistent deficiencies in performing prior contracts. The proposal provides also the possibility of "self-cleaning": contracting authorities may accept candidates or tenderers in spite of the existence of an exclusion ground if they have taken adequate measures to remedy the consequences of any illicit behaviours and effectively prevent further occurrences of the misbehaviour.

The modification of contracts during their term has become an increasingly relevant and problematic issue for practitioners. A specific provision on modification of contracts takes up the basic solutions developed by case-law and provides a pragmatic solution for dealing with relatively minor modifications of public contracts.

## *2) Strategic use of public procurement in response to new challenges*

The proposed Directive is based on *enabling approach* providing contracting authorities with the instruments needed to contribute to the achievement of the Europe 2020 strategic goals by using their purchasing power to procure goods and services that foster innovation, respect the



environment and combat climate change while improving employment, public health and social conditions.

*Life cycle costing:* The proposal gives public purchasers the possibility to base their award decisions on life cycle costs of the products, services or works to be purchased. This can be done through the criterion of the most economically advantageous tender or through the criterion of the lowest cost which replaces the “price only” criterion. The life cycle of a product or works covers all stages from raw material acquisition until the final disposal, including production, transport and maintenance, while the life cycle of a service includes all stages from its preparation to the end of its provision. The costs to be taken into account do not only include direct monetary expenses, but also external environmental costs if they can be monetarised and verified. Where a common European Union methodology for the calculation of life cycle costs has been developed, contracting authorities are obliged to make use of it.

*Production process:* Contracting authorities may refer to all factors directly linked to the production process for determining the economically most advantageous tender. This includes, for instance, the employment of disadvantaged people in the production process of the products, works or services procured. On the other hand, it excludes requirements that are not related to the process of producing the products, works or services covered by the procurement, such as a general corporate social responsibility requirements covering the whole operation of the contractor.

*Labels:* Contracting authorities may define requirements by referring to labels attributed by specific certification schemes, provided that they accept also equivalent labels. This applies for instance to European or (multi-)national eco-labels or labels certifying that a product is free of child-labour. The certification schemes in question must be drawn up on the basis of scientific information, established in an open and transparent procedure and accessible to all interested parties.

*Sanctioning violations of mandatory social, labour or environmental law:* Under the proposed Directive, a contracting authority can exclude economic operators from the procedure, if it identifies infringements of obligations established by Union legislation in the field of social, labour or environmental law or of international labour law provisions. Moreover, contracting authorities will be obliged to reject tenders if it has established that they are abnormally low because of violations of Union legislation in the field of social, labour or environmental law.

*Social services:* The evaluation on the impact and effectiveness of EU public procurement legislation has shown that social, health and education services have specific characteristics which make them inappropriate for the application of the regular procedures for the award of public service contracts. These services are typically provided within a specific context that varies widely between Member States due to different administrative, organisational and cultural circumstances. The services have, by their very nature, only a very limited cross-border dimension. Member States should therefore have large discretion to organise the choice of service providers. The proposal takes account of this by providing a specific regime for public contracts for these services, with a higher threshold of EUR 500 000 and imposing only the respect of basic principles of transparency and equal treatment. Contracts below this value can be presumed to have no cross-border interest.

*Innovation:* Research and innovation play a central role in the Europe 2020 strategy for smart, sustainable and inclusive growth. Public purchasers should be enabled to buy innovative

products and services promoting future growth and improving efficiency and quality of public services. The proposal provides for this purpose the innovation partnership, a special procedure for the development and subsequent purchase of new, innovative products, works and services, provided they can be delivered to agreed performance levels and costs. In addition, the proposal improves and simplifies the competitive dialogue procedure and facilitates cross-border joint procurement which is an important instrument for innovative purchasing.

### *3) Better access to the market for SMEs and Start-ups*

Small and medium-sized enterprises (SMEs) have a huge potential for job creation, growth and innovation. Easy access to procurement markets can help them to unlock this potential while allowing contracting authorities to broaden their supplier base, with positive effects of higher competition for public contracts. In order to make public contracts as accessible as possible to SMEs, the Commission published in 2008 the “European Code of Best Practices facilitating access by SMEs to public procurement contracts”<sup>8</sup>. The proposal builds on this work and provides concrete measures to remove barriers for market access by SMEs.

*Simplification of information obligations:* The general simplification of information obligations in award procedures will greatly benefit SMEs. The proposal provides for the mandatory acceptance of self-declarations as prima-facie evidence for selection purposes. The actual production of documentary evidence will be facilitated by a standardised document, the European Procurement Passport which is a means of proof for the absence of grounds for exclusion.

*Mandatory division into lots:* Contracting authorities will be obliged to subdivide public contracts above EUR 500 000 into – homogeneous or heterogeneous – lots to make them more accessible for SMEs. However, the proposal provides exceptions from this obligation, if the division would be excessively difficult or expensive or restrict competition.

*Limitation on requirements for participation:* To avoid unjustified barriers in the way of participation by SMEs, the proposed Directive contains an exhaustive list of possible conditions for participation in award procedures and states explicitly that any such conditions shall be restricted “to those that are appropriate to ensure that a candidate or tenderer has the ... capacities and ... abilities to perform the contract to be awarded”. Turnover requirements which are frequently a formidable obstacle to access by SMEs are explicitly limited to three times the estimated contract value, except in duly justified cases. Finally, any conditions for participation by groups of economic operators – an instrument of particular relevance for SMEs – must be justified by objective reasons and proportionate.

*Direct payment of subcontractors:* In addition, Member State can provide that subcontractors may request for direct payment by the contracting authority of supplies, works and services provided to the main contractor in the context of the contract performance. This offers subcontractors which are often SMEs an efficient way of protecting their interest in being paid.

### *4) Sound procedures*

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<sup>8</sup> Commission Staff Working Document SEC(2008) 2193.

The financial interests at stake and the close interaction between public and private sector make public procurement a risk area for unsound business practices such as conflict of interest, favouritism and corruption. The proposal improves the existing safeguards against such risks and provides for additional protection.

*Conflicts of interest:* The proposal contains a specific provision on conflicts of interest covering actual, potential or perceived conflict of interest situations affecting staff members of the contracting authority or of procurement service providers intervening in the procedure and members of the contracting authority's management who may influence the outcome of an award procedure even if they are not formally involved in it.

*Illicit conduct:* The proposal makes clear that candidates or tenderers engaging in illicit behaviour such as attempts to improperly influence the decision-making process or entering into agreements with other participants to manipulate the outcome of the procedure have to be excluded from the procedure. Such illicit activities violate basic principles of European Union result and can result in serious distortions of competition.

*Unfair advantages:* Market consultations are a useful instrument for contracting authorities to obtain information on the structure, capability and capacity of a market while at the same time informing market actors on public purchasers' procurement projects and requirements. However, preliminary contacts with market participants must not result in unfair advantages and distortions of competitions. The proposal contains therefore a specific provision on safeguards against undue preference to participants who have advised the contracting authority or been involved in the preparation of the procedure.

## 5) Governance

*National oversight bodies:* The evaluation has shown that not all Member States are consistently and systematically monitoring the implementation and functioning of the public procurement rules. This compromises the efficient and uniform application of European Union law. The proposal provides therefore that Member States designate a single national authority in charge of monitoring, implementation and control of public procurement.

*Knowledge centres:* In many cases, contracting authorities do not have the internal expertise to deal with complex procurement projects. Appropriate and independent professional support by appropriate administrative structures could considerably improve procurement outcomes by expanding the knowledge base and the professionalism of public procurers and delivering assistance to businesses, notably SMEs. The proposal obliges therefore Member States to provide support structures offering legal and economic advice, guidance, training and assistance in preparing and conducting award procedures.

*Administrative cooperation:* The proposal provides also for effective cooperation allowing national oversight bodies to share information and best practices and to cooperate through the Internal Market Information System (IMI).

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on public procurement**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1) and Article 62 and Article 114 thereof,

Having regard to the proposal from the European Commission<sup>9</sup>,

After transmission of the draft legislative act to the national Parliaments<sup>10</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>11</sup>,

Having regard to the opinion of the Committee of the Regions<sup>12</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The award of contracts concluded in the Member States on behalf of the State, regional or local authorities or bodies governed by public law, is subject to the respect of the principles of the Treaty on the Functioning of the European Union and in particular to the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and to the principles deriving therefrom, such as the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency. However, for public contracts above a certain value, it is advisable to draw up provisions coordinating national award procedures so as to ensure the effects of these principles and to guarantee the opening-up of public procurement to competition.
- (2) The increasingly diverse forms of public action have generated the need to define more clearly the notion of procurement itself. The Directives on public procurement do not intend to cover all forms of spending public money, but only those aiming at the acquisition of works, goods or services for a consideration. The notion of

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<sup>9</sup> OJ C...

<sup>10</sup> OJ C ...

<sup>11</sup> OJ C ...

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acquisition should be understood in a broad way in the sense of obtaining the benefits of the works, goods or services in question, not necessarily requiring a transfer of property to the contracting authorities.

- (3) It has also proven necessary to clarify what should be understood as one single procurement, with the effect that the aggregate value of all contracts concluded for the purpose of this procurement has to be taken into account with regard to the thresholds of the Directive, and that the procurement should be advertised as a whole, possibly split into lots. The concept of one procurement encompasses all supplies, works and services needed for the realisation of a certain project. Indications for the existence of one single project can for instance consist in an overall prior planning and conception by the contracting authority, the fact that the different elements purchased fulfil a single economic and technical function or that they are otherwise logically interlinked and carried out in a close temporal context.
- (4) Under Article 11 of the Treaty on the Functioning of the European Union, environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development. This Directive clarifies how the contracting authorities may contribute to the protection of the environment and the promotion of sustainable development, whilst ensuring the possibility of obtaining the best value for money for their contracts.
- (5) Even if they do not necessarily lead to corrupt conduct, actual, potential or perceived conflict of interest situations have a high potential to improperly influence public procurement decisions with the effect of distorting competition and jeopardising equal treatment of tenderers. It is therefore advisable to provide effective mechanisms to prevent, identify and remedy conflicts of interest.
- (6) Illicit conduct by participants in an award procedure, such as for example, attempts to unduly influence the decision-making process or to enter into agreements with other candidates to manipulate the outcome of the procedure can result in violations of basic principles of European Union law and in serious distortions of competition. Contracting authorities should therefore be obliged to exclude candidates or tenderers if it is established that they have engaged in such illicit activities.
- (7) Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the Agreements reached in the Uruguay Round multilateral negotiations (1986 to 1994)<sup>13</sup>, approved in particular the World Trade Organisation Agreement on Government Procurement, hereinafter referred to as the "Agreement". The aim of the Agreement is to establish a multilateral framework of balanced rights and obligations relating to public contracts with a view to achieving the liberalisation and expansion of world trade. For contracts covered by the Agreement contracting authorities fulfil the obligations under the Agreement by applying this Directive to economic operators of third countries signatories to the Agreement.
- (8) The Agreement only applies to contracts above certain thresholds, set in the Agreement and expressed as special drawing rights. It is appropriate to align the

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<sup>13</sup> OJ L 336, 23.12.1994, p. 1.

thresholds laid down by this Directive to ensure that they correspond to the Euro equivalents of the thresholds of the Agreement. Provision should also be made for periodic reviews of the thresholds expressed in Euro so as to adjust them, by way of a purely mathematical operation, to possible variations in the value of the euro in relation to the special drawing right.

- (9) In the light of the results of the Evaluation on the Impact and Effectiveness of EU Public Procurement Legislation<sup>14</sup>, it appears appropriate to review the exclusion of certain services from the full application of the Directive. As a result, the full application of the Directive is extended to a number of services (such as hotel and legal services, which both showed a particularly high percentage of cross-border trade).
- (10) Other categories of services continue by their very nature to have a limited cross-border dimension, namely to the so-called services to the person such as certain social, health and educational services. These services are provided within a particular context widely varying amongst the Member States, due to the different cultural traditions. It is therefore appropriate to establish a specific regime for public contracts for these services, with a higher threshold of EUR 500 000. Services to the person with values below this threshold will rarely be of interest for providers from other Member States; the absence of cross-border interest for these contracts can be presumed. Contracts for services to the person above this threshold should be subject to union-wide transparency. Given the importance of the cultural context and the sensitivity of these services, Member States should be given large discretion to organise the choice of the service providers in the way they consider most appropriate. The rules of the Directive take account of this imperative, imposing only the respect of basic principles of transparency and equal treatment and making sure that contracting authorities are enabled to apply specific quality criteria for the choice of service providers. Member States and/or public authorities remain free to organise social services in a way that does not imply the conclusion of public contracts.
- (11) Public contracts which are awarded by the contracting authorities operating in the water, energy, transport and postal services sectors and which fall within the scope of those activities are covered by Directive [...] of the European Parliament and of the Council of [...] coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors<sup>15</sup>. It is recalled that contracts awarded by the contracting authorities in the context of their operation of maritime, coastal or river transport services falls within the scope of this Directive.
- (12) Being addressed to Member States, the Directive does not apply to the procurement carried out by international organisations on their own behalf and for their own account. There is, however, a need to clarify to which extent it is appropriate to apply the Directive to procurement governed by specific international rules.
- (13) There is considerable legal uncertainty on how far cooperation between public authorities should be covered by public procurement rules. The relevant case-law of the European Court of Justice is interpreted divergently between Member States and even between contracting authorities. It is therefore necessary to clarify in which cases

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<sup>14</sup> SEC(2011) 853 Final of 27.6.2011

<sup>15</sup> See p. 1 of this Official Journal.

contracts concluded between contracting authorities are not subject to the application of public procurement rules. Such clarification should be guided by the principles set out in the relevant case-law of the European Court of Justice. The sole fact that both parties to an agreement are themselves contracting authorities does not as such exclude the application of procurement rules. However, the application of public procurement rules should not interfere with the freedom of public authorities to decide how to organise the way that they carry out their public service tasks. Contracts awarded to controlled entities or cooperation for the joint execution of the public service tasks of the participating contracting authorities should hence be exempted from the application of the rules if the conditions set out in the Directive are met. The rules of the Directive aim at ensuring that any exempted public-public cooperation does not cause a distortion of competition in relation to private economic operators. Furthermore, the participation of a contracting authority as a tenderer in a procedure for the award of a public contract should not cause any distortion of competition.

- (14) There is a widespread need for additional flexibility and a wider choice of procurement tools and procedures, taking into account that the use of the different procedures varies substantially between Member States. It is therefore appropriate to give Member States the possibility of not implementing or restricting the use of certain procedures provided for in this Directive. A wider access to an award procedure providing for negotiations should also be allowed. Contracting authorities should, unless otherwise provided in the legislation of the Member State concerned, be able to use a negotiated procedure with prior publication freely in the same way as they have a free choice between open and restricted procedures.
- (15) For the same reasons, contracting authorities should have free recourse to the competitive dialogue which has shown itself to be of use in certain cases where contracting authorities are unable to define the means of satisfying their needs or of assessing what the market can offer in terms of technical, financial or legal solutions. This situation may arise in particular with innovative projects, the implementation of important integrated transport infrastructure projects, large computer networks or projects involving complex and structured financing. For instance in such cases, a flexible yet structured procedure which preserves not only competition between economic operators but also the need for the contracting authorities to discuss all aspects of the contract with each candidate might constitute an appropriate tool.
- (16) Research and innovation are among the main drivers of future growth and have been put at the centre of the Europe 2020 strategy for smart, sustainable and inclusive growth. Public authorities should make the best strategic use of public procurement to spur innovation. Buying innovative goods and services plays a key role in improving efficiency and quality of public services while addressing major societal challenges. It contributes to achieving best value for public money as well as wider economic and societal benefits in terms of generating new ideas, translating them into innovative products and services and thus promoting economic growth. The Directive should contribute to facilitating public procurement of innovation and help Member States in achieving the Innovation Union targets. It is therefore appropriate to provide for a specific procurement procedure which allows contracting authorities to establish a long-term innovation partnership for the development and subsequent purchase of a new, innovative product, service or works provided it can be delivered to agreed performance levels and costs. The partnership should be structured in such a way that

it can provide the necessary “market pull” incentivising the development of an innovative solution without foreclosing the market.

- (17) In view of the detrimental effects on competition, negotiated procedures without prior publication of a contract notice should only be used in very exceptional circumstances. This exception should be limited to cases where a publication is either not possible, for reasons of force majeure in line with the standing case-law of the European Court of Justice, or where it is clear from the outset that a publication would not trigger more competition, notably because there is objectively only one economic operator who can perform the contract. Only situations of objective exclusivity can justify the use of the negotiated procedure without publication, where the situation of exclusivity has not been created by the contracting authority itself in view of the future award procedure, and where there are no adequate substitutes, the availability of which should be assessed thoroughly.
- (18) It should be stressed that electronic means of information and communication can greatly simplify the publication of contracts and increase the efficiency and transparency of procurement processes. They should therefore to the greatest extent possible be given precedence over traditional means of communication and information exchange. The use of electronic means also leads to savings in time. As a result, provision should be made for reducing the minimum periods where electronic means are used, subject, however, to the condition that they are compatible with the specific mode of transmission envisaged at European Union level
- (19) There is a strong emerging trend across European public procurement markets relating to the aggregation of demand by public purchasers, with a view to obtaining economies of scale, including lower prices and transaction costs, and to improving and professionalizing procurement management. This can be achieved by concentrating requirements either by the number of involved contracting authorities, or by volume and value over time. However, the phenomena of aggregation and centralisation of purchases should be carefully framed in order to avoid excessive concentration of purchasing power and collusion, and to preserve transparency and competition, as well as market access opportunities for small and medium-sized enterprises.
- (20) The instrument of framework agreements has been widely used and is considered as an efficient procurement techniques throughout Europe. It should therefore be maintained with its main characteristics. However, certain concepts need to be clarified; in particular the conditions for use of the framework agreement by contracting authorities which are not themselves party to it.
- (21) In view of the experience acquired, there is also a need to adjust the rules governing dynamic purchasing systems to enable contracting authorities to take full advantage of the possibilities afforded by these systems. It is necessary to simplify these systems, in particular by operating them in the form of a restricted procedure, hence eliminating the need for indicative tenders, which have been identified as one of the major burdens connected to these systems. Thus any economic operator who submits a request for participation and meets the selection criteria should be allowed to participate in the procurement procedures carried out through the dynamic purchasing system. This purchasing technique allows the contracting authority to have a particularly broad range of tenders and hence to ensure optimum use of public funds through broad competition.



- (22) In addition, new electronic purchasing techniques are continually being developed, such as electronic catalogues. They help to increase competition and streamline public purchasing, particularly in terms of the savings in time and money. Certain rules should however be provided, to ensure that the use of the new techniques complies with the rules of this Directive and the principles of equal treatment, non-discrimination and transparency. In particular where competition has been reopened under a framework agreement or where a dynamic purchasing system is being used and where sufficient guarantees are offered in respect of ensuring traceability, equal treatment and predictability, contracting authorities may be allowed to generate tenders in relation to specific purchases on the basis of previously transmitted electronic catalogues. In line with the requirements of the rules for electronic means of communication in Article 9 and Annex IX contracting authorities should avoid unjustified/unjustifiable obstacles to economic operators' access to award procedures in which tenders are to be presented in the form of electronic catalogues and guarantee the respect of the general principles of non-discrimination and equal treatment.
- (23) Centralized purchasing techniques are increasingly used in most Member States. Central purchasing bodies are responsible for making acquisitions or awarding public contracts/framework agreements for other contracting authorities. In view of the large volumes purchased, those techniques help increase competition and professionalise public purchasing. Provision should therefore be made for a European Union definition of central purchasing bodies dedicated to contracting authorities, without preventing the continuation of less institutionalised and systematic common purchasing or the established practice of having recourse to service providers who prepare and manage award procedures on behalf and for the account of a contracting authority. It is also appropriate to provide for the distribution of responsibility for the observance of the obligations pursuant to this directive, also in case of remedies, of the central purchasing body and the contracting authorities procuring from or through the central purchasing body. Where the latter is sole responsible for the conduct of the award procedures, it is also the only and directly responsible for the legality of the procedures. Where a contracting authority conducts certain parts of the procedure, for instance the reopening of competition under a framework agreement or the award of individual contracts based on a dynamic purchasing system, it continues to be responsible for the stages it conducts.
- (24) Electronic means of communication are particularly well suited to support centralised purchasing practices and tools because of the possibility they offer to re-use and automatically process data and to minimise information and transaction costs. The use of such electronic means of communication by central purchasing bodies should therefore be rendered obligatory, whilst also facilitating converging practices across the European Union.
- (25) Joint awarding of public contracts by contracting authorities from different Member States currently encounters specific legal difficulties, especially related to conflicts of national laws. Despite the fact that Directive 2004/18/EC implicitly allowed for cross-border joint public procurement, in practice several national legal systems explicitly or implicitly rendered cross-border joint procurement legally uncertain or impossible. Contracting authorities from different Member States may be interested in cooperating and in awarding jointly public contracts in order to take the best benefit of internal market potential in terms of economies of scale and risk-benefit sharing, notably for innovative projects involving a greater amount of risk than reasonably supportable by

a single contracting authority. Therefore new rules on cross-border joint procurement designating the applicable law should be established in order to facilitate setting up cross-border joint public procurement.

- (26) The technical specifications drawn up by public purchasers need to allow public procurement to be opened up to competition. To this end, it must be possible to submit tenders which reflect the diversity of technical solutions so as to obtain a sufficient level of competition. Consequently, technical specifications should be drafted in a way as to avoid artificially narrowing down competition through requirements that favour specific economic operator by mirroring key characteristics of the products, services or works habitually offered by that economic operator. Drawing up the technical specifications in terms of functional performance and requirements generally permits to satisfy at the best this objective and favours innovation. Where reference is made to the European standard or, in the absence thereof, to the national standard, tenders based on equivalent arrangements must be considered by contracting authorities. To demonstrate equivalence, tenderers can be required to provide third-party verified evidence; however, other appropriate means of proof such as a technical dossier of the manufacturer should also be allowed where the economic operator concerned has no access to such certificates or test reports, or no possibility of obtaining them within the relevant time limits.
- (27) Contracting authorities that wish to define environmental requirements for the technical specifications of a given contract may lay down the environmental characteristics, such as a given production method, and/or specific environmental effects of product groups or services. They can use, but are not obliged to use appropriate specifications that are defined in eco-labels, such as the European Eco-label, (multi-)national eco-labels or any other eco-label providing the requirements for the label are drawn up and adopted on the basis of scientific information using a procedure in which stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations can participate, and providing the label is accessible and available to all interested parties.
- (28) For all procurement, the subject of which is intended for use by the public, contracting authorities should, except in duly justified cases, lay down technical specifications so as to take into account accessibility criteria for people with disabilities or design for all users.
- (29) In order to encourage the involvement of small and medium-sized enterprises (SMEs) in the public contracts procurement market, it is advisable to foresee that contracts should be divided into lots, except in duly justified circumstances. Where contracts are divided into lots, contracting authorities may, for instance in order to preserve competition or to ensure security of supply, limit the number of lots for which an economic operator may tender; they may also limit the number of lots that may be awarded to any one tenderer.
- (30) Very demanding requirements concerning the economic and financial capacity frequently constitute an unjustified obstacle to the involvement of SMEs in public procurement markets. It should therefore be provided that contracting authorities may not require economic operators to have a minimum turnover exceeding three times the estimated contract value. However, in duly justified circumstances, higher requirements may be applied. Such circumstances can be related to high risks attached

to the performance of the contract or the fact that its timely and correct performance is critical, for instance because constituting a necessary preliminary for the performance of other contracts.

- (31) Many economic operators, and not least SMEs, find that a major obstacle to their participation in public procurement consists in administrative burdens deriving from the need to produce a substantial number of attestations, certificates or other documents proving their suitability. Limiting such requirements, notably through self-certification, can result in considerable simplification for the benefit of both contracting authorities and economic operators. The tenderer to whom it has been decided to award the contract should however be required to provide the relevant evidence and contracting authorities should not conclude the contract with tenderers unable to do so. Further simplification can be achieved through standardised documents such as a European Procurement Passport.
- (32) The Commission provides and manages an electronic system - e-Certis, which is updated and verified on a voluntary basis by national authorities. E-Certis is aimed at facilitating the exchange of attestations, certifications and other documentary evidence frequently required by contracting authorities. The experience acquired so far indicates that voluntary up-dating and verification are insufficient to ensure that e-Certis may deliver its full potential for simplification and facilitation of documentary exchanges for the benefit of not least small and medium-sized enterprises. Maintenance should therefore be rendered obligatory so that recourse to e-Certis may become mandatory at a later stage.
- (33) The award of public contracts to economic operators who have participated in a criminal organisation or who have been found guilty of corruption or of fraud to the detriment of the financial interests of the European Union or of money laundering should be avoided. The exclusion of such economic operators should take place as soon as the contracting authority has knowledge of a judgment force of res judicata establishing such offences. Non-payment of taxes or social security contributions should also be sanctioned by mandatory exclusion at the level of the European Union. Furthermore, contracting authorities should be given the possibility to exclude candidates or tenderers for violations of environmental or social obligations or other forms of grave professional misconduct as defined by national law such as violations of competition rules.
- (34) It is however appropriate to provide for the possibility that economic operators adopt compliance measures aimed at remedying the consequences of any criminal offences or misconduct and at effectively preventing further occurrences of the misbehaviour. Such measures may consist in particular in personnel and organisation measures such as the severance of all links with persons or organisations involved in the misbehaviour, adequate staff reorganisation measures, the implementation of reporting and control systems, the creation of an internal audit structure to monitor compliance and the adoption of internal liability and compensation rules. Where such measures offer sufficient guarantees, it is no longer appropriate to exclude the economic operator in question on these grounds. Economic operators should have the possibility to request that contracting examine the compliance measures taken in view of a possible admission to the tender procedure.

- (35) Contracting authorities may require that environmental management measures or schemes shall be applied during the performance of a public contract. Environmental management schemes, whether or not they are registered under European Union instruments such as Regulation (EC) No 761/2001<sup>16</sup> (EMAS), can demonstrate that the economic operator has the technical capability to perform the contract. A description of the measures implemented by the economic operator to ensure the same level of environmental protection should be accepted as an alternative to environmental management registration schemes as a form of evidence, where the economic operator concerned has no access to such environmental management registration schemes or no possibility of obtaining them within the relevant time limits.
- (36) Contracts should be awarded on the basis of objective criteria which ensure compliance with the principles of transparency, non-discrimination and equal treatment. These criteria should guarantee that tenders are assessed in conditions of effective competition, also where contracting authorities require high-quality works, products and services that are optimally suited to their needs. As a result, it is appropriate to allow as award criteria either "the most economically advantageous tender" or "the lowest cost", taking into account that in the latter case contracting authorities are free to set adequate quality standards by using technical specifications or contract performance conditions.
- (37) Where the contracting authorities choose to award a contract to the most economically advantageous tender, they shall determine the economic and quality criteria on the basis of which they assess the tenders in order to identify which one offers the best value for money. The determination of these criteria depends on the object of the contract since they must allow the level of performance offered by each tender to be assessed in the light of the subject-matter of the contract, as defined in the technical specifications and the value for money of each tender to be measured.
- (38) In order to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 Strategy for a sustainable growth it should be clarified that the contracting authority can determine the most economically advantageous tender on the basis of a life cycle costing approach. The notion of life cycle costing includes all costs over the life cycle of works, products or services, both its internal costs (such as development, production, use, maintenance and end of life disposal costs) and its external costs, provided they can be quantified and monitored. Common methodologies should be developed at the level of the European Union for the calculation of life cycle costs for specific categories of products or services; whenever such a methodology is developed its use should be made compulsory.
- (39) For the determination of the most economically advantageous tender, contracting authorities should be allowed to refer to a specific production process, a specific modality of provision of services, or a specific process for any other stage of the life cycle of a product or service, including characteristics related to the human resources directly involved in such stages. The latter may be used in particular to improve working conditions of the staff involved. Any such criterion should remain in any case

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<sup>16</sup> Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing a voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), OJ L 114, 24.4.2001, p. 1.

limited to such characteristics that have immediate consequences on staff members in their working environment.

- (40) For service contracts and for contracts involving the design of works, contracting authorities should also be allowed to use as an award criterion the relevant experience of the staff assigned to executing the contract in question, as such experience may have a decisive influence on the quality of the contractual performance.
- (41) Contract performance conditions are compatible with this Directive provided that they are not directly or indirectly discriminatory, linked to the subject-matter of the contract and are indicated in the contract notice, in the prior information notice used as a means of calling for competition or in the procurement documents. They may, in particular, be intended to favour on-site vocational training, the employment of people experiencing particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made, amongst other things, of the requirements - applicable during performance of the contract - to recruit long-term job-seekers or to implement training measures for the unemployed or young persons, to comply in substance with the provisions of the basic International Labour Organisation (ILO) Conventions, assuming that such provisions have not been implemented in national law, and to recruit more handicapped persons than are required under national legislation.
- (42) The laws, regulations and collective agreements, at both national and European Union level, which are in force in the areas of employment conditions and safety at work apply during performance of a public contract, providing that such rules, and their application, comply with European Union law. In cross-border situations, where workers from one Member State provide services in another Member State for the purpose of performing a public contract, Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>17</sup> lays down the minimum conditions which must be observed by the host country in respect of such posted workers.
- (43) It is necessary to clarify the conditions under which modifications of a contract during its execution require a new award procedure, taking into account the relevant case-law of the Court of Justice. A new award procedure is required in case of material changes to the initial contract, demonstrating the intention of the parties to renegotiate essential terms or conditions of that contract. This is notably the case if the amended conditions would have had an influence on the outcome of the procedure, had they been part of the initial procedure.
- (44) Contracting authorities can be confronted with external circumstances which they could not foresee at the moment of the award of the contract. In this case, a certain degree of flexibility is needed to adapt the contract to these circumstances without new award procedure. The notion of unforeseeable circumstances refers to those circumstances which were unpredictable despite a reasonably diligent preparation of the initial tender by the contracting authority taking into account its available means, the nature and characteristics of the concrete project, good practices in the field in

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<sup>17</sup> OJ L 18, 21.1.1997, p. 1.

question and the need to ensure an adequate relationship between the resources spent in preparing the tender and its foreseeable value. However, this cannot apply in cases where a modification results in an alteration of the nature of the overall procurement, for instance by replacing the works, products or services to be procured by something different or by fundamentally changing the type of procurement since, in such a situation, a hypothetical influence on the outcome may be assumed.

- (45) The principles of equal treatment and transparency require that the successful tenderer is not replaced by another economic operator without reopening the contract to competition. However, the successful tenderer performing the contract may undergo certain structural changes during the performance of the contract, such as purely internal reorganisations, mergers and acquisitions or insolvency. Such structural changes should not automatically require new award procedures for all public contracts performed by that undertaking.
- (46) Contracting authorities should have the possibility to foresee modifications to a contract in the contract itself, but such review clauses should not give them unlimited discretion. It is hence appropriate to set out to which extent modifications may be foreseen in the initial contract.
- (47) The evaluation has shown that Member States do not consistently and systematically monitor the implementation and the functioning of public procurement rules. This has a negative impact on the correct implementation of provisions stemming from Directives of the European Union, which is a major source of cost and uncertainty. Some Member States have appointed a national central body dealing with public procurement issues, but the functions that such bodies are empowered with vary considerably across Member States. Clearer, more consistent and authoritative monitoring and control mechanisms would increase knowledge of the functioning of procurement rules, legal certainty for businesses and contracting authorities, and contribute to establish a level playing field. Such mechanisms could serve as tools for detection and early resolution of problems and for the identification of structural deficiencies. There is in particular a strong need to coordinate these mechanisms to ensure consistent application, controls and monitoring of public procurement policy, as well as systematic assessment of the outcomes of procurement policy across the European Union.
- (48) Member States should designate a single national authority in charge of monitoring, implementation and control of public procurement. Such central body should have first hand and timely information particularly in relation to different problems affecting the implementation of public procurement law. It should be able to provide immediate feedback on the functioning of the policy, the potential weaknesses in national legislation and practice and contribute to the quick identification of solutions;
- (49) Not all contracting authorities may have the internal expertise to deal with economically or technically complex markets. Against this background, appropriate professional support would be an effective complement to monitoring and control activities. On the one hand, this objective can be achieved by knowledge sharing tools (knowledge centres) offering technical assistance to contracting authorities; on the other hand, business, notably SMEs, should benefit from administrative assistance, in particular when participating in procurement procedures on a cross border basis.

- (50) Effective cooperation is necessary to ensure consistent advice and practices with each Member State and across the Union; bodies designated for monitoring, implementation, control and technical assistance should be able to share information and cooperate; in the same context, the national authority designated by each Member State should act as privileged contact point with the Commission services for the purpose of collecting data, information and monitor the implementation of public procurement Union law.
- (51) Furthermore, the persisting differences between Member States' national e-Procurement systems and solutions may create barriers for economic operators to participate in electronic procedures, especially from across the borders, making it necessary to adopt common standards and requirements for formats as well as processes and messaging in procurement procedures conducted using electronic means of communication.
- (52) In order to adapt to rapid technical and economic developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the technical procedures for the calculation methods concerning thresholds; the lists of central government authorities; references to "NUTS" and to CPV nomenclature; the technical details and characteristics of the devices for electronic receipt; the content of the European Procurement Passport; the list of legislative Acts of the European Union establishing common methodologies for the calculation of life-cycle costs; rules on rendering mandatory recourse to of e-Certis and the exclusive use of electronic means of communication.
- (53) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (54) In order to ensure uniform conditions for the implementation of this Directive; the procedure for drawing up and transmission of notices and for sending and publishing data referred to in Annex VII, the common requirements to ensure the interoperability of technical formats as well as of process and messaging standards, the amendment of the thresholds as well as the standard form for the European Procurement Passport, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>18</sup>. The advisory procedure should be used for the adoption of implementing acts.
- (55) Since the objective of this Directive, namely the coordination of laws, regulations and administrative provisions of the Member States applying to certain public procurement procedures, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the

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<sup>18</sup> OJ L 55, 28.2.2011, p. 13.

principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

- (56) In view of the number and the importance of adaptations to be made to Directive 2004/18/EC, a mere amendment thereof would not be appropriate. In the interests of clarity of European Union legislation, Directive 2004/18/EC should therefore be repealed and replaced by the present Directive.
- (57) In accordance with point 34 of the Interinstitutional agreement on better law-making<sup>19</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

HAVE ADOPTED THIS DIRECTIVE:

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<sup>19</sup> OJ C 321, 31.12.2003, p. 1.



# **TITLE I**

## **DEFINITIONS AND GENERAL PRINCIPLES**

### *Article 1*

#### *Subject-matter and scope*

1. This Directive establishes rules on the procedures for procurement by contracting authorities giving rise to public contracts or concessions as well as to the conduct of design contests, and which have a value estimated to be no less than the thresholds defined in Article 13.
2. Procurement in the sense of this Directive is the purchase or other forms of acquisition of works, supplies or services by one or several contracting authorities from economic operators selected by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.

An entirety of works, supplies and/or services, even if purchased through different contracts, constitutes one single procurement in the sense of this Directive, if the contracts are part of one overall project.

### *Article 2*

#### *Contracting authorities*

1. All contracting authorities shall apply the procedures set out in this Directive when awarding public contracts or concessions or conducting design contests covered by it. Contracting authorities are central and sub-central government authorities.
2. Central government authorities are all contracting authorities listed in Annex II.
3. Sub-central contracting authorities for purposes of this Directive are all other contracting authorities. This includes regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or one or several of such bodies governed by public law.
  - (a) Regional authorities are notably all authorities of the administrative units falling under NUTS 1 and 2, as referred to by Regulation (EC) 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)<sup>20</sup>.
  - (b) Local authorities are notably all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to by Regulation 1059/2003.
  - (c) Bodies governed by public law are bodies

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<sup>20</sup> OJ L 154, 21.6.2003, p. 1

- established for or having the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

Where a body is operating in normal market conditions, aims to make a profit, and bears the losses associated with the exercise of its activity, it does not have the purpose of meeting needs in the general interest, not having an industrial or commercial character;

- having legal personality; and
- financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.

### *Article 3* *Definitions*

1. For the purposes of this Directive, the definitions set out in paragraphs 2 to 8 shall apply.
2. (a) "Public contracts" are contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services within the meaning of this Directive.
- (b) "Public works contracts" are public contracts having as their object either
  - the execution, or both the design and execution, of works related to one of the activities within the meaning of Annex I or
  - the execution, or both the design and execution of a work, or
  - the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

A "work" means the outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function.

- (c) "Public supply contracts" are public contracts having as their object the purchase, lease, rental or hire-purchase, with or without option to buy, of products.

A public supply contract may include, as an incidental matter, siting and installation operations

- (d) "Public service contracts" are public contracts having as their object the provision of services other than those referred to under point b.

3. ["Works concession" is a contract of the same type as a public works contract except for the fact that the consideration for the works to be carried out consists either solely in the right to exploit the work or in this right together with payment.
4. "Service concession" is a contract of the same type as a public service contract except for the fact that the consideration for the provision of services consists either solely in the right to exploit the service or in this right together with payment.]
5. The terms "contractor", "supplier" and "service provider" mean any natural or legal person or public entity or group of such persons and/or bodies which offers on the market, respectively, the execution of works and/or a work, supplies or services.

The term "economic operator" shall cover equally the concepts of contractor, supplier and service provider. It is used merely in the interest of simplification.

An economic operator who has submitted a tender shall be designated a "tenderer". An economic operator who has sought an invitation or has been invited to take part in a restricted or negotiated procedure, in a competitive dialogue or in an innovation partnership shall be designated a "candidate".

6. (a) "Centralised purchasing activities" are activities conducted on a permanent basis, consisting in
    - the acquisition of supplies and/or services intended for contracting authorities, or
    - the award of public contracts or the conclusion of framework agreements for works, supplies or services intended for contracting authorities.
  - (b) "Ancillary purchasing activities" consist in the provision of support, in particular in the form of:
    - technical infrastructure enabling contracting authorities to award public contracts or to conclude framework agreements for works, supplies or services;
    - advice on the conduct or design of public procurement procedures, or
    - preparation and management of award procedures on behalf and for the account of the contracting authority concerned.
  - (c) A "central purchasing body" is a contracting authority providing centralised purchasing activities and, possibly, ancillary purchasing activities.
  - (d) A "procurement service provider" is a public or private body, which offers ancillary purchasing activities on the market.
7. "Written" or "in writing" means any expression consisting of words or figures which can be read, reproduced and subsequently communicated. It may include information which is transmitted and stored by electronic means.

8. "Electronic means" means electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

#### *Article 4* *Mixed procurement*

1. Contracts which have as their object two or more types of procurement (public contracts or concessions, or works, services or supplies) shall be awarded according to the provisions applicable to the category of procurement that characterizes the main object of the contract in question.

In the case of mixed contracts consisting of services in the sense of Chapter I of Title III and other services or of services and supplies, the main object shall be determined by a comparison of the values of the respective services or supplies.

2. In case of contracts which have as their object procurement covered by this Directive as well as procurement or other elements not covered by it nor by Directives [replacing 2004/17/EC] or 2009/81/EC, the part of the contract which constitutes procurement covered by the Directive shall be awarded according to the provisions thereof. This obligation shall not apply when the different parts of the contract are objectively not separable.

In the case of contracts subject to the provisions of Title II and concession contracts subject to the provisions of Title III, the part of the contract which constitutes a public contract covered by Title II shall be awarded according to the provisions thereof. This obligation shall not apply when the different parts of the contract are objectively not separable.

#### *Article 5* *General Principles*

Contracting authorities shall treat economic operators equally and non-discriminatorily and shall act in a transparent and proportionate way. The design of the procurement may not be made with the objective of excluding it from the scope of this Directive.

#### *Article 6* *Economic operators*

1. Candidates or tenderers who, under the law of the Member State in which they are established, are entitled to provide the relevant service, shall not be rejected solely on the ground that, under the law of the Member State in which the contract is awarded, they would be required to be either natural or legal persons.

However, in the case of public service and public works contracts as well as public supply contracts covering in addition services and/or siting and installation operations, legal persons may be required to indicate in the tender or the request to participate, the names and relevant professional qualifications of the staff to be responsible for the performance of the contract in question.

2. Groups of economic operators may submit tenders or put themselves forward as candidates. Contracting authorities shall not establish specific conditions for participation of such groups in award procedures which are not imposed on individual candidates. In order to submit a tender or a request to participate, these groups may not be required by the contracting authorities to assume a specific legal form.

Any specific conditions for the performance of the contract by a group must be justified by objective reasons and proportionate. In particular, the group selected may be required to assume a specific legal form when it has been awarded the contract, to the extent that this change is necessary for the satisfactory performance of the contract.

#### *Article 7* *Nomenclatures*

Any references to nomenclatures in the context of public procurement shall be made using the "Common Procurement Vocabulary (CPV)" as adopted by Regulation (EC) No 2195/2002.

#### *Article 8* *Confidentiality*

1. Without prejudice to the provisions of this Directive, in particular those concerning the obligations relating to the advertising of awarded contracts and to the information to candidates and tenderers set out in Articles 46 and 51, and in accordance with the national law to which the contracting authority is subject, in particular legislation regarding access to information, the contracting authority shall not disclose information forwarded to it by economic operators which they have designated as confidential; such information includes, in particular, technical or trade secrets and the confidential aspects of tenders.
2. Contracting authorities may impose on economic operators requirements aimed at protecting the confidential nature of information which the contracting authorities make available throughout the award procedure.

#### *Article 9* *Rules applicable to communication*

1. For all communication and information exchange, contracting authorities may choose between the following means of communication, except where use of electronic means is mandatory pursuant to Articles 32, 33, 34, 35(4), 47(2) or 49 of this Directive:
  - post or fax;
  - electronic means in accordance with paragraphs 4 and 5;
  - telephone in the cases and circumstances referred to in paragraph 6, or

- a combination of those means.

Member States may make mandatory the use of electronic means of communication for certain types of procurement, going beyond the obligations established in Articles 32, 33, 34, 35(2), 47(2) or 49 of this Directive.

2. The use of electronic means of communication may be rendered obligatory for submission of tenders for some or all award procedures under this Directive, when the technological development is sufficiently advanced in the Member States. The date of entry into force of this obligation shall be established by the Commission in accordance with the procedure provided for under Article 98. A suitable deadline for implementation shall be provided for.
3. The means of communication chosen must be generally available and thus not restrict economic operators' access to the award procedure.

In all communication, exchange and storage of information, contracting authorities shall ensure that the integrity of data and the confidentiality of tenders and requests to participate are preserved. They shall examine the content of tenders and requests to participate only after the time limit set for submitting them has expired.

4. The tools to be used for communicating by electronic means, as well as their technical characteristics, must be non-discriminatory, generally available and interoperable with the information and communication technology products in general use and shall not restrict economic operators' access to the award procedure. Contracting authorities may, where necessary, require use of tools which are not generally available, provided that they offer alternative means of access as specified in Annex IX.
5. The following rules are applicable to devices for the electronic transmission and receipt of tenders and for electronic receipt of requests to participate:
  - (a) information on specifications for the electronic submission of tenders and requests to participate, including encryption and time-stamping, shall be available to interested parties;
  - (b) devices, methods for authentication and electronic signatures shall conform to the requirements of Annex IX;
  - (c) contracting authorities shall specify the level of security required for the electronic means of communication in the various stages of the specific award procedure. The level shall be proportionate to the risks attached. Member States may, in compliance with Article 5 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures<sup>21</sup>, provide that electronic tenders shall be accompanied by an advanced electronic signature in conformity with paragraph 1 thereof;

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<sup>21</sup> OJ L 13, 19.1.2000, p. 12.

- (d) where Qualified Electronic Signatures are required, contracting authorities shall accept signatures accompanied by a qualified electronic certificate referred to in the Trusted List as defined in Commission Decision 2009/767/EC<sup>22</sup>.
6. The following rules shall apply to the transmission of requests to participate:
- (a) requests to participate in procedures for the award of public contracts may be made in writing or by telephone; in the latter case, a written confirmation must be sent before expiry of the time limit set for their receipt;
  - (b) contracting authorities may require that requests for participation made by fax must be confirmed by post or by electronic means, where this is necessary for the purposes of legal proof. Any such requirement, together with the time limit for sending confirmation by post or electronic means, must be stated by the contracting authority in the contract notice or in the invitation to confirm interest within the meaning of Article 44(2)(b).

*Article 10*  
*Conflicts of interest*

1. Member States shall put in place effective, proportionate and rapid mechanisms to prevent, identify and remedy actual, potential or perceived conflicts of interest arising in the conduct of award procedures that are subject to this Directive, including the design and preparation of the procedure, the drawing-up of the procurement documentation, the selection of candidates and tenderers and the award of the contract, so as to avoid any distortion of competition and ensure equal treatment of all tenderers.
2. Such mechanisms shall cover at least conflicts of interest affecting the following categories of persons:
  - (a) staff members of the contracting authority, procurement service providers or staff members of such service providers who are involved in the conduct of the award procedure;
  - (b) the chairperson of the contracting authority and members of decision-making bodies of the contracting authority who, without necessarily being involved in the conduct of the award procedure, may nevertheless influence the outcome of that procedure.
3. Member States shall ensure in particular:
  - (a) that staff members mentioned in paragraph 2(a) are obliged to disclose any actual, potential or perceived conflict of interest in relation to any of the candidates or tenderers, as soon as they become aware of such conflicts, in order to enable the contracting authority to take remedial action. The contracting authority shall indicate in the individual report on the procedure

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<sup>22</sup> OJ L 274, 20.10.2009, p. 36.

according to Article 93 whether any staff members have disclosed a conflict of interest in connection with the award procedure.

In case of an actual, potential or perceived conflict of interest, the contracting authority has to take adequate measures. These measures may include the recusal of the staff member in question from involvement in the affected award procedure or the re-arrangement of the staff member's duties and responsibilities. If an actual conflict of interest cannot be effectively remedied by other means, the candidate or tenderer concerned has to be excluded from the procedure. The measures taken have to be documented in the report;

- (b) that candidates and tenderers must submit at the beginning of the procedure a declaration about the existence of any privileged links, to be defined by national law, with any staff of the contracting authority. The contracting authority shall indicate in the report whether any candidate or tenderer has submitted a declaration.

Where such privileged links are identified, the contracting authority shall immediately inform the oversight body designated according to Article 92 and take appropriate measures to avoid any undue influence on the award process and ensure equal treatment of candidates and tenderers. If the conflict of interest cannot be effectively remedied by other means, the candidate or tenderer concerned has to be excluded from the procedure. The measures taken have to be documented in the report.

#### *Article 11* *Illicit conduct*

Candidates or tenderers shall be excluded from the procedure at any moment, if it is established that, in the ongoing award procedure, they have

- attempted to unduly influence the decision-making process of the contracting authority or obtain confidential information which may confer upon them undue advantages in the award procedure;
- entered into agreements with other candidates and tenderers aiming at distorting competition or have attempted to enter into such agreements;
- deliberately provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

Member States shall specify the implementing conditions for this Article.



# **TITLE II**

## **RULES ON PUBLIC CONTRACTS**

### **CHAPTER I**

#### ***General provisions***

##### *Article 12*

##### *Conditions relating to the World Trade Organisation Government Procurement Agreement (GPA)*

As far as covered by Annexes I, II, IV and V and the General Notes to the European Union's Appendix 1 of the Agreement contracting authorities shall accord to the works, supplies and services and economic operators of the signatories to the Agreement treatment no less favourable than the treatment accorded to the works, products and services and suppliers of the European Union. By applying this Directive to economic operators of signatories to the Agreement contracting authorities conform to the Agreement.

### **CHAPTER II**

#### ***Scope***

#### **SECTION 1**

#### **THRESHOLDS**

##### *Article 13*

##### *Threshold amounts*

This Directive shall apply to procurements with a value exclusive of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:

- (a) EUR 5 000 000 for public works contracts;
- (b) EUR 130 000 for public supply and service contracts awarded by central government authorities; in the case of public supply contracts awarded by contracting authorities operating in the field of defence, this shall apply only to contracts involving products covered by Annex III;
- (c) EUR 200 000
  - for public supply and service contracts awarded by sub-central contracting authorities;

*Article 14*  
*Methods for calculating the estimated value of procurement*

1. The calculation of the estimated value of a procurement within the meaning of Article 1 shall be based on the total amount payable, net of VAT, as estimated by the contracting authority, including any form of option and any renewals of the contract.

Where the contracting authority provides for prizes or payments to candidates or tenderers it shall take them into account when calculating the estimated value of the contract.

2. The choice of the method used to calculate the estimated value of a procurement may not be made with the intention of excluding it from the scope of this Directive. Thus, no works project or entirety of supplies and/or services may be subdivided with the effect of preventing its coming within the scope of this Directive, unless justified by objective reasons.
3. This estimate must be valid at the moment at which the call for competition is sent, or, in cases where such notice is not foreseen, at the moment at which the contracting authority commences the contract award procedure, in particular by defining the essential characteristics of the intended procurement.
4. With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.
5. In the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value net of VAT of the research and development activities to take place during the all stages of the envisaged partnership as well as of the products, services or works to be developed and procured at the end of the envisaged partnership.
6. With regard to public works contracts, calculation of the estimated value shall take account of both the cost of the works and of the total estimated value of the supplies and services that are made available to the contractor by the contracting authorities provided that they are necessary for executing the works.
7. (a) Where a proposed work or purchase of services may result in contracts being awarded at the same time in the form of separate lots, account shall be taken of the total estimated value of all such lots.

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in Article 13, this Directive shall apply to the awarding of each lot.

- (b) Where a proposal for the acquisition of similar supplies may result in contracts being awarded at the same time in the form of separate lots, account shall be taken of the total estimated value of all such lots when applying Article 13(b) and (c).

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in Article 13, this Directive shall apply to the awarding of each lot.

- (c) Contracting authorities may award contracts for individual lots without applying the procedures provided for under this Directive, provided that the estimated value net of VAT of the lot concerned is less than EUR 80 000 for supplies or services or EUR 1 million for works. However, the aggregate value of the lots thus awarded without applying this Directive may not exceed 20% of the aggregate value of all the lots into which the proposed work, the proposed acquisition of similar supplies or the proposed purchase of services has been divided.
8. In the case of public supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:
- (a) either the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, if possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
  - (b) or the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year if that is longer than 12 months.
9. With regard to public supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:
- (a) in the case of fixed-term public contracts, if that term is less than or equal to 12 months, the total estimated value for the term of the contract or, if the term of the contract is greater than 12 months, the total value including the estimated residual value;
  - (b) in the case of public contracts without a fixed term or the term of which cannot be defined, the monthly value multiplied by 48.
10. With regard to public service contracts, the basis for calculating the estimated contract value shall, where appropriate, be the following:
- (a) insurance services: the premium payable and other forms of remuneration;
  - (b) banking and other financial services: the fees, commissions, interest and other forms of remuneration;
  - (c) design contracts: fees, commission payable and other forms of remuneration;
11. With regard to public service contracts, which do not indicate a total price, the basis for calculating the estimated contract value shall be the following:
- (a) in the case of fixed-term contracts, if that term is less than or equal to 48 months: the total value for their full term;
  - (b) in the case of contracts without a fixed term or with a term greater than 48 months: the monthly value multiplied by 48.

## SECTION 2

### EXCLUDED CONTRACTS

#### *Article 15*

##### *Contracts in the water, energy, transport and postal services sectors*

This Directive shall not apply to public contracts which, under [Directive replacing 2004/17/EC], are awarded by contracting authorities exercising one or more of the activities referred to in Articles [4 to 10] of that Directive and are awarded for the pursuit of those activities, or to public contracts excluded from the scope of that Directive under [Article 5(2) and Articles 22, 31 and 35] thereof.

#### *Article 16*

##### *Specific exclusions in the field of telecommunications*

This Directive shall not apply to public contracts for the principal purpose of permitting the contracting authorities to provide or exploit public telecommunications networks or to provide to the public one or more telecommunications services.

For the purposes of this Article:

- (a) "public telecommunications network" means the public telecommunications infrastructure which enables signals to be conveyed between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means;
- (b) a "network termination point" means all physical connections and their technical access specifications which form part of the public telecommunications network and are necessary for access to, and efficient communication through, that public network;
- (c) "public telecommunications services" means telecommunications services the provision of which the Member States have specifically assigned, in particular, to one or more telecommunications entities;
- (d) "telecommunications services" means services the provision of which consists wholly or partly in the transmission and routing of signals on the public telecommunications network by means of telecommunications processes, with the exception of broadcasting and television.

#### *Article 17*

##### *Contracts awarded pursuant to international rules*

This Directive shall not apply to public contracts which the contracting authority is obliged to award in accordance with different procedural rules:

- (a) pursuant to an international agreement concluded in conformity with the Treaty on the Functioning of the European Union between a Member State and one or more

third countries and covering works, supplies or services intended for the joint implementation or exploitation of a project by the signatory States; all agreements shall be communicated to the Commission, which may consult the Advisory Committee for Public Contracts referred to in Article 101;

- (b) pursuant to a concluded international agreement relating to the stationing of troops and concerning the undertakings of a Member State or a third country;
- (c) pursuant to the particular procedure of an international organisation.
- (d) public contracts fully financed by an international organisation or international financing institution.

In case of public contracts co-financed for a considerable part by an international organisation or international financing institution the parties decide on applicable award procedures which shall be in conformity with the provisions of the Treaty on the Functioning of the European Union.

#### *Article 18* *Specific exclusions for service contracts*

This Directive shall not apply to public service contracts for:

- (a) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon; nevertheless, financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive;
- (b) the acquisition, development, production or co-production of programme material intended for broadcasting, defined as transmission and distribution using any form of electronic network, that are awarded by broadcasters, nor to contracts for broadcasting time, that are awarded to broadcasters;
- (c) arbitration and conciliation services;
- (d) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments in the sense of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments<sup>23</sup> and central bank services;
- (e) employment contracts;
- (f) Public passenger transport services by rail.

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<sup>23</sup> OJ L 145, 30.04.2004, p. 1.

### SECTION 3

#### SPECIFIC SITUATIONS

##### *Article 19*

##### *Relations between public authorities*

1. A contract awarded by a contracting authority to another legal person falls outside the scope of this Directive when the following cumulative conditions are met:
  - (a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;
  - (b) a contracting authority shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments when it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person. This implies that other stakeholders of the legal person cannot, on their side, exercise decisive influence over strategic objectives or significant decisions of the legal person, for instance through significant shares in voting rights or veto rights;
  - (c) at least 90% of the activities of that legal person are carried out for the controlling contracting authority or other legal persons controlled by the same contracting authority;
  - (d) there is no private participation in the controlled legal person;

This exception also applies when a controlled entity which is a contracting authority awards a contract to its parent, or to another legal person controlled by the same contracting authority, provided that there is no private participation in the legal person being awarded the public contract.

2. A contracting authority can also award a public contract without applying the provisions of the current Directive to a legal person which it controls together with other contracting authorities, under the following conditions:
  - (a) the contracting authorities exercise together over the legal person a control which is similar to that which it exercises over its own departments.

In the case of joint control, this presupposes:

- that the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities, which are thus able to exert decisive influence over the strategic objectives and significant decisions of the controlled legal person, and
- that the controlled legal person does not pursue any interests which are distinct from that of the public authorities affiliated to it nor draws any gains other than the reimbursement of actual costs from the public contracts with the contracting authorities;

- (b) at least 90% of the activities of that legal person are carried out for the controlling contracting authorities or other legal persons controlled by the same contracting authority;
  - (c) there is no private participation in the controlled legal person.
3. An agreement concluded between two or more contracting authorities will not be deemed to be a public contract within the meaning of article 2(2) of this Directive, when the following cumulative conditions are met:
- (a) the character of the agreement is that of genuine co-operation between the participating contracting authorities aimed at carrying out jointly their public service tasks and involving mutual rights and obligations of the parties;
  - (b) the agreement is governed only by considerations relating to the public interest;
  - (c) the participating contracting authorities shall not perform on the open market more than 10% in terms of turnover of the activities which are relevant in the context of the agreement. The agreement shall not involve financial transfers between the participating contracting authorities, other than those corresponding to the reimbursement of actual costs of the works, services or supplies;
  - (d) there is no private participation in any of the contracting authorities involved.
4. The absence of private participation shall be verified at the time of award of the contract or of the conclusion of the agreement.

The exceptions foreseen in this article will cease to apply at the moment where private participation takes place, with the effect that ongoing public contracts need to be opened to competition through regular award procedures.

#### *Article 20* *Contracts subsidised by more than 50% by contracting authorities*

This Directive shall apply to the awarding of:

- (a) works contracts which are subsidised directly by contracting authorities by more than 50% and the estimated value of which, net of VAT, is equal to or greater than EUR 5 000 000,
  - where those contracts involve civil engineering activities within the meaning of Annex I,
  - where those contracts involve building work for hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes;
- (b) service contracts which are subsidised directly by contracting authorities by more than 50% and the estimated value of which, net of VAT, is equal to or greater than

EUR 200 000 and which are connected with a works contract within the meaning of point (a).

Member States shall take the necessary measures to ensure that the contracting authorities awarding such subsidies ensure compliance with this Directive where they do not award themselves the subsidised contracts or where they award that contract for and on behalf of other entities.

#### *Article 21* *Research and development services*

This Directive shall apply to public service contracts for research and development services with CPV reference numbers 73000000-2 to 73436000-7, except 73200000-4, 73210000-7 or 73220000-0, provided that

- (a) the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and
- (b) the service provided is wholly remunerated by the contracting authority.

This Directive shall not apply to public service contracts for research and development services with CPV reference numbers 73000000-2 to 73436000-7, except 73200000-4, 73210000-7 or 73220000-0 if one of the above conditions is not met.

#### *Article 22* *Reserved contracts*

Member States may reserve the right to participate in public contract award procedures to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programmes where more than 50% of the employees concerned are handicapped persons who, by reason of the nature or the seriousness of their disabilities, cannot carry on occupations under normal conditions.

The call for competition shall make reference to this provision.

#### *Article 23* *Defence and security*

1. Subject to Article 346 of the Treaty on the Functioning of the European Union, this Directive shall apply to public contracts awarded in the fields of defence and security, with the exception of the following contracts:
  - Contracts to which Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security<sup>24</sup> applies;

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<sup>24</sup> OJ L 217, 20.8.2009, p. 76.



- contracts to which Directive 2009/81/EC does not apply pursuant to Articles 8, 12 and 13 thereof.
2. This Directive shall not apply to public contracts other than those mentioned in the first paragraph to the extent that the protection of the essential security interests of a Member State cannot be guaranteed in an award procedure as provided for in Article 24.

## **CHAPTER III**

### ***Procedure***

#### *Article 24*

##### *Choice of procedures*

1. In awarding their public contracts, contracting authorities shall apply the national procedures adjusted to be in conformity with the provisions of this Directive, provided that, subject to Article 30, a call for competition has been published.

Member States shall provide that contracting authorities may apply open or restricted procedures as regulated in the present Directive.

Member States may provide that contracting authorities may apply negotiated procedures with prior publication, competitive dialogues or innovation partnerships as regulated in the present Directive. They may decide not to implement certain of the procedures mentioned in this subparagraph or to restrict the use of one or more thereof for certain types of procurement.

2. The call for competition may be made:
- (a) by means of a contract notice pursuant to Article 45 or
  - (b) when the contract is awarded by a sub-central contracting authority, by means of a prior information notice pursuant to Article 44(2).
3. Member States may provide that, only in the specific cases and circumstances referred to expressly in Article 30, contracting authorities may apply a negotiated procedure without prior publication.

#### *Article 25*

##### *Open procedure*

1. In open procedures, any interested economic operator may submit a tender in response to a call for competition.

The minimum time limit for the receipt of tenders shall be 35 days from the date on which the notice for the call for competition was sent.

The tender shall be accompanied by the requested information for qualitative selection.

2. When contracting authorities have published a prior information notice which is not used as a means of calling for competition, the minimum time limit for the receipt of tenders may be shortened to 15 days.

The shortened time limit shall be permitted, provided that the prior information notice has included all the information required for the contract notice in Annex VI B (I), insofar as that information is available at the time the notice is published, and that it was sent for publication between 45 days and 12 months before the date on which the contract notice was sent.

3. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limits laid down in this Article, they may fix a time limit which shall be not less than 15 days from the date on which the contract notice was sent.
4. The time limits for receipt of tenders set out in paragraph 1 may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means in conformity with Article 9(5).

#### *Article 26* *Restricted procedure*

1. In restricted procedures any economic operator may request to participate in response to a call for competition, submitting the requested information for qualitative selection.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest is sent.

2. Only those economic operators invited by the contracting authority following their assessment of the requested information may submit a tender.

The minimum time limit for the receipt of tenders shall be 30 days from the date on which the invitation is sent.

3. When contracting authorities have published a prior information notice which is not used as a means of calling for competition, the minimum time limit for the receipt of tenders may be shortened to 15 days.

The shortened time limit shall be permitted, provided that the prior information notice has included all the information required for the contract notice in Annex VI B°(I), insofar as that information is available at the time the notice is published and that it was sent for publication between 45 days and 12 months before the date on which the contract notice was sent.

4. Sub-central contracting authorities may set the time limit for the receipt of tenders by mutual agreement between the contracting authority and the selected candidates, provided that all candidates have the same time to prepare and submit their tenders. Where it is not possible to reach agreement on the time limit for the receipt of

tenders, the contracting authority shall fix a time limit which shall be at least 10 days from the date of the invitation to tender.

5. The time limit for receipt of tenders provided for in paragraph 2 may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means in conformity with Article 9(5).
6. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limits laid down in this Article, they may fix:
  - (a) a time limit for the receipt of requests to participate which may not be less than 15 days from the date on which the contract notice was sent;
  - (b) a time limit for the receipt of tenders which shall be not less than 10 days from the date of the invitation to tender.

#### *Article 27*

##### *Negotiated procedure with prior publication*

1. In negotiated procedures with prior publication, any economic operator may request to participate in response to a call for competition, submitting the requested information for qualitative selection.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest is sent;

Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limits laid down in this Article, they may fix a time limit for the receipt of requests to participate which may not be less than 15 days from the date on which the contract notice was sent;

Only those economic operators invited by the contracting authority following their assessment of the requested information may participate in the negotiations.

2. Contracting authorities shall negotiate with tenderers the tenders submitted by them in order to adapt them to the needs and requirements which they have identified in the contract notice, or in the invitation to confirm interest, in the procurement documents or in the supplementary documents, if any, and to seek out the best tender in accordance with Article 64(1). In these documents, they shall also state the minimum requirements to be met and which may not be changed in the course of the negotiations.
3. During the negotiations, contracting authorities shall ensure the equal treatment of all tenderers. In particular, they shall not provide information in a discriminatory manner which may give some tenderers an advantage over others.

Negotiated procedures may take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria in the contract notice, in the invitation to confirm interest or in the procurement documents. In the

contract notice, the invitation to confirm interest or the procurement documents, the contracting authority shall indicate whether it has had recourse to this option.

## *Article 28* *Competitive dialogue*

1. In competitive dialogues, any economic operator may request to participate in response to a call for competition, submitting the requested information for qualitative selection.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest is sent.

Only those economic operators invited by the contracting authority following the assessment of the requested information may participate in the dialogue. The contract shall be awarded on the sole basis of the award criterion of the most economically advantageous tender in accordance with Article 64(1) (a).

2. Contracting authorities shall publish a contract notice setting out their needs and requirements, which they shall define in that notice and/or in a descriptive document. Where a prior information notice is used as a means of calling for competition, the invitation to confirm interest shall set out their needs and requirements, which they shall define in that invitation and/or in a descriptive document.
3. Contracting authorities shall open, with the candidates selected in accordance with the relevant provisions of Articles 52 to 63, a dialogue the aim of which shall be to identify and define the means best suited to satisfying their needs. They may discuss all aspects of the contract with the chosen candidates during this dialogue.

During the dialogue, contracting authorities shall ensure equality of treatment among all tenderers. In particular, they shall not provide information in a discriminatory manner which may give some tenderers an advantage over others.

Contracting authorities may not reveal to the other participants solutions proposed or other confidential information communicated by a candidate participating in the dialogue without his/her agreement. This agreement may not take the form of a general waiver but must be given with reference to the intended communication of specific solutions or other confidential information.

4. The procedure may take place in successive stages in order to reduce the number of solutions to be discussed during the dialogue stage by applying the award criteria in the contract notice, in the invitation to confirm interest where a prior information notice is used as a means of calling for competition or in the descriptive document. In the contract notice, the invitation to confirm interest or the descriptive document, contracting authorities shall indicate that it may have recourse to this option.
5. The contracting authority shall continue the dialogue until it can identify the solution or solutions, which are capable of meeting its needs.

6. Having declared that the dialogue is concluded and having so informed the participants, contracting authorities shall ask them to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue. These tenders shall contain all the elements required and necessary for the performance of the project.
7. Contracting authorities shall assess the tenders received on the basis of the award criteria laid down in the contract notice, in the invitation to confirm interest where a prior information notice is used as a means of calling for competition or in the descriptive document.

Where necessary, in particular in order to finalise financial commitments, the contracting authority may negotiate the final terms of the contract with the tenderer identified as having submitted the most economically advantageous tender in accordance with Article 64(1)(a) provided this does not have the effect of modifying essential aspects of the tender or of the call for tender, in particular the needs and requirements set out in the notice and/or in a descriptive document and does not risk distorting competition or causing discrimination.

8. The contracting authorities may specify prices or payments to the participants in the dialogue.

#### *Article 29*

#### *Innovation Partnership*

1. In innovation partnerships, any economic operator may request to participate in response to a call for competition with a view to establishing a structured partnership for the development of an innovative product, service or works and its subsequent purchase by a contracting authority, provided that it corresponds to the agreed performance levels and costs.
2. The partnership shall be structured in successive stages following the sequence of steps in the research and innovation process, possibly up to the manufacturing of the product or the provision of the services. It shall provide for intermediate targets to be attained by the partner and provide for payment of the remuneration in adequate instalments. In function of these targets, a contracting authority can decide after each stage to terminate the partnership and launch a new award procedure for the remaining phases, provided that it has acquired the relevant intellectual property rights.
3. The contract shall be awarded following the rules for a negotiated procedure with prior publication.

In selecting candidates, contracting authorities shall pay particular attention to criteria concerning the tenderers' capacity and experience in the field of research and development and of developing innovative solutions. They may limit the number of suitable candidates to be invited to participate in the procedure by applying the provisions set out in Article 62.

Only those economic operators invited by the contracting authority following its assessment of the requested information may submit research and innovation

projects, aiming at meeting the needs identified by the contracting authority that cannot be met by existing solutions. The contract shall be awarded on the sole basis the award criterion of the most economically advantageous tender in accordance with Article 64(1)(a).

4. The structure of the partnership and, in particular, the relative importance, duration and value of the different phases shall reflect the degree of innovation of the proposed solution and sequence of research and innovation activities required for the elaboration of an innovative solution not yet available in the market. The value and duration of a contract for the purchase of the resulting product, service or works shall not exceed what is necessary to recover research and development costs and achieve an adequate profit.

Contracting authorities shall not use innovation partnerships in such a way as to prevent, restrict or distort competition.

### *Article 30*

#### *Use of the negotiated procedure without prior publication*

Member States may provide that contracting authorities may award public contracts by a negotiated procedure without prior publication, only in the following cases:

- (1) for public works contracts, public supply contracts and public service contracts:
  - (a) when no tenders or no suitable tenders or no applications have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of contract are not substantially altered and on condition that a report is sent to the Commission if it so requests;

For the purposes of this provision, a tender shall be considered not to be suitable where

- it is irregular or unacceptable, and
- it is completely irrelevant to the contract, being incapable of meeting the contracting authority's needs as specified in the procurement documents.

In particular, tenders shall be considered to be

- irregular, where they do not comply with the tender specifications or where the prices offered are sheltered from normal competitive forces, or
- unacceptable, where they have been received late, submitted by tenderers who do not have the requisite qualifications or whose price either exceeds the contracting authority's budget as determined prior to the launching of the procurement procedure or have been found to be abnormally low in accordance with the provisions of Article 66. The prior determination of the budget must be documented in writing.

- (b) when the procurement aims at the creation or obtention of a work of art;

- (c) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:
  - (i) an absence of competition for technical reasons;
  - (ii) the protection of patents, copyrights or other intellectual property rights;
  - (iii) the protection of other exclusive rights.

This exception only applies when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

- (d) insofar as is strictly necessary when, for reasons of extreme urgency brought about by force majeure, the time limit for the open, restricted or negotiated procedures with prior publication cannot be complied with. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

(2) for public supply contracts:

- (a) when the products involved are manufactured purely for the purpose of research, experimentation, study or development; this provision does not extend to quantity production to establish commercial viability or to recover research and development costs;
- (b) for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such contracts as well as that of recurrent contracts may not, as a general rule, exceed three years;
- (c) for supplies quoted and purchased on a commodity market or other similar markets such as electricity exchanges;
- (d) for the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.

(3) for public service contracts, when the contract concerned follows a design contest organised in accordance with the provisions of this Directive and must, under the applicable rules, be awarded to the successful candidate or to one of the successful candidates, in the latter case, all successful candidates must be invited to participate in the negotiations;

(4) for new works or services consisting in the repetition of similar works or services entrusted to the economic operator to whom the same contracting authorities awarded an original contract, provided that such works or services are in conformity

with a basic project for which the original contract was awarded according to a procedure in accordance with Article 24(1). The basic project shall mention the extent of possible additional works or services and the conditions under which they will be awarded.

As soon as the first project is put up for tender, the possible use of this procedure shall be disclosed and the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authorities when they apply the provisions of Article 13.

This procedure may be used only during the three years following the conclusion of the original contract.

## **CHAPTER IV**

### **Techniques and instruments for electronic and aggregated procurement**

#### *Article 31*

#### *Framework agreements*

1. Contracting authorities may conclude framework agreements, provided that they apply the procedures provided for in this Directive.

A framework agreement is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

The term of a framework agreement may not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement

2. Contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in this paragraph and paragraphs 3 and 4.

Those procedures may be applied only between those contracting authorities and those economic operators originally party to the framework agreement. Contracting authorities who have been clearly identified for this purpose in the original framework agreement may also have recourse to it.

Contracts based on a framework agreement may under no circumstances make substantial modifications to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 3.

Contracting authorities may not use framework agreements improperly or in such a way as to prevent, restrict or distort competition.

3. Where a framework agreement is concluded with a single economic operator, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement.



For the award of those contracts, contracting authorities may consult the operator party to the framework agreement in writing, requesting it to supplement its tender as necessary.

4. Where a framework agreement is concluded with more than one economic operator, it may be performed pursuant to one of the two following ways:
  - (a) Following the terms and conditions of the framework agreement without reopening competition, where it sets out all the terms governing the provision of the works, services and supplies concerned and the objective conditions for determining which of the economic operators, party to the framework agreement shall perform them. Contracting authorities shall indicate the latter conditions in the procurement documents.
  - (b) Where not all the terms governing the provision of the works, services and supplies are laid down in the framework agreement, through reopening competition amongst the economic operators parties to the framework agreement. This competition shall be based on the same terms as applied for the award of the framework agreement and, if necessary, more precisely formulated terms, and, where appropriate, other terms referred to in the specifications of the framework agreement, in accordance with the following procedure:
    - for every contract to be awarded, contracting authorities shall consult in writing the economic operators capable of performing the contract;
    - contracting authorities shall fix a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject-matter of the contract and the time needed to send in tenders;
    - tenders shall be submitted in writing, and their content shall not be opened until the stipulated time limit for reply has expired;
    - contracting authorities shall award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the framework agreement.

### *Article 32* *Dynamic purchasing systems*

1. For commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the contracting authorities, contracting authorities may use a dynamic purchasing system. The dynamic purchasing system is a completely electronic process, open throughout its validity to any economic operator which satisfies the selection criteria.
2. In order to award contracts under a dynamic purchasing system, contracting authorities shall follow the rules of the restricted procedure. All the candidates satisfying the selection criteria shall be admitted to the system; the number of candidates to be admitted to the system may not be limited pursuant to article 62. All

communications in the context of a dynamic purchasing system shall use solely electronic means in accordance with Article 9(2) to (5).

3. For the purposes of awarding contracts under a dynamic purchasing system, contracting authorities shall:
  - (a) publish a call for competition making it clear that a dynamic purchasing system is involved;
  - (b) indicate in the specifications, amongst other matters, the nature and estimated quantity of the purchases envisaged, as well as all the necessary information concerning the purchasing system, the electronic equipment used and the technical connection arrangements and specifications;
  - (c) offer unrestricted and full direct access to the specification and to any additional documents in conformity with Article 49. Such access shall continue to be offered as long as the system is valid.
4. Contracting authorities shall give any economic operator, throughout the entire period of the dynamic purchasing system, the possibility of requesting participation to the system under the conditions referred to in paragraph 2. Contracting authorities shall finalise assessment of selection criteria within 10 working days following their receipt.

The contracting authority shall inform the tenderer referred to in the first subparagraph at the earliest possible opportunity of its admittance or not to the dynamic purchasing system.
5. Contracting authorities shall invite all qualified participants to submit a tender for each specific procurement under the system, in accordance with Article 50.

They shall award the contract to the tenderer which submitted the best tender on the basis of the award criteria set out in the contract notice for the dynamic purchasing system or, where a prior information notice is used as a means of calling for competition, in the invitation to confirm interest. Those criteria may, if appropriate, be formulated more precisely in the invitation referred to in the first subparagraph.
6. Contracting authorities shall indicate the duration of the dynamic purchasing system in the call for competition. They shall notify the Commission of any change in duration, using the following standard forms:
  - Where the duration is changed without terminating the system, the form used initially for the call for competition for the dynamic purchasing system;
  - where the system is terminated, a contract award notice.
7. No charges may be billed to the interested economic operators or to parties to the system.

*Article 33*  
*Electronic auctions*

1. Contracting authorities may use electronic auctions, in which new prices, revised downwards, and/or new values concerning certain elements of tenders are presented.

For this purpose, contracting authorities shall use a repetitive electronic process (electronic auction), which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

2. In open, restricted or negotiated procedures with prior publication, the contracting authorities may decide that the award of a public contract shall be preceded by an electronic auction when the contract specifications can be established with precision.

In the same circumstances, an electronic auction may be held on the reopening of competition among the parties to a framework agreement as provided for in point b of Article 31(4) and on the opening for competition of contracts to be awarded under the dynamic purchasing system referred to in Article 32.

3. The electronic auction shall be based:
  - either solely on prices when the contract is awarded to the tender offering the lowest price, or
  - on prices and/or on the new values of the features of the tenders indicated in the specification when the contract is awarded to the most economically advantageous tender.
4. Contracting authorities which decide to hold an electronic auction shall state that fact in the contract notice or in the invitation to confirm interest. The specifications shall include at least the information set out in Annex XV.
5. Before proceeding with an electronic auction, contracting authorities shall make a full initial evaluation of the tenders in accordance with the award criterion/criteria set and with the weighting fixed for them.

All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to participate in the electronic auction using, as of the specified date and time, the connections in accordance with the instructions set out in the invitation. The electronic auction may take place in a number of successive phases. The electronic auction may not start sooner than two working days after the date on which invitations are sent out.

6. When the contract is to be awarded on the basis of the most economically advantageous tender, the invitation shall be accompanied by the outcome of a full evaluation of the relevant tenderer, carried out in accordance with the weighting provided for in the first subparagraph of Article 64(4).

The invitation shall also state the mathematical formula to be used in the electronic auction to determine the automatic rerankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria established to determine the most economically advantageous tender, as indicated in

the notice used as a means of calling for competition or in the specifications; for that purpose, any ranges shall, however, be reduced beforehand to a specified value.

Where variants are authorised, a separate formula shall be provided for each variant.

7. Throughout each phase of an electronic auction the contracting authorities shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment and they may, where this has been previously indicated, communicate other information concerning other prices or values submitted as well as announcing the number of participants in any specific phase of the auction. In no case, however, may they disclose the identities of the tenderers during any phase of an electronic auction.
8. Contracting authorities shall close an electronic auction in one or more of the following manners:
  - (a) at the previously indicated date and time;
  - (b) when they receive no more new prices or new values which meet the requirements concerning minimum differences, provided that they have previously stated the time which they will allow to elapse after receiving the last submission before they close the electronic auction;
  - (c) when the previously indicated number of phases in the auction has been completed.

When the contracting authorities have decided to close an electronic auction in accordance with point (c), possibly in combination with the arrangements laid down in point (b), the invitation to take part in the auction shall indicate the timetable for each phase of the auction.

9. After closing an electronic auction contracting authorities shall award the contract in accordance with Article 64 on the basis of the results of the electronic auction.

#### *Article 34* *Electronic catalogues*

1. In respect of award procedures in which use of electronic means of communication in conformity with Article 9 has been required, contracting authorities may require tenders to be presented in the format of an electronic catalogue.

Member States may render the use of electronic catalogues obligatory in connection with certain types of procurement.

Tenders presented in the form of an electronic catalogue may be accompanied by other documents, completing the tender.

2. Electronic catalogues must be established by the candidates or tenderers in view of participating in a specific award procedure in accordance with the technical specifications and format established by the contracting authority.

Furthermore, electronic catalogues must comply with the requirements for electronic communication tools as well as with any additional requirements set by the contracting authority in line with article 9.

3. Where the presentation of tenders in the form of electronic catalogues is accepted or required, contracting authorities shall:
  - (a) state so in the contract notice or in the invitation to confirm interest where a prior information notice is used as a means of calling for competition, and
  - (b) indicate in the specifications all the necessary information following Article 9(5) concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.
4. Where a framework agreement has been concluded with more than one economic operator following the submission of tenders in the form of electronic catalogues, contracting authorities may provide that the reopening of competition for specific contracts takes place on the basis of updated catalogues. In this case, contracting authorities may either
  - invite the tenderers to resubmit their electronic catalogues, adapted to the requirements of the specific contract in question;
  - notify tenderers that they intend to collect ("*punch out*") from the already submitted catalogues the information needed to constitute tenders adapted to the requirements of the specific contract in question. They shall specify the date and time at which they intend to collect this information and give tenderers the possibility to deny permission. They shall allow an adequate time span between the notification and the actual collection of information.

Before awarding the contract, contracting authorities must present the collected information to the tenderer concerned, giving them the opportunity to contest or confirm the correctness of the tender thus constituted.

This possibility may only be chosen where it has been announced in the procurement documents for the framework agreement.

5. Contracting authorities may award contracts based on a dynamic purchasing system through "punch out" provided that the request for participation in the dynamic purchasing system is accompanied by an electronic catalogue in accordance with the technical specifications and format established by the contracting authority. This catalogue must be completed subsequently by the candidates, when they are informed of the contracting authority's intention to constitute tenders by means of a "punch out". The "punch out" shall be conducted in conformity with the provisions of the second indent of paragraph 4.

#### *Article 35*

##### *Centralised purchasing activities and central purchasing bodies*

1. Contracting authorities may purchase works, supplies and/or services from or through a central purchasing body.

2. Member States shall provide for the possibility of contracting authorities having recourse to centralised purchasing activities offered by central purchasing bodies established in another Member State.
3. A contracting authority meets its obligations pursuant to this Directive when it procures by having recourse to centralised purchasing activities, to the extent that the award procedures concerned and their performance are conducted by the central procurement body alone in all its stages from the publication of the call for competition to the end of the execution of the ensuing contract or contracts.

However, where certain stages of the award procedure or the performance of the ensuing contracts are carried out by the contracting authority concerned, the contracting authority continues to be responsible for meeting the obligations pursuant to this Directive in respect of the stages it conducts.

4. All procurement procedures conducted by a central purchasing body shall be performed using electronic means of communication, in accordance with the requirements of Article 9.
5. With a view to ensuring greater interoperability of the processes and tools used, the Commission may, at a later stage, adopt the necessary rules and guidelines in conformity with the provisions set out in Article 101. The Commission may also mandate the elaboration of technical standards and common technical specifications for the electronic platforms and communication tools administered by central purchasing bodies.
6. Contracting authorities may choose a central purchasing body to provide centralised procurement activities without applying the procedures provided for in this Directive, including where the central purchasing body is remunerated for so doing.
7. Member States shall specify the implementing conditions for this article. Such implementing rules must be in conformity with Article 38 and must set out the precise methods to be applied by the central purchasing body in order to meet its obligations pursuant to Articles 93 and 94. The central purchasing body shall also ensure the documentation of all transactions performed in the course of the execution of the contracts, framework agreements or dynamic purchasing systems it concludes in the course of its central procurement activities.

#### *Article 36* *Ancillary purchasing activities*

The providers of ancillary purchasing activities shall be chosen in accordance with the provisions set out in this Directive.

#### *Article 37* *Occasional joint procurement*

1. One or more contracting authorities may agree to perform certain specific procurements jointly.

2. Where one contracting authority alone conducts the award procedures concerned and their performance in all its stages from the publication of the call for competition to the end of the execution of the ensuing contract or contracts, that contracting authority is sole responsible for meeting the requirements pursuant to this Directive.

However, where the conduct of the award procedures and the performance of the ensuing contracts is being carried out by more than one of the participating contracting authorities, each continues to be responsible for meeting the obligations pursuant to this Directive in respect of the stages it conducts.

#### *Article 38*

##### *Joint procurement between contracting authorities from different Member States*

1. Without prejudice to the provisions of Article 19, contracting authorities from different Member States may jointly award public contracts by using one of the means described in the present article.
2. One or more contracting authorities may purchase works, supplies and/or services from or through a central purchasing body located in another Member State. In that case, the contract award procedure is conducted in accordance with the national provisions of the Member State where the central purchasing body is located.
3. One or more contracting authorities from different Member States may jointly award a public contract. In that case, the participating contracting authorities shall conclude an agreement that determines
  - (a) which national provisions shall apply to the contract award procedure. They may choose for that purpose the national provisions of any Member States in which at least one of the participating authorities is located;
  - (b) the internal organisation of the procurement procedure, in particular the management of the procedure, the sharing of responsibilities, the distribution of the works, supplies or services to be procured, the conclusion of contracts.
4. In the absence of an agreement determining the applicable public procurement law, the national legislation governing the contract award shall be determined following the rules set out below:
  - (c) Where the procedure is conducted or managed by one particular contracting authority, the national provisions of the Member State of that contracting authority shall apply.
  - (d) Where the procedure is not conducted or managed by one particular contracting authority and
    - (a) concerns a works contract, contracting authorities shall apply the national provisions of the Member State where most of the works are located;
    - (b) concerns a service or supply contract, contracting authorities shall apply the national provisions of the Member State where the major part of the services or supplies is provided;

- (c) Where it is not possible to determine the applicable national law pursuant to points (a) or (b), contracting authorities shall apply the national provisions of the Member State of the contracting authority which supports the biggest share of the costs.
5. One or more contracting authorities may award individual contracts under a framework agreement concluded by or jointly with a contracting authority located in another Member State, provided that the framework agreement contains specific provisions enabling the respective contracting authority or contracting authorities to award the individual contracts.
6. The review of decisions on the award of public procurement contracts in cross-border public procurement shall be subject to the ordinary review mechanisms available under the national law applicable pursuant to paragraphs 3 or 4.
7. In order to enable the effective performance of review mechanisms, Member States shall allow that the decisions of review bodies in the sense of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts<sup>25</sup> located in other Member States are fully executed in their domestic legal order, if such decisions involve contracting authorities established on their territory participating in the relevant cross-border public procurement procedure.

## **CHAPTER V**

### **Conduct of the procedure**

#### **SECTION 1 PREPARATION**

##### *Article 39* *Preliminary market consultations*

1. Before launching an award procedure, contracting authorities may conduct market consultations in order to assess the structure, capability and capacity of the market and to inform economic operators on the contracting authorities' procurement projects and requirements.

For this purpose, contracting authorities may seek or accept advice from administrative support structures such as knowledge centres or from third parties or market participants, provided that such advice does not have the effect of precluding competition and does not result in an infringement of the principles of the procedure.

2. If a candidate or tenderer or an undertaking related to a candidate or tenderer has advised the contracting authority or otherwise been involved in preparing the contract award procedure, the contracting authority shall take appropriate measures

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<sup>25</sup> OJ L 395, 30.12. 1989, p. 33.



to ensure that competition is not distorted by the participation of that candidate or tenderer.

Such measures may, in particular, include the communication of any relevant information exchanged in the context of or resulting from the prior involvement to the other candidates and tenderers and the fixing of adequate time limits for receipt of tenders. The candidate or tenderer concerned may only be excluded from the procedure if there are no other means to ensure compliance with the duty to observe the principle of equal treatment.

#### *Article 40* *Technical specifications*

1. The technical specifications as defined in point 1 of Annex V shall be set out in the procurement documentation, such as calls for competition, procurement documents or additional documents.

For all procurement, the subject of which is intended for use by the public, these technical specifications shall, except in duly justified cases, be defined so as to take into account accessibility criteria for people with disabilities or design for all users.

2. Technical specifications shall afford equal access for tenderers and not have the effect of creating unjustified obstacles to the opening up of public procurement to competition.
3. Without prejudice to mandatory national technical rules, to the extent that they are compatible with European Union law, the technical specifications shall be formulated:
  - (a) Either in terms of performance or functional requirements; the latter may include environmental characteristics. Such parameters must be sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities to award the contract;
  - (b) or by reference to technical specifications defined in Annex V and, in order of preference, to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when these do not exist - to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products. Each reference shall be accompanied by the words "or equivalent";
  - (c) or in terms of performance or functional requirements as mentioned in subparagraph (a), with reference to the specifications mentioned in subparagraph (b) as a means of presuming conformity with such performance or functional requirements;
  - (d) or by referring to the specifications mentioned in subparagraph (b) for certain characteristics, and by referring to the performance or functional requirements mentioned in subparagraph (a) for other characteristics.

4. Where a contracting authority makes use of the option of referring to the specifications mentioned in paragraph 3(b), it cannot reject a tender on the grounds that the works, products and services tendered for do not comply with the specifications to which it has referred, once the tenderer proves in his tender by whatever appropriate means, that the solutions which he proposes satisfy in an equivalent manner the requirements defined by the technical specifications.
5. Where a contracting authority uses the option laid down in paragraph 3(a) to prescribe in terms of performance or functional requirements, it may not reject a tender for works, products or services which comply with a national standard transposing a European standard, with a European technical approval, a common technical specification, an international standard or a technical reference system established by a European standardisation body, if these specifications address the performance or functional requirements which it has laid down.

In his tender, the tenderer must prove by any appropriate means that the work, product or service in compliance with the standard meets the performance or functional requirements of the contracting authority.

6. Where contracting authorities lay down environmental characteristics in terms of performance or functional requirements as referred to in paragraph 3(a) they may define these by reference to European or (multi-) national eco-labels, or by and any other eco-label, provided that:
  - those specifications are appropriate to define the characteristics of the works, supplies or services that are the object of the contract,
  - the requirements for the label are drawn up on the basis of scientific information,
  - the eco-labels are adopted using a procedure in which all stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations can participate, and
  - they are accessible to all interested parties.

Contracting authorities may indicate that the products and services bearing the eco-label are presumed to comply with the technical specifications laid down in the procurement documents; they must accept any other appropriate means of proof.

7. For the purposes of paragraphs 4 to 6, an appropriate means might be a test report from a recognised body or a certificate issued by such a body. Where contracting authorities require the production of certificates drawn up by recognised bodies attesting conformity with certain technical specification, certificates from equivalent other recognised bodies shall also be accepted by the contracting authorities. They shall also accept other appropriate means of proof such as a technical dossier of the manufacturer where the economic operator concerned has no access to such certificates or test reports, or no possibility of obtaining them within the relevant time limits.

8. Recognised bodies, within the meaning of this Article, are test and calibration laboratories and certification and inspection bodies which comply with applicable European standards.
9. Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain undertakings or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the contract pursuant to paragraph 3 is not possible; such reference shall be accompanied by the words "or equivalent".
10. Member States shall make available to other member States, upon request, any information related to the evidence and documents produced to proof compliance with the technical requirements. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

#### *Article 41*

##### *Variants*

1. Contracting authorities may authorise tenderers to submit variants. They shall indicate in the contract notice or, where a prior information notice is used as a means of calling for competition, in the invitation to confirm interest whether or not they authorise variants; variants shall not be authorised without this indication.
2. Contracting authorities authorising variants shall state in the procurement documents the minimum requirements to be met by the variants and any specific requirements for their presentation. They shall also ensure that the chosen award criteria can be usefully applied to variants meeting these minimum requirements as well as to conform tenders which are not variants.
3. Only variants meeting the minimum requirements laid down by these contracting authorities shall be taken into consideration.

In procedures for awarding public supply or service contracts, contracting authorities which have authorised variants may not reject a variant on the sole ground that it would, if successful, lead to either a service contract rather than a public supply contract or a supply contract rather than a public service contract.

#### *Article 42*

##### *Division of contracts into lots*

1. Contracts may be subdivided into homogenous or heterogeneous lots. Public contracts with a value equal to or greater than the thresholds provided for in Article 13 but not less than EUR 500 000, determined in accordance with Article 14, must, except in duly justified circumstances as described hereunder, be split into lots.

Contracting authorities shall not be required to subdivide contracts into lots if:

- (a) such division risks to restrict competition,
- (b) such division risks to render the execution of the contract excessively technically difficult or expensive, or
- (c) the need to coordinate the different contractors for the lots seriously risks to undermine the proper execution of the contract.

A contracting authority which does not subdivide a contract into lots shall provide sufficient explanation in the contract notice or in the invitation to confirm interest.

- 2. Contracting authorities shall indicate in the contract notice or in the invitation to confirm interest, whether tenders must be limited to one or more lots only.
- 3. Contracting authorities may, even where the possibility to tender for all lots has been indicated, limit the number of lots that may be awarded to a tenderer, provided that the maximum number is stated in the contract notice or in the invitation to confirm interest. Contracting authorities shall define and indicate in the procurement documents, the objective and non-discriminatory criteria or rules for awarding the different lots if in case the application of the chosen award criteria would result in the award of more lots to one tenderer than the maximum number.
- 4. Where more than one lot may be awarded to the same tenderer, contracting authorities may provide that they will either award one contract for each individual lot or award a smaller number of contracts, potentially covering several or all lots.

Contracting authorities shall specify in the procurement documents whether they reserve the right to make such choice, and in this case, which lots may be grouped together under one contract.

The evaluation of tenders shall be carried out lot by lot. Contracting authorities may award a contract for more than one lot to a tenderer who is not ranked as first in respect of all individual lots covered by this contract, provided that the award criteria set out pursuant to Article 64 are better fulfilled with regard to the entirety of lots covered by this contract. Contracting authorities shall specify the transparent, objective and non-discriminatory methods for this comparison in the procurement documents.

- 5. Contracting authorities may require that all contractors coordinate under the direction of the operator to whom the relevant coordination lot or a lot including the overall coordination of the project has been awarded.

#### *Article 43* *Setting time limits*

- 1. When fixing the time limits for the receipt of tenders and requests to participate, contracting authorities shall take account in particular of the complexity of the contract and the time required for drawing up tenders, without prejudice to the minimum time limits set by this Chapter.

2. Where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the procurement documents, the time limits for the receipt of tenders shall be extended so that all economic operators concerned may be aware of all the information needed to produce tenders.

## **SECTION 2**

### **PUBLICATION AND TRANSPARENCY**

#### *Article 44* *Prior information notices*

1. Contracting authorities may make known their intention of planned procurement through the publication of a prior information notice as soon as possible after the beginning of the budgetary year. These notices shall contain the information set out in Annex VI B(I). They are either published by the Commission or by the contracting authorities on their "buyer profile", as described in point 2(b) of Annex VII. In the latter case contracting authorities shall send a notice of the publication on their buyer profile, in accordance with point 3 of Annex VII.
2. For restricted and negotiated procedures with prior publication, sub-central contracting authorities may use a prior information notice as a call for competition pursuant to Article 24(2), provided that the notice fulfils the following conditions:
  - (a) it refers specifically to the supplies, works or services which will be the subject of the contract to be awarded;
  - (b) it indicates that the contract will be awarded by restricted or negotiated procedure without further publication of a call for competition and invites interested economic operators to express their interest in writing ("invitation to confirm interest");
  - (c) it contains, in addition to the information set out in Annex VI B(I), the information set out in Annex VI B(II);
  - (d) it has been published not more than 12 months prior to the date on which the invitation referred to in Article 50(1) is sent.

Such notices may not be published on a buyer profile.

#### *Article 45* *Contract notices*

All contracting authorities may use a contract notice as a means of calling for competition in respect of all procedures. Such notices shall contain the information set out in Annex VI C and be published in accordance with the provisions of Article 47.

*Article 46*  
*Contract award notices*

1. No later than 48 days after the award of a contract or the conclusion of a framework agreement, contracting authorities shall send a notice of the results of the award procedure.

Such notice shall contain the information set out in Annex VI D and be published in accordance with the provisions of Article 47.

2. Where the call for competition for the contract concerned was a prior information notice and no further contracts will be awarded during the 12 months period covered by the call for competition, this shall be indicated in the contract award notice.

In the case of framework agreements concluded in accordance with Article 31 the contracting authorities are not bound to send a notice of the results of the award procedure for each contract based on that agreement.

3. Contracting authorities shall send a notice of the result of the award of contracts based on a dynamic purchasing system within 48 days of the award of each contract. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 48 days of the end of each quarter. Certain information on the contract award or the conclusion of the framework agreement may be withheld from publication where release of such information would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

*Article 47*  
*Form and manner of publication of notices*

1. Notices shall include the information mentioned in Annex VI in the format of standard forms, including standard forms for corrigenda, adopted by the Commission in accordance with the procedure referred to in Article 101(2).
2. Notices shall be drawn up, transmitted by electronic means to the Commission and published in accordance with Annex VII. Notices shall be published no later than five days after they are sent. The costs of publication by the Commission of the notices shall be borne by the European Union.
3. Calls for competition shall be published in full in an official language of the European Union as chosen by the contracting authority, this original language version constituting the sole authentic text. A summary of the important elements of each notice shall be published in the other official languages.
4. The Commission shall ensure that the publication of the full text and the summary of prior information notices used as a means of calling for competition and calls for competition setting up a dynamic purchasing system is repeated. These notices shall continue to be published:

- In the case of prior information notices for twelve months or until receipt of a contract award notice as provided for in Article 46 indicating that no further contracts will be awarded during the 12 months period covered by the call for competition;
  - In the case of calls for competition setting up a dynamic purchasing system for the period of validity of the dynamic purchasing system.
5. Contracting authorities must be able to supply proof of the dates on which notices are dispatched.
- The Commission shall give the contracting authority confirmation of the publication of the information sent, mentioning the date of that publication. Such confirmation shall constitute proof of publication.
6. Contracting authorities may publish notices of public contracts which are not subject to the publication requirement laid down in this Directive provided these notices are sent to the Commission by electronic means in accordance with the format and procedures for transmission indicated in Annex VII.

#### *Article 48* *Publication at national level*

1. Notices and their contents may not be published at national level before the date on which they are sent to the Commission.
2. Notices published at national level shall not contain information other than that contained in the notices dispatched to the Commission or published on a buyer profile, but shall mention the date of dispatch of the notice to the Commission or its publication on the buyer profile.
3. Prior information notices may not be published on a buyer profile before the dispatch to the Commission of the notice of their publication in that form; they shall mention the date of that dispatch.

#### *Article 49* *Electronic availability of procurement documents (specifications and additional documents)*

1. Contracting authorities shall offer unrestricted and full direct access free of charge by electronic means to the specifications and any supporting documents from the date of publication of the notice in accordance with Annex VII or the invitation to confirm interest is sent. The text of the notice or the invitation to confirm interest shall specify the internet address at which this documentation is accessible.
2. Provided that it has been requested in good time, additional information relating to the specifications and any supporting documents shall be supplied by the contracting authorities or competent departments not later than six days before the deadline fixed for the receipt of tenders. In the event of an accelerated procedure, that period shall be four days.

#### *Article 50*

*Invitations to submit a tender, participate in the dialogue or negotiate; invitations to confirm interest.*

1. In restricted procedures, competitive dialogue procedures, innovation partnerships and negotiated procedures with prior publication, contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders or to negotiate or, in the case of a competitive dialogue, to take part in the dialogue.

Where a prior information notice is used as a call for competition, contracting authorities shall simultaneously and in writing invite the interested economic operators having expressed their interest to confirm their continuing interest.

2. The invitation to the candidates shall include a reference to the electronic address on which the specifications or the descriptive document and any other supporting documents have been made directly available by electronic means. In addition, they shall include the information set out in Annex XII.

#### *Article 51*

*Informing candidates and tenderers*

1. Contracting authorities shall as soon as possible inform each candidate and tenderer of decisions reached concerning the conclusion of a framework agreement, the award of the contract or admittance to a dynamic purchasing system, including the grounds for any decision not to conclude a framework agreement or award a contract for which there has been a call for competition or to recommence the procedure or implement a dynamic purchasing system.
2. On request from the party concerned, the contracting authority shall as quickly as possible, and in any case within 15 days from receipt of written request, inform:
  - any unsuccessful candidate of the reasons for the rejection of his application,
  - any unsuccessful tenderer of the reasons for the rejection of his tender, including, for the cases referred to in Article 40, paragraphs 4 and 5, the reasons for its decision of non-equivalence or its decision that the works, supplies or services do not meet the performance or functional requirements,
  - any tenderer who has made an admissible tender of the characteristics and relative advantages of the tender selected as well as the name of the successful tenderer or the parties to the framework agreement,
  - any tenderer who has made an admissible tender of the conduct and progress of negotiations and dialogue with tenderers.
3. However, contracting authorities may decide to withhold certain information referred to in paragraph 1, regarding the contract award, the conclusion of framework agreements or admittance to a dynamic purchasing system where the release of such information would impede law enforcement, would otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of economic



operators, whether public or private, or might prejudice fair competition between them.

### **SECTION 3**

#### **CHOICE OF PARTICIPANTS AND AWARD OF CONTRACTS**

##### *Article 52*

##### *General principles*

1. Contracts shall be awarded on the basis of the criteria laid down in Articles 64 - 66, taking into account Article 41, provided that:
  - the tender complies with the requirements, conditions and criteria set out in the contract notice or in the invitation to confirm interest and in the procurement documents; and
  - the tender comes from a tenderer
    - who is not excluded from participating according to Articles 10, 11 and 53; and
    - who meets the selection criteria set out by the contracting authority in accordance with Article 54 and, where appropriate, the non-discriminatory rules and criteria referred to in Article 62.
2. In open procedures, contracting authorities are free to decide that tenders will be examined before the suitability of tenderers is verified, provided that the relevant provisions of the present section are observed; in particular, that the contract may not be awarded to a tenderer who should have been excluded pursuant to Article 53 or who does not meet the selection criteria set out by the contracting authority, in accordance with subsection 1 of the present section.

### **SUBSECTION 1**

#### **CRITERIA FOR QUALITATIVE SELECTION**

##### *Article 53*

##### *Exclusion grounds*

1. Any candidate or tenderer who has been the subject of a conviction by final judgment for one of the reasons listed below shall be excluded from participation in a public contract:
  - (a) participation in a criminal organisation, as defined in Article 2(1) of Council Joint Action 98/733/JHA<sup>26</sup>;

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<sup>26</sup> OJ L 351, 29.12.1998, p. 1.

- (b) corruption, as defined in Article 3 of the Council Act of 26 May 1997<sup>27</sup> and Article 3(1) of Council Joint Action 98/742/JHA<sup>28</sup> respectively;
- (c) fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities<sup>29</sup>;
- (d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Framework Decision 2002/475/JHA [24] respectively, or inciting, aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
- (e) money laundering, as defined in Article 1 of Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering<sup>30</sup>.

The obligation to exclude shall also apply where the above-mentioned conviction by final judgment has condemned company directors or any other any person having powers of representation, decision or control in respect of the candidate or tenderer.

2. Any economic operator shall be excluded from participation in a contract where the contracting authority is aware of the existence of a decision having the force of res judicata establishing that the economic operator has not fulfilled obligations relating to the payment of taxes or social security contributions in accordance with the legal provisions of the country in which he is established or with those of the country of the contracting authority.
3. A contracting authority may exclude from participation in a public contract any economic operator
  - (a) where it is aware of any violation of obligations established by European Union legislation in the field of social and labour law or environmental law or of the international labour law provisions listed in Annex XI, including in the supply chain;
  - (b) where the economic operator is the subject of insolvency or winding-up proceedings, where his assets are being administered by a liquidator or by the court, where he has entered into an arrangement with creditors, where he has suspended business activities or is in any analogous situation arising from a similar procedure under national laws and regulations;
  - (c) where the economic operator is guilty of other grave professional misconduct proven by any means which the contracting authorities can demonstrate;
  - (d) where the economic operator has shown significant or persistent deficiencies in performance of any substantive requirement under a prior contract or contracts of similar nature with the same contracting authority. In order to apply this

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<sup>27</sup> OJ C 195, 25.6.1997, p. 1.

<sup>28</sup> OJ L 358, 31.12.1998, p.2.

<sup>29</sup> OJ C 316, 27.11.1995, p. 48.

<sup>30</sup> OJ L 166, 28.6.1991, p. 77. Directive as amended by Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 (OJ L 344, 28.12.2001, p. 76).

ground for exclusion, contracting authorities have to provide a method for the assessment of contractual performance that is based on objective and measurable criteria and applied in a systematic, consistent and transparent way. Any performance assessment has to be communicated to the contractor in question who must be given the opportunity to object to the findings and to obtain judicial protection.

4. Any candidate or tenderer who is in one of the situations referred to in paragraphs 1 to 3 may provide the contracting authority with evidence demonstrating his reliability despite the existence of the relevant ground for exclusion.

To this effect, the candidate or tenderer must prove that he has compensated any damage caused by the criminal offence or misconduct, clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities and taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct. Contracting authorities shall evaluate the measures taken by the candidates and tenderers taking into account the gravity and particular circumstances of the criminal offence or misconduct. In case the contracting authority considers the measures to be insufficient, it shall state the reasons for its decision

5. Member States shall specify the implementing conditions for this article. They shall ensure that contracting authorities and economic operators can easily obtain information and assistance with regard to the certificates mentioned in this article through the liaison point provided for in Article 96.
6. Member States shall make available to other member States, upon request, any information related to the exclusion grounds listed in this article. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

#### *Article 54* *Selection criteria*

1. Contracting authorities may establish conditions for participation relating to
  - (a) suitability to pursue the professional activity;
  - (b) economic and financial standing;
  - (c) technical and/or professional ability.

They are not obliged to require all the conditions enumerated below in paragraphs 2-4, but they may not set up other requirements than those enumerated.

Contracting authorities shall limit any conditions for participation to those that are appropriate to ensure that a candidate or tenderer has the legal and financial capacities and the commercial and technical abilities to perform the contract to be awarded. All requirements must be related and strictly proportionate to the subject matter of the contract, taking into account the need to ensure genuine competition.

2. With regard to the suitability to pursue the professional activity, contracting authorities may require that economic operators are enrolled on one of the professional or trade registers prescribed in their Member State of establishment, as described in Annex VIII.

In procedures for the award of public service contracts, insofar as candidates or tenderers have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of origin the service concerned, the contracting authority may require them to prove that they hold such authorisation or membership.

3. With regard to the sufficient economic and financial standing, contracting authorities may require that economic operators have adequate financial and economic capacity. Thus, they may require that economic operators
  - (a) have a certain yearly turnover, including a certain turnover in the area covered by the contract;
  - (b) can provide an execution guarantee from a financial institution to the amount of the contract value;
  - (c) dispose of relevant professional risk indemnity insurance.

The yearly turnover requirement mentioned under (a) may not exceed 3 times the estimated contract value, except in duly justified circumstances relating to the special risks attached to the nature of the works, services or supplies. The contracting authority shall indicate such exceptional circumstances in the procurement documents.

For contracts that are divided into lots the present article will apply in relation to each individual lot. However, the contracting authority may additionally fix the minimum turnover requirement by reference to groups of lots for the eventuality where the successful bidder or candidate is awarded several lots to be executed at the same time.

Where contracts based on a framework agreement will be awarded following a reopening of competition, the yearly turnover requirement referred to in the second subparagraph above shall refer to the expected maximum size of specific contracts, if known, and otherwise on the estimated value of the framework agreement.

4. With regard to technical and/or professional ability contracting authorities may require that economic operators dispose of the necessary human and technical resources and experience to execute the contract to an adequate quality standard.

In procedures for awarding public contracts having as their object supplies requiring siting or installation work, the provision of services and/or the execution of works, the ability of economic operators to provide the service or to execute the installation or the work may be evaluated in particular with regard to their skills, efficiency, experience and reliability.

5. Contracting authorities shall indicate the required conditions of participation, which may be expressed as minimum levels of ability, together with the indicated means of proof, in the contract notice or in the invitation to confirm interest.

*Article 55*  
*Self-declarations and other means of proof*

1. Contracting authorities shall accept self-declarations as preliminary evidence that candidates and tenderers:
  - (a) are not in one of the situations set out in Article 53 in which economic operators shall or may be excluded;
  - (b) meet the selection criteria that have been set out pursuant to Article 54;
  - (c) where applicable, meet the objective rules and criteria that have been set out pursuant to Article 62, and
  - (d) will, upon request and without delay, be able to provide the supporting documentation that contracting authorities have required in accordance with Articles 57, 58 and, where appropriate, Article 59 and 61.
2. A contracting authority may ask a candidate or tenderer at any moment during the procedure to submit all or parts of the required documentation if this appears necessary to ensure the proper conduct of the procedure. Before awarding the contract, the contracting authority shall require the tenderer to whom it has been decided to award the contract to submit the documentation in accordance with Articles 57 and 58 and, where appropriate, Article 59. The contracting authority may invite economic operators to supplement or clarify the certificates and documents submitted pursuant to Articles 57, 58 and 59.
3. Member States may provide for proportionate penalties where the successful bidder or candidate is not able to provide the said evidence.
4. Contracting authorities may not require certificates other than those referred to in Articles 58 and 59; in respect of Article 60 economic operators may rely on any appropriate means to prove to the contracting authority that they will have at their disposal the resources necessary.

Candidates and tenderers shall not be required to re-submit a certificate or other documentary evidence that has already been submitted to the same contracting authority within the past four years in an earlier procedure and which is still valid.

5. Member States shall make available to other member States, upon request, any information related the exclusion grounds listed in Article 53, to the suitability, financial and technical capacities of tenderers described in article 54 and to the content or nature of the means of proof indicated in this article. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

*Article 56*  
*Online repository of certificates (e-Certis)*

1. In view of facilitating cross-border tendering, Member States shall ensure that the information concerning certificates and other forms of documentary evidence inserted in e-Certis is continuously kept up to date
2. Recourse to e-Certis may be rendered obligatory and contracting authorities may be obliged not to require other types of certificates or other forms of documentary evidence than those which are available in e-Certis when this documentary database has reached a sufficient level of completeness and is sufficiently up-to-date. The date of entry into force of this obligation shall be established by the Commission in accordance with the procedure provided for under Article 98. A suitable deadline for implementation shall be provided for.

*Article 57*  
*European Procurement Passport*

1. National authorities shall issue, upon request of an economic operator established in the relevant Member State and fulfilling the necessary conditions, a European Procurement Passport in the format of the standard form adopted by the Commission in accordance with Article 101(2). The authority issuing the passport shall seek the relevant information directly from the competent authorities, except where prohibited by national rules related to the protection of personal data. The European Procurement Passport shall contain the particulars set out in Annex XIV.
2. The European Procurement Passport shall be recognised by all contracting authorities as proof for the fulfilment of the conditions for participation covered by it and may not be questioned without justification. Such justification can be related to the fact that the passport has been issued more than six months earlier.
3. Member States shall make available to other Member States, upon request, any information related to the authenticity and content of the European Procurement Passport. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

*Article 58*  
*Certificates*

1. Contracting authorities shall accept the following as sufficient evidence that none of the cases specified in Article 53 applies to the economic operator:
  - (a) as regards paragraph 1, the production of an extract from the relevant register, such as judicial records or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of origin or the country whence that person comes showing that these requirements have been met;
  - (b) as regards paragraph 2 and paragraph 3 point b, a certificate issued by the competent authority in the Member State concerned.

- (c) Where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified in paragraphs 1, 2 and 3(b), they may be replaced by an official declaration to that effect by the national liaison point designated according to Article 96.
2. Proof of the economic operator's economic and financial standing may, as a general rule, be furnished by one or more of the references listed in Annex XIII, Chapter 1. If, for any valid reason, the economic operator is unable to provide the references requested by the contracting authority, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate.
  3. Evidence of the economic operators' technical abilities may be furnished by one or more of the following means listed in Annex XIII, Chapter 2 according to the nature, quantity or importance, and use of the works, supplies or services.
  4. Member States shall make available to other Member States, upon request, any information related to the evidence on exclusion grounds and to the documents attesting suitability, financial and technical capacities of tenderers described in this Article and to any other means of proof indicated in this article. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

#### *Article 59*

##### *Quality assurance standards and environmental management standards*

1. Should they require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, contracting authorities shall refer to quality assurance systems based on the relevant European standards series certified by bodies conforming to the European standards series concerning certification. They shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures from economic operators who have no access to such certificates, or no possibility of obtaining them within the relevant time limits.
2. Member States shall make available to other member States, upon request, any information related to the documents produced as evidence on quality and environmental standards mentioned in paragraph 1. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.
3. Should contracting authorities require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain environmental management standards, they shall refer to the European Union Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards certified by bodies conforming to European Union law or the relevant European or international standards concerning certification. They shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent environmental management measures from economic operators who have

no access to such certificates, or no possibility of obtaining them within the relevant time limits.

4. Member States shall make available to other member States, upon request, any information related to the documents produced as evidence on quality and environmental standards mentioned in paragraph 3. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

#### *Article 60*

##### *Reliance on the capacities of other entities*

1. With regard to criteria relating to the economic and financial standing as set out pursuant to Article 54(3), and to criteria relating to the technical and/or professional ability as set out pursuant to Article 54(4), an economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing an undertaking by those entities to that effect.

Under the same conditions, a group of economic operators as referred to in Article 6 may rely on the capacities of participants in the group or of other entities.

2. In the case of works contracts, service contracts and siting and installation operations in the context of a supply contract, contracting authorities may require that certain critical tasks shall be performed directly by the tenderer himself or, in the case of a tender being submitted by a group of economic operators as referred to in Article 6, a participant in the group.

#### *Article 61*

##### *Official lists of approved economic operators and certification by bodies established under public or private law*

1. Member States may introduce either official lists of approved contractors, suppliers or service providers or certification by certification bodies complying with European certification standards.
2. Member States shall adapt the conditions for registration on these lists and for the issue of certificates by certification bodies to the provisions of this subsection.

Member States shall also adapt them to Article 60 as regards applications for registration submitted by economic operators belonging to a group and claiming resources made available to them by the other companies in the group. In such case, these operators must prove to the authority establishing the official list that they will have these resources at their disposal throughout the period of validity of the certificate attesting to their being registered in the official list and that throughout the same period these companies continue to fulfil the qualitative selection requirements encompassed by the official list or certificate on which operators rely for their registration.



3. Economic operators registered on the official lists or having a certificate may, for each contract, submit to the contracting authority a certificate of registration issued by the competent authority or the certificate issued by the competent certification body. The certificates shall state the references which enabled them to be registered in the list/to obtain certification and the classification given in that list.
4. Certified registration on official lists by the competent bodies or a certificate issued by the certification body shall constitute a presumption of suitability with regard to requirements for qualitative selection encompassed by the list or certificate.
5. Information which can be deduced from registration on official lists or certification may not be questioned without justification. With regard to the payment of social security contributions and taxes, an additional certificate may be required of any registered economic operator whenever a contract is to be awarded.

The contracting authorities of other Member States shall apply paragraph 3 and the first subparagraph of this paragraph only in favour of economic operators established in the Member State holding the official list.

6. The requirements of proof for the criteria for qualitative selection encompassed by the list or certificate must comply with Articles 57, 58 and, where appropriate, Article 59. For any registration of economic operators of other Member States in an official list or for their certification, no further proof or statements shall be required other than those requested of national economic operators.

Economic operators may ask at any time to be registered in an official list or for a certificate to be issued. They must be informed within a reasonably short period of time of the decision of the authority drawing up the list or of the competent certification body.

7. Economic operators from other Member States may not be obliged to undergo such registration or certification in order to participate in a public contract. The contracting authorities shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other equivalent means of proof.
8. Member States which have official lists or certification bodies as referred to in paragraph 1 shall be obliged to inform the Commission and the other Member States of the address of the body to which applications should be sent.

Member States shall make available to other member States, upon request, any information related to the documents produced as evidence that the economic operators fulfil the requirements to be registered in the list of approved economic operators or as evidence that economic operators from another Member State possess an equivalent certification. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

## **SUBSECTION 2**

### **REDUCTION OF NUMBERS OF CANDIDATES, TENDERS AND SOLUTIONS**

#### *Article 62*

##### *Reduction of the number of otherwise qualified candidates to be invited to participate*

1. In restricted procedures, negotiated procedures with publication of a contract notice, in the competitive dialogue procedure and in the innovation partnership, contracting authorities may limit the number of candidates meeting the selection criteria that they will invite to tender, to negotiate or to conduct a dialogue with, provided a sufficient number of suitable candidates is available.

The contracting authorities shall indicate in the contract notice or in the invitation to confirm interest, the objective and non-discriminatory criteria or rules they intend to apply, the minimum number of candidates they intend to invite and, where appropriate, the maximum number.

2. In the restricted procedure the minimum number of candidates shall be five. In the negotiated procedure with prior publication, in the competitive dialogue procedure and in the innovation partnership the minimum shall be three. In any event the number of candidates invited shall be sufficient to ensure genuine competition.

The contracting authorities shall invite a number of candidates at least equal to the minimum number set in advance. Where the number of candidates meeting the selection criteria and the minimum levels of ability is below the minimum number, the contracting authority may continue the procedure by inviting the candidate(s) with the required capabilities. In the context of this same procedure, the contracting authority may not include other economic operators who did not request to participate, or candidates who do not have the required capabilities.

#### *Article 63*

##### *Reduction of the number of tenders and solutions*

Where the contracting authorities exercise the option of reducing the number of tenders to be negotiated as provided for in Article 27(3) or of solutions to be discussed as provided for in Article 28(4), they shall do so by applying the award criteria stated in the contract notice, in the specifications or in the descriptive document. In the final stage, the number arrived at shall make for genuine competition insofar as there are enough solutions or suitable candidates.

### SUBSECTION 3

#### AWARD OF THE CONTRACT

##### *Article 64* *Contract award criteria*

1. Without prejudice to national laws, regulations or administrative provisions concerning the remuneration of certain services, the criteria on which the contracting authorities shall base the award of public contracts shall be either:
  - (a) the most economically advantageous tender; or
  - (b) the lowest cost. Costs can be assessed, at the choice of the contracting authority, on the basis of the price only or using a cost-effectiveness approach, such as a life-cycle costing approach, as referred to in Article 65.

For the purpose of this Directive life-cycle means all consecutive and/or interlinked stages of the existence of a product or works or provision of a service. The life-cycle of a product or works covers all stages from raw material acquisition or generation of resources to the final disposal (including its production, transport, use, maintenance). The life-cycle of a service covers all stages from its preparation to the end of its provision.

The economically most advantageous tender from the point of view of the contracting authority shall be identified on the basis of criteria linked to the subject-matter of the public contract in question.

These criteria can include, for example

- Quality, such as technical merit, aesthetic and functional characteristics, accessibility, design for all users and environmental characteristics.

For service contracts and contracts involving the design of works, relevant experience of the staff assigned to executing the contract in question can be taken into consideration. Following award of the contract, such staff may only be replaced with the consent of the contracting authority who must verify that replacements have equivalent experience;

- Price and other costs, including on the basis of a life-cycle costing approach as referred to in Article 65.
- After-sales service and technical assistance, delivery date and delivery period or period of completion;
- The specific process of production or provision of the requested works, supplies or service or of any other stage of its life-cycle including criteria concerning the human resources. Contracting authorities shall only take into account factors directly involved in these processes.

2. Member States may provide that the award of certain types of contracts shall be based on the most economically advantageous tender as mentioned in paragraph 1.
3. Award criteria shall not confer an unrestricted freedom of choice on the contracting authority. They have to ensure the possibility of effective competition and must be accompanied by requirements which permit the information provided by the tenderers to be effectively verified. Contracting authorities must therefore verify effectively on the basis of the information and proof provided by the tenderers, whether the tenders meet the award criteria.
4. In the case referred to in paragraph 1(a) the contracting authority shall specify in the contract notice, in the invitation to confirm interest, in the procurement documents or, in the case of a competitive dialogue, in the descriptive document, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender.

Those weightings can be expressed by providing for a range with an appropriate maximum spread.

Where weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance.

#### *Article 65* *Life-cycle costing*

1. Life-cycle costing is the assessment expressed in monetary value of the following costs over the life-cycle of a product, service or works:
  - internal costs and
  - external environmental costs directly linked to the life-cycle, provided they can be monetarised and verified. Such external costs may include, for example, costs of emissions of CO<sub>2</sub> and of other pollutant emissions.
2. Whenever a common methodology for the calculation of life-cycle costs is adopted by a legislative act of the European Union, it shall be applied if life-cycle costing is included in the award criteria referred to in Article 64 paragraph (1).

A list of such legislative acts will be set out in Annex X, which shall be updated pursuant to the procedure set out in Article 98.

#### *Article 66* *Abnormally low tenders*

1. If, for a given contract, tenders appear to be abnormally low, the contracting authority shall, before it may reject those tenders, request in writing details of the constituent elements of the tender which it considers relevant. Member States shall establish appropriate criteria for determining under which circumstances contracting authorities are obliged to request such details.

Those details may relate in particular to:

- (a) the economics of the construction method, the manufacturing process or the services provided;
  - (b) the technical solutions chosen and/or any exceptionally favourable conditions available to the tenderer for the execution of the work, for the supply of the goods or services;
  - (c) the originality of the work, supplies or services proposed by the tenderer;
  - (d) compliance with the provisions relating to employment protection and working conditions in force at the place where the work, service or supply is to be performed;
  - (e) the possibility of the tenderer obtaining State aid.
2. The contracting authority shall verify those constituent elements by consulting the tenderer, taking account of the evidence supplied.
  3. Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender can be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was compatible with the Internal market in the sense of Article 107 of the Treaty on the Functioning of the European Union. Where the contracting authority rejects a tender in these circumstances, it shall inform the Commission of that fact.
  4. Where a contracting authority has established that a tender is abnormally low because the tender does not comply with obligations established by European Union legislation in the field of social and labour law or environmental law, including throughout the supply chain, it shall reject that tender.
  5. Member States shall make available to other member States, upon request, any information related to the evidence and documents produced in relation to details listed in paragraph 1. The competent authorities of the Member State of establishment shall provide this information in accordance with the provisions of Article 96.

## **CHAPTER VI**

### ***Contract performance***

#### *Article 67*

#### *Conditions for performance of contracts*

Contracting authorities may lay down special conditions relating to the performance of a contract, provided that they are indicated in the call for competition or in the specifications. These conditions may concern any of the quality criteria linked to the subject-matter of the contract as set out in Article 64.

*Article 68*  
*Subcontracting*

1. In the procurement documents, the contracting authority may ask or may be required by a Member State to ask the tenderer to indicate in his tender any share of the contract he may intend to subcontract to third parties and any proposed subcontractors.
2. Member States may provide that at the request of the subcontractor and where the nature of the contract so allows, the contracting authority will transfer due payments directly to the subcontractor for services, supplies or works provided to the main contractor. In this case, Member States shall put in place adequate mechanisms permitting the main contractor to object undue payments. The arrangements concerning this mode of payment shall be set out in the procurement documents.
3. Paragraphs 1 and 2 shall be without prejudice to the question of the principal economic operator's liability.

*Article 69*  
*Modification of contracts during their term*

1. A modification of the provisions of a public contract during its term constitutes a new award within the meaning of this Directive, thereby requiring a new award procedure in accordance with the provisions of the Directive, if it renders the contract substantially different in character from the one initially concluded.
2. A modification of a contract during its term shall be regarded as being substantial, in particular, if:
  - it introduces conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted or
  - it changes the economic balance of the contract in favour of the contractor or
  - it extends the scope of the contract considerably to encompass supplies, services or works not initially covered.

If the value of the modification can be expressed in monetary terms, the modification will not be considered to be substantial where its value is below 7% of the price of the initial contract. In case of several successive modifications, this rule shall only apply if their cumulative value does not exceed 7% of the price of the initial contract.

3. The replacement of the contractual partner constitutes in principle a substantial modification. However, this does not apply in case of universal or partial succession of another economic operator into the position of the initial contractor, following corporate restructuring operations or insolvency, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

4. A modification, even though substantial according to the criteria set out above, shall not require a new award procedure if the following conditions are met:
  - it has been brought about by circumstances which a diligent contracting authority could not foresee and
  - it does not alter the nature of the overall procurement and
  - any increase in price is not higher than 50% of the value of the original contract.
5. Contract modifications shall not be considered substantial within the meaning of this article, if they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options. Such clauses shall state the scope and nature of possible modification as well as the conditions under which they may be used. They may not provide for modifications that would alter the nature of the overall procurement.
6. Contracting authorities may publish in the Official Journal of the European Union a notice on their intention to modify a contract. Such notices shall include the information set out in Annex VI(I) and be published in accordance with the provisions of Article 47.

Member States may provide that modifications will be deemed not to be substantial if the following conditions are met:

- the value of the modification can be expressed in monetary terms and does not exceed 15% of the value of the contract as awarded;
- no objections to this modification have been raised by economic operators or the oversight body provided for in Article 92 during a period of 15 days following publication of intention in the Official Journal of the European Union.

#### *Article 70* *Termination of contracts*

Member States shall ensure that contracting authorities have the possibility, under the conditions determined by the applicable national contract law, to terminate a public contract during its currency, if

- the exceptions foreseen in Article 19 cease to apply following a private participation in the legal person awarded the contract pursuant to Article 19(4);
- a modification of the contract constitutes a new award within the meaning of Article 69;
- the Court of Justice of the European Union finds, in a procedure under Article 258 of the Treaty on the Functioning of the European Union, that a Member State has failed to fulfil its obligations under the Treaties by the fact that a contracting authority

belonging to that Member State has awarded the contract in question without observing its obligations under the Treaties and the present Directive.



## **Title III Particular procurement regimes**

### **CHAPTER I** ***Social and other specific services***

#### *Article 71*

#### *Award of contracts for social and other specific services*

Contracts for social and other specific services listed in Annex XVI shall be awarded according to this Chapter, where the value of the contracts is equal to or greater than EUR 500 000.

#### *Article 72*

#### *Publication of notices*

1. Contracting authorities which wish to award a public contract shall make known their intention by means of a contract notice.
2. Contracting authorities which have awarded a public contract shall make known the results by means of contract award notice.
3. These notices shall contain the information referred to in Annexes VI J and K, in accordance with the standard forms adopted by the Commission pursuant to the procedure in Article 101(2).
4. Publication of notices shall follow the provisions set out in Annex VII.

#### *Article 73*

#### *Principles of awarding contracts*

1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full respect of the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.
2. In particular, Member States shall ensure that contracting authorities can take into account the specific needs of different categories of users, the need to ensure continuity of high-quality service, and that they may involve users in the choice of the service provider. Member States can also provide that the choice of the service provider shall not be operated on the sole basis of the price for the provision of the service.

## **CHAPTER II**

### ***Public works concessions***

[To be adapted following adoption of concessions proposal – text in this Chapter mainly remains old text of Directive 2004/18/EC]

#### *Article 74*

##### *Scope*

This Chapter shall apply to all public works concession contracts concluded by the contracting authorities where the value of the contracts is equal to or greater than EUR 5 000 000.

The value shall be calculated in accordance with the rules applicable to public works contracts defined in Article 14.

#### *Article 75*

##### *Exclusions from the scope*

This Title shall not apply to public works concessions which are awarded:

- (a) in the cases referred to in Articles 13, 14 and 15 of this Directive in respect of public works contracts;
- (b) by contracting authorities exercising one or more of the activities referred to in Articles 3 to 7 of Directive 2004/17/EC where those concessions are awarded for carrying out those activities.

However, this Directive shall continue to apply to public works concessions awarded by contracting authorities carrying out one or more of the activities referred to in Article 6 of Directive 2004/17/EC and awarded for those activities, insofar as the Member State concerned takes advantage of the option referred to in the second subparagraph of Article 71 thereof to defer its application.

#### *Article 76*

##### *Publication of the notice concerning public works concessions*

1. Contracting authorities which wish to award a public works concession contract shall make known their intention by means of a notice.
2. Notices of public works concessions shall contain the information referred to in Annex VII B and, where appropriate, any other information deemed useful by the contracting authority, in accordance with the standard forms adopted by the Commission pursuant to the procedure in Article 77(2).
3. Notices shall be published in accordance with Article 36(2) to (8).
4. Article 37 on the publication of notices shall also apply to public works concessions.

*Article 77*  
*Time limit*

When contracting authorities resort to a public works concession, the time limit for the presentation of applications for the concession shall be not less than 52 days from the date of dispatch of the notice, except where Article 38(5) applies. Article 38(7) shall apply.

*Article 78*  
*Subcontracting*

The contracting authority may either:

- (a) require the concessionaire to award contracts representing a minimum of 30% of the total value of the work for which the concession contract is to be awarded, to third parties, at the same time providing the option for candidates to increase this percentage, this minimum percentage being specified in the concession contract, or
- (b) request the candidates for concession contracts to specify in their tenders the percentage, if any, of the total value of the work for which the concession contract is to be awarded which they intend to assign to third parties.

*Article 79*  
*Awarding of additional works to the concessionaire*

This Directive shall not apply to additional works not included in the concession project initially considered or in the initial contract but which have, through unforeseen circumstances, become necessary for the performance of the work described therein, which the contracting authority has awarded to the concessionaire, on condition that the award is made to the economic operator performing such work:

- when such additional works cannot be technically or economically separated from the initial contract without major inconvenience to the contracting authorities, or
- when such works, although separable from the performance of the initial contract, are strictly necessary for its completion.

However, the aggregate value of contracts awarded for additional works may not exceed 50% of the amount of the original works concession contract.

*Article 80*  
*Contracts awarded by concessionaires which are contracting authorities*

Where the concessionaire is a contracting authority as referred to in Article 1(9), it shall comply with the provisions laid down by this Directive for public works contracts in the case of works to be carried out by third parties.

## Article 81

### *Contracts awarded by concessionaires which are not contracting authorities*

1. The Member States shall take the necessary measures to ensure that public works concessionaires which are not contracting authorities apply the advertising rules defined in Article 64 when awarding works contracts to third parties where the value of such contracts is equal to or greater than EUR 4 845 000.

Advertising shall not, however, be required where a works contract satisfies the conditions listed in Article 31.

The values of contracts shall be calculated in accordance with the rules applicable to public works contracts laid down in Article 9.

2. Groups of undertakings which have been formed to obtain the concession or undertakings related to them shall not be considered third parties.

"Related undertaking" shall mean any undertaking over which the concessionaire can exert a dominant influence, whether directly or indirectly, or any undertaking which can exert a dominant influence on the concessionaire or which, as the concessionaire, is subject to the dominant influence of another undertaking as a result of ownership, financial participation or the rules which govern it. A dominant influence on the part of an undertaking is presumed when, directly or indirectly in relation to another undertaking, it:

- (a) holds a majority of the undertaking's subscribed capital;
- (b) controls a majority of the votes attached to the shares issued by the undertaking; or
- (c) can appoint more than half of the undertaking's administrative, management or supervisory body.

The exhaustive list of such undertakings shall be included in the application for the concession. That list shall be brought up to date following any subsequent changes in the relationship between the undertakings.

3. Works concessionaires which are not contracting authorities and which wish to award works contracts to a third party shall make known their intention by way of a notice, to be published in accordance with Annex VI F.
4. The time limit for the receipt of requests to participate, fixed by the concessionaire, shall be not less than 37 days from the date on which the contract notice was dispatched and the time limit for the receipt of tenders not less than 40 days from the date on which the contract notice or the invitation to tender was dispatched. Article 38(5), (6) and (7) shall apply.

## **CHAPTER III**

### ***RULES GOVERNING DESIGN CONTESTS***

#### *Article 82* *General provisions*

1. The rules for the organisation of design contests shall be in conformity with this Chapter and shall be communicated to those interested in participating in the contest.

"Design contests" means those procedures which enable the contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes.

2. The admission of participants to design contests shall not be limited:
  - (a) by reference to the territory or part of the territory of a Member State;
  - (b) on the grounds that, under the law of the Member State in which the contest is organised, they would be required to be either natural or legal persons.

#### *Article 83* *Scope*

1. In accordance with this Chapter, design contests shall be organised by:
  - (a) central government authorities, starting from a threshold equal to or greater than EUR 130 000;
  - (b) sub-central contracting authorities, starting from a threshold equal to or greater than EUR 200 000.
2. This Chapter shall apply to:
  - (a) design contests organised as part of a procedure leading to the award of a public service contract;
  - (b) design contests with prizes and/or payments to participants.

In the cases referred to in (a), the threshold refers to the estimated value net of VAT of the public services contract, including any possible prizes and/or payments to participants.

#### *Article 84* *Exclusions from the scope*

This Chapter shall not apply to:

- (a) design contests within the meaning of Directive [replacing 2004/17/EC] which are organised by contracting authorities exercising one or more of the activities referred to in Articles [4 to 10] of that Directive and are organised for the pursuit of such activities; nor shall it apply to contests excluded from the scope of that Directive;
- (b) contests which are organised in the same cases as those referred to in Articles 16,17 and 23 of this Directive for public service contracts.

#### *Article 85*

##### *Notices*

- 1. Contracting authorities which wish to carry out a design contest shall make known their intention by means of a contest notice. If they intend to award a subsequent service contract pursuant to Article 30 (3), this shall be indicated in the contract notice.
- 2. Contracting authorities which have held a design contest shall send a notice of the results of the contest in accordance with Article 47 and must be able to prove the date of dispatch.

Where the release of information on the outcome of the contest would impede law enforcement, be contrary to the public interest, prejudice the legitimate commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information need not be published.

- 3. The notices shall be published in accordance with Article 47(2) - (6) and Article 48. They notices shall contain the information referred to in Annex VI G in accordance with the standard model notices adopted by the Commission in accordance with the procedure in Article 101(2).

#### *Article 88*

##### *Selection of competitors*

- 1. Where design contests are restricted to a limited number of participants, the contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.
- 2. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification or an equivalent qualification.

#### *Article 90*

##### *Decisions of the jury*

- 3. The jury shall be autonomous in its decisions or opinions.

4. It shall examine the plans and projects submitted by the candidates anonymously and solely on the basis of the criteria indicated in the contest notice.
5. It shall record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points which may need clarification.
6. Anonymity must be observed until the jury has reached its opinion or decision.
7. Candidates may be invited, if need be, to answer questions which the jury has recorded in the minutes to clarify any aspects of the projects.
8. Complete minutes shall be drawn up of the dialogue between jury members and candidates.

## TITLE IV GOVERNANCE

### *Article 91 Enforcement*

In conformity with Council Directive 89/665/EEC, Member States shall ensure correct application of this Directive by effective, available and transparent mechanisms which complement the system in place for the review of decisions taken by contracting authorities.

### *Article 92 Public Oversight*

1. Member States shall appoint or establish a single independent body responsible for the oversight and coordination of implementation initiatives. Member States shall inform the Commission of their designation.

All contracting authorities shall be subject to this oversight.

2. The competent authorities involved in the implementation initiatives shall be organised in such a manner that conflicts of interests are avoided. The system of public oversight shall be transparent. This shall include the publication of all guidance and opinion documents, as well as of an annual report, which illustrates the implementation and application of rules set in this Directive. The annual report shall also contain an analysis of the success rate of small and medium-sized enterprises in public procurement as compared to their weight in the national economy.
3. The oversight body will be responsible for the following tasks:
  - (a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;
  - (b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;
  - (c) issuing own initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the jurisprudence of the Court of Justice of the European Union;
  - (d) drawing the attention of the national competent institutions, including auditing authorities, on specific violations detected and on systemic problems;
  - (e) examining complaints of citizens and business on the application of public procurement rules in specific procedures. The analysis shall be transmitted to the competent contracting authorities, which will have the obligation to take it



into account for their decisions and explain the reasons for disregarding it. This mechanism shall be without prejudice to the exercise of rights of appeal under national law or under the system established on the basis of Directive 89/665/EEC;

- (f) monitoring the decisions taken by national courts following a ruling given by the Court of Justice of the European Union on the basis of article 267 of the Treaty on the Functioning of the European Union and reporting to the European Commission if requested to do so.

Member States shall empower the oversight body to seize the jurisdiction competent according to national law for the review of contracting authorities' decisions on a violation detected in the course of its monitoring and legal advising activity.

- 4. Without prejudice of the general procedures and working methods established by the European Commission for its communications and contacts with member States, the oversight body will act as specific contact point with the European Commission when it monitors the application of Union law on the basis of article 17 of the Treaty on the European Union.

The Commission may in particular refer to the oversight body the treatment of individual cases when a contract has still to be concluded or a review procedure can still be carried out, as well as charge the oversight body of the monitoring activities necessary to ensure the implementation of the measures to which Member States are committed in order to remediate a violation of European public procurement rules and principles identified by the European Commission.

- 5. The investigation and enforcement activities carried out by the oversight body to ensure compliance of contracting authorities' decisions with this Directive and the general principles of the Treaty on the Functioning of the European Union do not substitute or prejudge the institutional role of the Commission as guardian of the Treaty.
- 6. A summary of all the activities carried out by the oversight body according to this provision will be included in the annual report mentioned in paragraph 2.

### *Article 93*

#### *Individual reports on the procedures for the award of contracts*

For every contract, framework agreement, and every establishment of a dynamic purchasing system, the contracting authorities shall draw up a written report which shall include at least the following:

- (a) the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;
- (b) the names of the successful candidates or tenderers and the reasons for their selection;
- (c) the names of the candidates or tenderers rejected and the reasons for their rejection;

- (d) the reasons for the rejection of tenders found to be abnormally low;
- (e) the name of the successful tenderer and the reasons why his tender was selected and, if known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties;
- (f) for negotiated procedures without prior publication, the circumstances referred to in Article 31 which justify the use of this procedure ;
- (g) if necessary, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system.

The contracting authorities shall take appropriate steps to document the progress of all award procedures, whether or not these are conducted by electronic means. This shall include documentation of all stages in the award procedure, notably all communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.

The report, or the main features of it, shall be communicated to the European Commission or the national oversight body if they so request.

#### *Article 94* *National reporting*

1. In order to permit assessment of the results of applying this Directive, the bodies established or appointed according to Article 92 shall forward to the Commission an implementation and statistical report for the previous year by no later than 31 October each year.
2. This report shall contain at least the following information:
  - (a) a complete and up to date list of all central government authorities, sub-central contracting authorities and bodies governed by public law, including sub central authorities and associations of contracting authorities awarding public contracts or framework agreements, indicating for each authority the unique identification number where such number is provided for in national legislation. This list shall be grouped by type of authority. The Commission may periodically publish the list of bodies governed by public law for information in the Official Journal of the European Union;
  - (b) a complete and up to date list of all central purchasing bodies;
  - (c) for all contracts above the thresholds laid down in this Directive:
    - the number and value of contracts awarded broken down for each type of authority by procedure and by works, products and services identified by division of the CPV nomenclature;
    - where the contracts have been concluded according to the negotiated procedure without prior publication, the data referred to in the first indent shall also be broken down according to the circumstances referred to in

Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;

- (d) for all contract below the thresholds laid down in this Directive, but which would be covered by this Directive if their value exceeded the threshold, the number and value of contracts awarded broken down by each type of authority
3. Member States shall also make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist on implementation of the Directives, or to respond to challenges confronting the implementation of those Directives.

#### *Article 95*

##### *Assistance to contracting authorities and businesses*

1. Member States shall make available technical support structures in order to provide legal and economic advice, guidance, training and assistance to contracting authorities in preparing and carrying out award procedures. Member States shall also ensure that each contracting authority can obtain competent assistance and advice on individual questions.
2. In view of improving access to public procurement for economic operators, in particular small and medium sized undertakings, and in order to facilitate correct understanding of the provisions of the current Directive, Member States shall ensure that appropriate guidance and assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.
3. Specific administrative assistance shall be also available to economic operators intending to participate in an award procedure in another member State. This assistance shall at least cover linguistic aspects and the compliance with the administrative requirement in the Member States of reference, as well as possible obligations related to e-procurement.

Member States shall in particular make sure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, to environmental protection, to the employment protection provisions and to the working conditions which are in force in the Member State, region or locality in which the works are to be carried out or services are to be provided and which shall be applicable to the works carried out on site or to the services provided during the performance of the contract.

4. For these purpose, Member States can appoint one single body or several bodies or administrative structures, in which case due coordination between these bodies shall be ensured.

*Article 96*  
*Administrative cooperation*

1. Member States shall give each other mutual assistance, and shall put in place measures for effective cooperation with one another, in order to ensure exchange of information on issues referred to in Articles 40, 53, 55, 57, 58, 59, 61, 66. They shall ensure the confidentiality of the information which they exchange.
2. The competent authorities of the host and home Member States shall exchange information respecting personal data protection legislation provided for in Directives 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>31</sup> and 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)<sup>32</sup>.
3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, to the oversight bodies and to the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.
4. The exchange of information shall take place via the Internal Market Information system established pursuant to [proposal for a Regulation of the European Parliament and Council on the administrative cooperation through the Internal Market Information System ('the IMI Regulation') COM(2011)226]. Member States shall supply the information requested by other Member States within the shortest possible period of time.

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<sup>31</sup> OJ L 281, 23.11.1995, p. 31.

<sup>32</sup> OJ L 201, 31.7.2002, p. 37.

## **TITLE V**

# **DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS**

### *Article 97* *Delegating power*

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 98 concerning
  - (a) the technical procedures for the calculation methods set out in Article 102;
  - (b) the lists of central government authorities in Annex II, following the adaptations necessary to give effect to the Agreement;
  - (c) the references, in Article 2, to "NUTS" to adapt them to possible changes to Regulation (EC) 1059/2003;
  - (d) the reference numbers in the nomenclature set out in Article 21, Annex I and Annex XVI, in so far as this does not change the material scope of this Directive;
  - (e) the technical details and characteristics of the devices for electronic receipt referred to in Annex IX;
  - (f) modifications to the content of the European procurement passport set out in Annex XIV;
  - (g) modifications to Annex X referred to in Article 65 (2) setting out the list of legislative acts of the European Union establishing common methodologies for the calculation of life-cycle costs;
  - (h) the date from which the recourse to e-Certis will be rendered mandatory pursuant to article 56(2);
  - (i) the date from which the use of electronic means of communication is rendered obligatory for all communication and information exchange in award procedures under this Directive pursuant to Article 9(2).
2. Where, in the same cases, imperative grounds of urgency so require, the procedure provided for in Article 99 shall apply to delegated acts adopted pursuant to this Article.

### *Article 98* *Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 97 shall be conferred on the Commission for an indeterminate period of time from the [date of entry into force of the present Directive].
3. The delegation of power referred to in Article 97 be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Article shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

*Article 99*  
*Urgency procedure*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 98(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

*Article 100*  
*Implementing powers*

The Commission may amend,

- (a) the procedures for the drawing-up, transmission, receipt, translation, collection and distribution of the notices referred to in Articles 47, 72, 76 and 85, including references to specific positions of the CPV nomenclature and the statistical reports provided for in Article 94;
- (b) the procedure for sending and publishing data referred to in Annex VII, on grounds of technical progress or for administrative reasons;
- (c) the common requirements to ensure the interoperability of technical formats as well as of process and messaging standards, in particular with regards to the use of

electronic catalogues and means for electronic authentication to ensure effective implementation of the general rules applicable to electronic communications, laid down in Article 9, especially in a cross-border context;

- (d) the thresholds established in Articles 13, 20, 74, 81, 83 according to the criteria and methodology set in Article 102;
- (e) the standard form for the European Procurement Passport.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 101.

#### *Article 101* *Committee procedure*

1. The Commission shall be assisted by the Advisory Committee for Public Contracts established by Council Decision 71/306/EEC<sup>33</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.]
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

#### *Article 102* *Revision of the thresholds*

1. The Commission shall verify the thresholds established in Article 13 every two years from 30 June 2015 and shall, if necessary, revise them. The calculation of the value of these thresholds shall be based on the average daily value of the euro, expressed in special drawing rights (SDRs), over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand euro so as to ensure that the thresholds in force provided for by the Agreement, expressed in SDRs, are observed.
2. At the same time as the revision under paragraph 1, the Commission shall align:
  - (a) the thresholds established in point (a) of the first paragraph of Article 20, in Article 71 and in the first subparagraph of Article 74(1) on the revised threshold applying to public works contracts;
  - (b) the threshold established in Article 83(1)(a) on the revised threshold applying to public service contracts awarded by the contracting authorities referred to in Annex II;
  - (c) the thresholds established in point (b) of the first paragraph of Article 20 and in Article 83(1)(b) and (c) on the revised threshold applying to public service contracts awarded by contracting authorities other than those referred to in Annex II.

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<sup>33</sup> OJ L 185, 16.8.1971, p.15

3. The value of the thresholds set pursuant to paragraph 1 in the national currencies of the Member States which are not participating in monetary union is normally to be adjusted every two years from 1 January 2015 onwards. The calculation of such value shall be based on the average daily values of those currencies expressed in euro over the 24 months terminating on the last day of August preceding the revision with effect from 1 January.
4. The revised thresholds referred to in paragraph 1 and their corresponding values in the national currencies referred to in paragraph 3 shall be published by the Commission in the Official Journal of the European Union at the beginning of the month of November following their revision.

### *Article 103* *Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2015 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

### *Article 104* *Repeals*

Directive 2004/18/EC shall be repealed with effect from the date shown in Article 103, without prejudice to the obligations of the Member States concerning the transposition of Directive 2004/18/EC as set out therein.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XVII.

### *Article 105* *Review*

1. The Commission shall review the economic effects on the Internal Market resulting from the application of the thresholds set in Article 13 and report thereon to the European Parliament and the Council by 30 June 2017. In case of a modification of the threshold amounts applicable under the Agreement, the Commission shall, if appropriate, bring forward a legislative proposal modifying the thresholds set out in this Directive.
2. The Commission shall also review the application of Article 9, observing in particular the advancement of technological development in the Member States. It



shall, when appropriate, but not later than five years after entry into force of this Directive, establish the date of entry into force of the obligation provided under Article 9(2).

*Article 106*  
*Entry into force*

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

*Article 107*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

**ANNEX I**  
**LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE 3(2), POINT (b)**<sup>34</sup>

NACE Rev. 1 <sup>(1)</sup>					CPV code
SECTION F			CONSTRUCTION		
Division	Group	Class	Subject	Notes	
45			Construction	This division includes:  construction of new buildings and works, restoring and common repairs.	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	This class includes:  — demolition of buildings and other structures,  — clearing of building sites,  — earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.  — site preparation for mining:  —  — overburden removal and other development and preparation of mineral properties and sites.  This class also includes:  — building site drainage.  — drainage of agricultural or forestry land.	45110000
		45.12	Test drilling and boring	This class includes:  — test drilling, test boring and core sampling for construction, geophysical, geological or	45120000

<sup>34</sup>

In the event of any difference of interpretation between the CPV and the NACE, the CPV nomenclature will apply.

				similar purposes.  This class excludes:  — drilling of production oil or gas wells, see 11.20.  — water well drilling, see 45.25,  — shaft sinking, see 45.25,  — oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20.	
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of buildings and civil engineering works	This class includes:  — construction of all types of buildings construction of civil engineering constructions,  — bridges, including those for elevated highways, viaducts, tunnels and subways,  — long-distance pipelines, communication and power lines,  — urban pipelines, urban communication and power lines,  — ancillary urban works,  — assembly and erection of prefabricated constructions on the site.  This class excludes:  — service activities incidental to oil and gas extraction, see 11.20,  — erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28,  — construction work, other than buildings, for stadiums, swimming pools, gymnasiums,	45210000 Except: - 45213316 45220000 45231000 45232000

				<p>tennis courts, golf courses and other sports installations, see 45.23,</p> <p>— building installation, see 45.3,</p> <p>— building completion, see 45.4,</p> <p>— architectural and engineering activities, see 74.20,</p> <p>— project management for construction, see 74.20.</p>	
		45.22	Erection of roof covering and frames	<p>This class includes:</p> <p>— erection of roofs,</p> <p>— roof covering,</p> <p>— waterproofing.</p>	45261000
		45.23	Construction of highways, roads, airfields and sport facilities	<p>This class includes:</p> <p>— construction of highways, streets, roads, other vehicular and pedestrian ways,</p> <p>— construction of railways,</p> <p>— construction of airfield runways,</p> <p>— construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations,</p> <p>— painting of markings on road surfaces and car parks.</p> <p>This class excludes:</p> <p>— preliminary earth moving, see 45.11.</p>	<p>45212212 and DA03</p> <p>45230000</p> <p>except:</p> <p>- 45231000</p> <p>- 45232000</p> <p>- 45234115</p>
		45.24	Construction of water projects	<p>This class includes</p> <p>— construction of:</p> <p>—</p> <p>— waterways, harbour and river works, pleasure ports (marinas), locks, etc.,</p>	45240000

				— dams and dykes, — dredging, — subsurface work.	
		45.25	Other construction work involving special trades	This class includes: — construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment, — construction of foundations, including pile driving, — water well drilling and construction, shaft sinking, — erection of non-self-manufactured steel elements, — steel bending, — bricklaying and stone setting, — scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms, — erection of chimneys and industrial ovens. This class excludes: — renting of scaffolds without erection and dismantling, see 71.32	45250000 45262000
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	This class includes: installation in buildings or other construction projects of: — electrical wiring and fittings, — telecommunications systems, — electrical heating systems,	45213316 45310000 Except: - 45316000

				<ul style="list-style-type: none"> <li>— residential antennas and aerials,</li> <li>— fire alarms,</li> <li>— burglar alarm systems,</li> <li>— lifts and escalators,</li> <li>— lightning conductors, etc.</li> </ul>	
		45.32	Insulation work activities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of thermal, sound or vibration insulation.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— waterproofing, see 45.22.</li> </ul>	45320000
		45.33	Plumbing	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of:</li> <li>—</li> <li>— plumbing and sanitary equipment,</li> <li>— gas fittings,</li> <li>— heating, ventilation, refrigeration or air-conditioning equipment and ducts,</li> <li>— sprinkler systems.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— installation of electrical heating systems, see 45.31.</li> </ul>	45330000
		45.34	Other building installation	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation of illumination and signalling systems for roads, railways, airports and harbours,</li> <li>— installation in buildings or other construction projects of fittings and fixtures n.e.c.</li> </ul>	45234115 45316000 45340000

	45.4		Building completion		45400000
		45.41	Plastering	<p>This class includes:</p> <p>— application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials.</p>	45410000
		45.42	Joinery installation	<p>This class includes:</p> <p>— installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials,</p> <p>— interior completion such as ceilings, wooden wall coverings, movable partitions, etc.</p> <p>This class excludes:</p> <p>— laying of parquet and other wood floor coverings, see 45.43.</p>	45420000
		45.43	Floor and wall covering	<p>This class includes:</p> <p>— laying, tiling, hanging or fitting in buildings or other construction projects of:</p> <p>—</p> <p>— ceramic, concrete or cut stone wall or floor tiles,</p> <p>— parquet and other wood floor coverings carpets and linoleum floor coverings,</p> <p>— including of rubber or plastic,</p> <p>— terrazzo, marble, granite or slate floor or wall coverings,</p> <p>— wallpaper.</p>	45430000
		45.44	Painting and glazing	<p>This class includes:</p> <p>— interior and exterior painting of buildings,</p>	45440000

				<p>— painting of civil engineering structures,</p> <p>— installation of glass, mirrors, etc.</p> <p>This class excludes:</p> <p>— installation of windows, see 45.42,</p>	
		45.45	Other building completion	<p>This class includes:</p> <p>— installation of private swimming pools,</p> <p>— steam cleaning, sand blasting and similar activities for building exteriors,</p> <p>— other building completion and finishing work n.e.c.</p> <p>This class excludes:</p> <p>— interior cleaning of buildings and other structures, see 74.70.</p>	<p>45212212 and DA04</p> <p>45450000</p>
	45.5		Renting of construction or demolition equipment with operator		45500000
		45.50	Renting of construction or demolition equipment with operator	<p>This class excludes:</p> <p>— renting of construction or demolition machinery and equipment without operators, see 71.32.</p>	45500000
<p>(1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), Regulation as last amended by Commission Regulation (EEC) No 761/93 (OJ L 83, 3.4.1993, p. 1).</p>					

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## ANNEX II

### CENTRAL GOVERNMENT AUTHORITIES<sup>35</sup>

#### **Belgium**

1. Services publics fédéraux (Ministries):	1. Federale Overheidsdiensten (Ministries):
SPF Chancellerie du Premier Ministre;	FOD Kanselarij van de Eerste Minister;
SPF Personnel et Organisation;	FOD Kanselarij Personeel en Organisatie;
SPF Budget et Contrôle de la Gestion;	FOD Budget en Beheerscontrole;
SPF Technologie de l'Information et de la Communication (Fedict);	FOD Informatie- en Communicatietechnologie (Fedict);
SPF Affaires étrangères, Commerce extérieur et Coopération au Développement;	FOD Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking;
SPF Intérieur;	FOD Binnenlandse Zaken;
SPF Finances;	FOD Financiën;
SPF Mobilité et Transports;	FOD Mobiliteit en Vervoer;
SPF Emploi, Travail et Concertation sociale;	FOD Werkgelegenheid, Arbeid en sociaal overleg
SPF Sécurité Sociale et Institutions publiques de Sécurité Sociale;	FOD Sociale Zekerheid en Openbare Instellingen van sociale Zekerheid
SPF Santé publique, Sécurité de la Chaîne alimentaire et Environnement;	FOD Volksgezondheid, Veiligheid van de Voedselketen en Leefmilieu;
SPF Justice;	FOD Justitie;
SPF Economie, PME, Classes moyennes et Energie;	FOD Economie, KMO, Middenstand en Energie;
Ministère de la Défense;	Ministerie van Landsverdediging;
Service public de programmation Intégration sociale, Lutte contre la pauvreté et Economie sociale;	Programmatorische Overheidsdienst Maatschappelijke Integratie, Armoedsbestrijding en sociale Economie;
Service public fédéral de Programmation Développement durable;	Programmatorische federale Overheidsdienst Duurzame Ontwikkeling;

<sup>35</sup> For the purposes of this Directive 'central government authorities' means the authorities that are listed by way of indication in this Annex and, insofar as corrections or amendments have been made at national level, their successor entities.

Service public fédéral de Programmation Politique scientifique;	Programmatorische federale Overheidsdienst Wetenschapsbeleid;
2. Régie des Bâtiments;	2. Regie der Gebouwen;
Office national de Sécurité sociale;	Rijksdienst voor sociale Zekerheid;
Institut national d'Assurance sociales pour travailleurs indépendants	Rijksinstituut voor de sociale Verzekeringen der Zelfstandigen;
Institut national d'Assurance Maladie-Invalidité;	Rijksinstituut voor Ziekte- en Invaliditeitsverzekering;
Office national des Pensions;	Rijksdienst voor Pensioenen;
Caisse auxiliaire d'Assurance Maladie-Invalidité;	Hulpkas voor Ziekte-en Invaliditeitsverzekering;
Fond des Maladies professionnelles;	Fonds voor Beroepsziekten;
Office national de l'Emploi;	Rijksdienst voor Arbeidsvoorziening

### **Bulgaria**

- Администрация на Народното събрание
- Администрация на Президента
- Администрация на Министерския съвет
- Конституционен съд
- Българска народна банка
- Министерство на външните работи
- Министерство на вътрешните работи
- Министерство на държавната администрация и административната реформа
- Министерство на извънредните ситуации
- Министерство на земеделието и храните
- Министерство на здравеопазването
- Министерство на икономиката и енергетиката
- Министерство на културата
- Министерство на образованието и науката
- Министерство на околната среда и водите

- Министерство на отбраната
- Министерство на правосъдието
- Министерство на регионалното развитие и благоустройството
- Министерство на транспорта
- Министерство на труда и социалната политика
- Министерство на финансите

State agencies, state commissions, executive agencies and other state authorities established by law or by Council of Ministers' decree having a function relating to the exercise of executive power:

- Агенция за ядрено регулиране
- Висшата атестационна комисия
- Държавна комисия за енергийно и водно регулиране
- Държавна комисия по сигурността на информацията
- Комисия за защита на конкуренцията
- Комисия за защита на личните данни
- Комисия за защита от дискриминация
- Комисия за регулиране на съобщенията
- Комисия за финансов надзор
- Патентно ведомство на Република България
- Сметна палата на Република България
- Агенция за приватизация
- Агенция за следприватизационен контрол
- Български институт по метрология
- Държавна агенция „Архиви”
- Държавна агенция "Държавен резерв и военновременни запаси"
- Държавна агенция "Национална сигурност"
- Държавна агенция за бежанците
- Държавна агенция за българите в чужбина

- Държавна агенция за закрила на детето
- Държавна агенция за информационни технологии и съобщения
- Държавна агенция за метрологичен и технически надзор
- Държавна агенция за младежта и спорта
- Държавна агенция по горите
- Държавна агенция по туризма
- Държавна комисия по стоковите борси и тържища
- Институт по публична администрация и европейска интеграция
- Национален статистически институт
- Национална агенция за оценяване и акредитация
- Националната агенция за професионално образование и обучение
- Национална комисия за борба с трафика на хора
- Агенция "Митници"
- Агенция за държавна и финансова инспекция
- Агенция за държавни вземания
- Агенция за социално подпомагане
- Агенция за хората с увреждания
- Агенция по вписванията
- Агенция по геодезия, картография и кадастър
- Агенция по енергийна ефективност
- Агенция по заетостта
- Агенция по обществени поръчки
- Българска агенция за инвестиции
- Главна дирекция "Гражданска въздухоплавателна администрация"
- Дирекция "Материално-техническо осигуряване и социално обслужване" на Министерство на вътрешните работи
- Дирекция "Оперативно издирване" на Министерство на вътрешните работи

- Дирекция "Финансово-ресурсно осигуряване" на Министерство на вътрешните работи
- Дирекция за национален строителен контрол
- Държавна комисия по хазарта
- Изпълнителна агенция "Автомобилна администрация"
- Изпълнителна агенция "Борба с градушките"
- Изпълнителна агенция "Българска служба за акредитация"
- Изпълнителна агенция "Военни клубове и информация"
- Изпълнителна агенция "Главна инспекция по труда"
- Изпълнителна агенция "Държавна собственост на Министерството на отбраната"
- Изпълнителна агенция "Железопътна администрация"
- Изпълнителна агенция "Изпитвания и контролни измервания на въоръжение, техника и имущества"
- Изпълнителна агенция "Морска администрация"
- Изпълнителна агенция "Национален филмов център"
- Изпълнителна агенция "Пристанищна администрация"
- Изпълнителна агенция "Проучване и поддържане на река Дунав"
- Изпълнителна агенция "Социални дейности на Министерството на отбраната"
- Изпълнителна агенция за икономически анализи и прогнози
- Изпълнителна агенция за насърчаване на малките и средни предприятия
- Изпълнителна агенция по лекарствата
- Изпълнителна агенция по лозата и виното
- Изпълнителна агенция по околна среда
- Изпълнителна агенция по почвените ресурси
- Изпълнителна агенция по рибарство и аквакултури
- Изпълнителна агенция по селекция и репродукция в животновъдството
- Изпълнителна агенция по сортоизпитване, апробация и семеконтрол
- Изпълнителна агенция по трансплантация

- Изпълнителна агенция по хидромелиорации
- Комисията за защита на потребителите
- Контролно-техническата инспекция
- Национален център за информация и документация
- Национален център по радиобиология и радиационна защита
- Национална агенция за приходите
- Национална ветеринарномедицинска служба
- Национална служба "Полиция"
- Национална служба "Пожарна безопасност и защита на населението"
- Национална служба за растителна защита
- Национална служба за съвети в земеделието
- Национална служба по зърното и фуражите
- Служба "Военна информация"
- Служба "Военна полиция"
- Фонд "Републиканска пътна инфраструктура"
- Авиоотряд 28

### **Czech Republic**

- Ministerstvo dopravy
- Ministerstvo financí
- Ministerstvo kultury
- Ministerstvo obrany
- Ministerstvo pro místní rozvoj
- Ministerstvo práce a sociálních věcí
- Ministerstvo průmyslu a obchodu
- Ministerstvo spravedlnosti
- Ministerstvo školství, mládeže a tělovýchovy
- Ministerstvo vnitra

- Ministerstvo zahraničních věcí
- Ministerstvo zdravotnictví
- Ministerstvo zemědělství
- Ministerstvo životního prostředí
- Poslanecká sněmovna PČR
- Senát PČR
- Kancelář prezidenta
- Český statistický úřad
- Český úřad zeměměřičský a katastrální
- Úřad průmyslového vlastnictví
- Úřad pro ochranu osobních údajů
- Bezpečnostní informační služba
- Národní bezpečnostní úřad
- Česká akademie věd
- Vězeňská služba
- Český báňský úřad
- Úřad pro ochranu hospodářské soutěže
- Správa státních hmotných rezerv
- Státní úřad pro jadernou bezpečnost
- Česká národní banka
- Energetický regulační úřad
- Úřad vlády České republiky
- Ústavní soud
- Nejvyšší soud
- Nejvyšší správní soud
- Nejvyšší státní zastupitelství
- Nejvyšší kontrolní úřad

- Kancelář Veřejného ochránce práv
- Grantová agentura České republiky
- Státní úřad inspekce práce
- Český telekomunikační úřad

### **Denmark**

- Folketinget

Rigsrevisionen

- Statsministeriet
- Udenrigsministeriet
- Beskæftigelsesministeriet

5 styrelser og institutioner (5 agencies and institutions)

- Domstolsstyrelsen
- Finansministeriet

5 styrelser og institutioner (5 agencies and institutions)

- Forsvarsministeriet

5 styrelser og institutioner (5 agencies and institutions)

- Ministeriet for Sundhed og Forebyggelse

Adskillige styrelser og institutioner, herunder Statens Serum Institut (Several agencies and institutions, including Statens Serum Institut)

- Justitsministeriet

Rigspolitechefen, anklagemyndigheden samt 1 direktorat og et antal styrelser (Commissioner of Police, the public prosecutor, 1 directorate and a number of agencies)

- Kirkeministeriet

10 stiftsøvrigheder (10 diocesan authorities)

- Kulturministeriet — Ministry of Culture

4 styrelser samt et antal statsinstitutioner (4 departments and a number of institutions)

- Miljøministeriet

5 styrelser (5 agencies)



- Ministeriet for Flygtninge, Indvandrere og Integration

1 styrelse (1 agency)

- Ministeriet for Fødevarer, Landbrug og Fiskeri

4 direktorater og institutioner (4 directorates and institutions)

- Ministeriet for Videnskab, Teknologi og Udvikling

Adskillige styrelser og institutioner, Forskningscenter Risø og Statens uddannelsesbygninger (Several agencies and institutions, including Risø National Laboratory and Danish National Research and Education Buildings)

- Skatteministeriet

1 styrelse og institutioner (1 agency and several institutions)

- Velfærdsministeriet

3 styrelser og institutioner (3 agencies and several institutions)

- Transportministeriet

7 styrelser og institutioner, herunder Øresundsbrosortiet (7 agencies and institutions, including Øresundsbrosortiet)

- Undervisningsministeriet

3 styrelser, 4 undervisningsinstitutioner og 5 andre institutioner (3 agencies, 4 educational establishments, 5 other institutions)

- Økonomi- og Erhvervsministeriet

Adskilligestyrelser og institutioner (Several agencies and institutions)

- Klima- og Energiministeriet

3 styrelser og institutioner (3 agencies and institutions)

### **Germany**

- Auswärtiges Amt

- Bundeskanzleramt

- Bundesministerium für Arbeit und Soziales

- Bundesministerium für Bildung und Forschung

- Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz

- Bundesministerium der Finanzen

- Bundesministerium des Innern (only civil goods)
- Bundesministerium für Gesundheit
- Bundesministerium für Familie, Senioren, Frauen und Jugend
- Bundesministerium der Justiz
- Bundesministerium für Verkehr, Bau und Stadtentwicklung
- Bundesministerium für Wirtschaft und Technologie
- Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung
- Bundesministerium der Verteidigung (no military goods)
- Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit

### **Estonia**

- Vabariigi Presidendi Kantselei;
- Eesti Vabariigi Riigikogu;
- Eesti Vabariigi Riigikohus;
- Riigikontroll;
- Õiguskantsler;
- Riigikantselei;
- Rahvusarhiiv;
- Haridus- ja Teadusministeerium;
- Justiitsministeerium;
- Kaitseministeerium;
- Keskkonnaministeerium;
- Kultuuriministeerium;
- Majandus- ja Kommunikatsiooniministeerium;
- Põllumajandusministeerium;
- Rahandusministeerium;
- Siseministeerium;
- Sotsiaalministeerium;

- Välisministeerium;
- Keeleinspeksioon;
- Riigiprokuratuur;
- Teabeamet;
- Maa-amet;
- Keskkonnainspeksioon;
- Metsakaitse- ja Metsauuenduskeskus;
- Muinsuskaitseamet;
- Patendiamet;
- Tarbijakaitseamet;
- Riigihangete Amet;
- Taimetoodangu Inspeksioon;
- Põllumajanduse Registrite ja Informatsiooni Amet;
- Veterinaar- ja Toiduamet
- Konkurentsiamet;
- Maksu –ja Tolliamet;
- Statistikaamet;
- Kaitsepolitseiamet;
- Kodakondsus- ja Migratsiooniamet;
- Piirivalveamet;
- Politseiamet;
- Eesti Kohtuekspertiisi Instituut;
- Keskkriminaalpolitsei;
- Päästeamet;
- Andmekaitse Inspeksioon;
- Ravimiamet;
- Sotsiaalkindlustusamet;

- Tööturuamet;
- Tervishoiuamet;
- Tervisekaitseinspeksioon;
- Tööinspeksioon;
- Lennuamet;
- Maanteeamet;
- Veeteede Amet;
- Julgestuspolitsei;
- Kaitseressursside Amet;
- Kaitseväe Logistikakeskus;
- Tehnilise Järelevalve Amet.

### **Ireland**

- President's Establishment
- Houses of the Oireachtas — [Parliament]
- Department of the Taoiseach — [Prime Minister]
- Central Statistics Office
- Department of Finance
- Office of the Comptroller and Auditor General
- Office of the Revenue Commissioners
- Office of Public Works
- State Laboratory
- Office of the Attorney General
- Office of the Director of Public Prosecutions
- Valuation Office
- Office of the Commission for Public Service Appointments
- Public Appointments Service
- Office of the Ombudsman

- Chief State Solicitor's Office
- Department of Justice, Equality and Law Reform
- Courts Service
- Prisons Service
- Office of the Commissioners of Charitable Donations and Bequests
- Department of the Environment, Heritage and Local Government
- Department of Education and Science
- Department of Communications, Energy and Natural Resources
- Department of Agriculture, Fisheries and Food
- Department of Transport
- Department of Health and Children
- Department of Enterprise, Trade and Employment
- Department of Arts, Sports and Tourism
- Department of Defence
- Department of Foreign Affairs
- Department of Social and Family Affairs
- Department of Community, Rural and Gaeltacht — [Gaelic speaking regions] Affairs
- Arts Council
- National Gallery.

### **Greece**

- Υπουργείο Εσωτερικών;
- Υπουργείο Εξωτερικών;
- Υπουργείο Οικονομίας και Οικονομικών;
- Υπουργείο Ανάπτυξης;
- Υπουργείο Δικαιοσύνης;
- Υπουργείο Εθνικής Παιδείας και Θρησκευμάτων;
- Υπουργείο Πολιτισμού;

- Υπουργείο Υγείας και Κοινωνικής Αλληλεγγύης;
- Υπουργείο Περιβάλλοντος, Χωροταξίας και Δημοσίων Έργων;
- Υπουργείο Απασχόλησης και Κοινωνικής Προστασίας;
- Υπουργείο Μεταφορών και Επικοινωνιών;
- Υπουργείο Αγροτικής Ανάπτυξης και Τροφίμων;
- Υπουργείο Εμπορικής Ναυτιλίας, Αιγαίου και Νησιωτικής Πολιτικής;
- Υπουργείο Μακεδονίας- Θράκης;
- Γενική Γραμματεία Επικοινωνίας;
- Γενική Γραμματεία Ενημέρωσης;
- Γενική Γραμματεία Νέας Γενιάς;
- Γενική Γραμματεία Ισότητας;
- Γενική Γραμματεία Κοινωνικών Ασφαλίσεων;
- Γενική Γραμματεία Απόδημου Ελληνισμού;
- Γενική Γραμματεία Βιομηχανίας;
- Γενική Γραμματεία Έρευνας και Τεχνολογίας;
- Γενική Γραμματεία Αθλητισμού;
- Γενική Γραμματεία Δημοσίων Έργων;
- Γενική Γραμματεία Εθνικής Στατιστικής Υπηρεσίας Ελλάδος;
- Εθνικό Συμβούλιο Κοινωνικής Φροντίδας;
- Οργανισμός Εργατικής Κατοικίας;
- Εθνικό Τυπογραφείο;
- Γενικό Χημείο του Κράτους;
- Ταμείο Εθνικής Οδοποιίας;
- Εθνικό Καποδιστριακό Πανεπιστήμιο Αθηνών;
- Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης;
- Δημοκρίτειο Πανεπιστήμιο Θράκης;
- Πανεπιστήμιο Αιγαίου;

- Πανεπιστήμιο Ιωαννίνων;
- Πανεπιστήμιο Πατρών;
- Πανεπιστήμιο Μακεδονίας;
- Πολυτεχνείο Κρήτης;
- Σιβιτανίδειος Δημόσια Σχολή Τεχνών και Επαγγελμάτων;
- Αιγινήτειο Νοσοκομείο;
- Αρεταίειο Νοσοκομείο;
- Εθνικό Κέντρο Δημόσιας Διοίκησης;
- Οργανισμός Διαχείρισης Δημοσίου Υλικού;
- Οργανισμός Γεωργικών Ασφαλίσεων;
- Οργανισμός Σχολικών Κτιρίων;
- Γενικό Επιτελείο Στρατού;
- Γενικό Επιτελείο Ναυτικού;
- Γενικό Επιτελείο Αεροπορίας;
- Ελληνική Επιτροπή Ατομικής Ενέργειας;
- Γενική Γραμματεία Εκπαίδευσης Ενηλίκων;
- Υπουργείο Εθνικής Άμυνας;
- Γενική Γραμματεία Εμπορίου.

### **Spain**

- Presidencia de Gobierno
- Ministerio de Asuntos Exteriores y de Cooperación
- Ministerio de Justicia
- Ministerio de Defensa
- Ministerio de Economía y Hacienda
- Ministerio del Interior
- Ministerio de Fomento
- Ministerio de Educación, Política Social y Deportes

- Ministerio de Industria, Turismo y Comercio
- Ministerio de Trabajo e Inmigración
- Ministerio de la Presidencia
- Ministerio de Administraciones Públicas
- Ministerio de Cultura
- Ministerio de Sanidad y Consumo
- Ministerio de Medio Ambiente y Medio Rural y Marino
- Ministerio de Vivienda
- Ministerio de Ciencia e Innovación
- Ministerio de Igualdad

### **France**

#### **1. Ministries**

- Services du Premier ministre
- Ministère chargé de la santé, de la jeunesse et des sports
- Ministère chargé de l'intérieur, de l'outre-mer et des collectivités territoriales
- Ministère chargé de la justice
- Ministère chargé de la défense
- Ministère chargé des affaires étrangères et européennes
- Ministère chargé de l'éducation nationale
- Ministère chargé de l'économie, des finances et de l'emploi
- Secrétariat d'Etat aux transports
- Secrétariat d'Etat aux entreprises et au commerce extérieur
- Ministère chargé du travail, des relations sociales et de la solidarité
- Ministère chargé de la culture et de la communication
- Ministère chargé du budget, des comptes publics et de la fonction publique
- Ministère chargé de l'agriculture et de la pêche
- Ministère chargé de l'enseignement supérieur et de la recherche



- Ministère chargé de l'écologie, du développement et de l'aménagement durables
  - Secrétariat d'Etat à la fonction publique
  - Ministère chargé du logement et de la ville
  - Secrétariat d'Etat à la coopération et à la francophonie
  - Secrétariat d'Etat à l'outre-mer
  - Secrétariat d'Etat à la jeunesse, des sports et de la vie associative
  - Secrétariat d'Etat aux anciens combattants
  - Ministère chargé de l'immigration, de l'intégration, de l'identité nationale et du co-développement
  - Secrétariat d'Etat en charge de la prospective et de l'évaluation des politiques publiques
  - Secrétariat d'Etat aux affaires européennes,
  - Secrétariat d'Etat aux affaires étrangères et aux droits de l'homme
  - Secrétariat d'Etat à la consommation et au tourisme
  - Secrétariat d'Etat à la politique de la ville
  - Secrétariat d'Etat à la solidarité
  - Secrétariat d'Etat en charge de l'industrie et de la consommation
  - Secrétariat d'Etat en charge de l'emploi
  - Secrétariat d'Etat en charge du commerce, de l'artisanat, des PME, du tourisme et des services
  - Secrétariat d'Etat en charge de l'écologie
  - Secrétariat d'Etat en charge du développement de la région-capitale
  - Secrétariat d'Etat en charge de l'aménagement du territoire
2. Institutions, independent authorities and jurisdictions
- Présidence de la République
  - Assemblée Nationale
  - Sénat
  - Conseil constitutionnel
  - Conseil économique et social

- Conseil supérieur de la magistrature
- Agence française contre le dopage
- Autorité de contrôle des assurances et des mutuelles
- Autorité de contrôle des nuisances sonores aéroportuaires
- Autorité de régulation des communications électroniques et des postes
- Autorité de sûreté nucléaire
- Autorité indépendante des marchés financiers
- Comité national d'évaluation des établissements publics à caractère scientifique, culturel et professionnel
- Commission d'accès aux documents administratifs
- Commission consultative du secret de la défense nationale
- Commission nationale des comptes de campagne et des financements politiques
- Commission nationale de contrôle des interceptions de sécurité
- Commission nationale de déontologie de la sécurité
- Commission nationale du débat public
- Commission nationale de l'informatique et des libertés
- Commission des participations et des transferts
- Commission de régulation de l'énergie
- Commission de la sécurité des consommateurs
- Commission des sondages
- Commission de la transparence financière de la vie politique
- Conseil de la concurrence
- Conseil des ventes volontaires de meubles aux enchères publiques
- Conseil supérieur de l'audiovisuel
- Défenseur des enfants
- Haute autorité de lutte contre les discriminations et pour l'égalité
- Haute autorité de santé
- Médiateur de la République

- Cour de justice de la République
- Tribunal des Conflits
- Conseil d'Etat
- Cours administratives d'appel
- Tribunaux administratifs
- Cour des Comptes
- Chambres régionales des Comptes
- Cours et tribunaux de l'ordre judiciaire (Cour de Cassation, Cours d'Appel, Tribunaux d'instance et Tribunaux de grande instance)

### 3. National public establishments

- Académie de France à Rome
- Académie de marine
- Académie des sciences d'outre-mer
- Académie des technologies
- Agence centrale des organismes de sécurité sociale (ACOSS)
- Agence de biomédecine
- Agence pour l'enseignement du français à l'étranger
- Agence française de sécurité sanitaire des aliments
- Agence française de sécurité sanitaire de l'environnement et du travail
- Agence Nationale pour la cohésion sociale et l'égalité des chances
- Agence nationale pour la garantie des droits des mineurs
- Agences de l'eau
- Agence Nationale de l'Accueil des Etrangers et des migrations
- Agence nationale pour l'amélioration des conditions de travail (ANACT)
- Agence nationale pour l'amélioration de l'habitat (ANAH)
- Agence Nationale pour la Cohésion Sociale et l'Egalité des Chances
- Agence nationale pour l'indemnisation des français d'outre-mer (ANIFOM)
- Assemblée permanente des chambres d'agriculture (APCA)

- Bibliothèque publique d'information
- Bibliothèque nationale de France
- Bibliothèque nationale et universitaire de Strasbourg
- Caisse des Dépôts et Consignations
- Caisse nationale des autoroutes (CNA)
- Caisse nationale militaire de sécurité sociale (CNMSS)
- Caisse de garantie du logement locatif social
- Casa de Velasquez
- Centre d'enseignement zootechnique
- Centre d'études de l'emploi
- Centre d'études supérieures de la sécurité sociale
- Centres de formation professionnelle et de promotion agricole
- Centre hospitalier des Quinze-Vingts
- Centre international d'études supérieures en sciences agronomiques (Montpellier Sup Agro)
- Centre des liaisons européennes et internationales de sécurité sociale
- Centre des Monuments Nationaux
- Centre national d'art et de culture Georges Pompidou
- Centre national des arts plastiques
- Centre national de la cinématographie
- Centre National d'Etudes et d'expérimentation du machinisme agricole, du génie rural, des eaux et des forêts (CEMAGREF)
- Centre national du livre
- Centre national de documentation pédagogique
- Centre national des œuvres universitaires et scolaires (CNOUS)
- Centre national professionnel de la propriété forestière
- Centre National de la Recherche Scientifique (C.N.R.S)
- Centres d'éducation populaire et de sport (CREPS)

- Centres régionaux des œuvres universitaires (CROUS)
- Collège de France
- Conservatoire de l'espace littoral et des rivages lacustres
- Conservatoire National des Arts et Métiers
- Conservatoire national supérieur de musique et de danse de Paris
- Conservatoire national supérieur de musique et de danse de Lyon
- Conservatoire national supérieur d'art dramatique
- Ecole centrale de Lille
- Ecole centrale de Lyon
- École centrale des arts et manufactures
- École française d'archéologie d'Athènes
- École française d'Extrême-Orient
- École française de Rome
- École des hautes études en sciences sociales
- Ecole du Louvre
- École nationale d'administration
- École nationale de l'aviation civile (ENAC)
- École nationale des Chartes
- École nationale d'équitation
- Ecole Nationale du Génie de l'Eau et de l'environnement de Strasbourg
- Écoles nationales d'ingénieurs
- Ecole nationale d'ingénieurs des industries des techniques agricoles et alimentaires de Nantes
- Écoles nationales d'ingénieurs des travaux agricoles
- École nationale de la magistrature
- Écoles nationales de la marine marchande
- École nationale de la santé publique (ENSP)
- École nationale de ski et d'alpinisme

- École nationale supérieure des arts décoratifs
- École nationale supérieure des arts et techniques du théâtre
- École nationale supérieure des arts et industries textiles Roubaix
- Écoles nationales supérieures d'arts et métiers
- École nationale supérieure des beaux-arts
- École nationale supérieure de céramique industrielle
- École nationale supérieure de l'électronique et de ses applications (ENSEA)
- Ecole nationale supérieure du paysage de Versailles
- Ecole Nationale Supérieure des Sciences de l'information et des bibliothécaires
- Ecole nationale supérieure de la sécurité sociale
- Écoles nationales vétérinaires
- École nationale de voile
- Écoles normales supérieures
- École polytechnique
- École technique professionnelle agricole et forestière de Meymac (Corrèze)
- École de sylviculture Croigny (Aube)
- École de viticulture et d'œnologie de la Tour- Blanche (Gironde)
- École de viticulture — Avize (Marne)
- Etablissement national d'enseignement agronomique de Dijon
- Établissement national des invalides de la marine (ENIM)
- Établissement national de bienfaisance Koenigswarter
- Établissement public du musée et du domaine national de Versailles
- Fondation Carnegie
- Fondation Singer-Polignac
- Haras nationaux
- Hôpital national de Saint-Maurice
- Institut des hautes études pour la science et la technologie

- Institut français d'archéologie orientale du Caire
- Institut géographique national
- Institut National de l'origine et de la qualité
- Institut national des hautes études de sécurité
- Institut de veille sanitaire
- Institut National d'enseignement supérieur et de recherche agronomique et agroalimentaire de Rennes
- Institut National d'Etudes Démographiques (I.N.E.D)
- Institut National d'Horticulture
- Institut National de la jeunesse et de l'éducation populaire
- Institut national des jeunes aveugles — Paris
- Institut national des jeunes sourds — Bordeaux
- Institut national des jeunes sourds — Chambéry
- Institut national des jeunes sourds — Metz
- Institut national des jeunes sourds — Paris
- Institut national de physique nucléaire et de physique des particules (I.N.P.N.P.P)
- Institut national de la propriété industrielle
- Institut National de la Recherche Agronomique (I.N.R.A)
- Institut National de la Recherche Pédagogique (I.N.R.P)
- Institut National de la Santé et de la Recherche Médicale (I.N.S.E.R.M)
- Institut national d'histoire de l'art (I.N.H.A.)
- Institut national de recherches archéologiques préventives
- Institut National des Sciences de l'Univers
- Institut National des Sports et de l'Education Physique
- Institut national supérieur de formation et de recherche pour l'éducation des jeunes handicapés et les enseignements inadaptés
- Instituts nationaux polytechniques
- Instituts nationaux des sciences appliquées

- Institut national de recherche en informatique et en automatique (INRIA)
  - Institut national de recherche sur les transports et leur sécurité (INRETS)
  - Institut de Recherche pour le Développement
  - Instituts régionaux d'administration
  - Institut des Sciences et des Industries du vivant et de l'environnement (Agro Paris Tech)
  - Institut supérieur de mécanique de Paris
  - Institut Universitaires de Formation des Maîtres
  - Musée de l'armée
  - Musée Gustave-Moreau
  - Musée national de la marine
  - Musée national J.-J.-Henner
  - Musée du Louvre
  - Musée du Quai Branly
  - Muséum National d'Histoire Naturelle
  - Musée Auguste-Rodin
  - Observatoire de Paris
  - Office français de protection des réfugiés et apatrides
  - Office National des Anciens Combattants et des Victimes de Guerre (ONAC)
  - Office national de la chasse et de la faune sauvage
  - Office National de l'eau et des milieux aquatiques
  - Office national d'information sur les enseignements et les professions (ONISEP)
  - Office universitaire et culturel français pour l'Algérie
  - Ordre national de la Légion d'honneur
  - Palais de la découverte
  - Parcs nationaux
  - Universités
4. Other national public body



- Union des groupements d'achats publics (UGAP)
- Agence Nationale pour l'emploi (A.N.P.E)
- Caisse Nationale des Allocations Familiales (CNAF)
- Caisse Nationale d'Assurance Maladie des Travailleurs Salariés (CNAMS)
- Caisse Nationale d'Assurance-Vieillesse des Travailleurs Salariés (CNAVTS)

### **Italy**

- Purchasing bodies
  - Presidenza del Consiglio dei Ministri
  - Ministero degli Affari Esteri
  - Ministero dell'Interno
  - Ministero della Giustizia e Uffici giudiziari (esclusi i giudici di pace)
  - Ministero della Difesa
  - Ministero dell'Economia e delle Finanze
  - Ministero dello Sviluppo Economico
  - Ministero delle Politiche Agricole, Alimentari e Forestali
  - Ministero dell'Ambiente - Tutela del Territorio e del Mare
  - Ministero delle Infrastrutture e dei Trasporti
  - Ministero del Lavoro, della Salute e delle Politiche Sociali
  - Ministero dell'Istruzione, Università e Ricerca
  - Ministero per i Beni e le Attività culturali, comprensivo delle sue articolazioni periferiche
- Other national public bodies:
  - CONSIP (Concessionaria Servizi Informatici Pubblici)

### **Cyprus**

- Προεδρία και Προεδρικό Μέγαρο
  - Γραφείο Συντονιστή Εναρμόνισης
- Υπουργικό Συμβούλιο
- Βουλή των Αντιπροσώπων

- Δικαστική Υπηρεσία
- Νομική Υπηρεσία της Δημοκρατίας
- Ελεγκτική Υπηρεσία της Δημοκρατίας
- Επιτροπή Δημόσιας Υπηρεσίας
- Επιτροπή Εκπαιδευτικής Υπηρεσίας
- Γραφείο Επιτρόπου Διοικήσεως
- Επιτροπή Προστασίας Ανταγωνισμού
- Υπηρεσία Εσωτερικού Ελέγχου
- Γραφείο Προγραμματισμού
- Γενικό Λογιστήριο της Δημοκρατίας
- Γραφείο Επιτρόπου Προστασίας Δεδομένων Προσωπικού Χαρακτήρα
- Γραφείο Εφόρου Δημοσίων Ενισχύσεων
- Αναθεωρητική Αρχή Προσφορών
- Υπηρεσία Εποπτείας και Ανάπτυξης Συνεργατικών Εταιρειών
- Αναθεωρητική Αρχή Προσφύγων
- Υπουργείο Άμυνας
- Υπουργείο Γεωργίας, Φυσικών Πόρων και Περιβάλλοντος
  - Τμήμα Γεωργίας
  - Κτηνιατρικές Υπηρεσίες
  - Τμήμα Δασών
  - Τμήμα Αναπτύξεως Υδάτων
  - Τμήμα Γεωλογικής Επισκόπησης
  - Μετεωρολογική Υπηρεσία
  - Τμήμα Αναδασμού
  - Υπηρεσία Μεταλλείων
  - Ινστιτούτο Γεωργικών Ερευνών
  - Τμήμα Αλιείας και Θαλάσσιων Ερευνών

- Υπουργείο Δικαιοσύνης και Δημοσίας Τάξεως
  - Αστυνομία
  - Πυροσβεστική Υπηρεσία Κύπρου
  - Τμήμα Φυλακών
- Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού
  - Τμήμα Εφόρου Εταιρειών και Επίσημου Παραλήπτη
- Υπουργείο Εργασίας και Κοινωνικών Ασφαλίσεων
  - Τμήμα Εργασίας
  - Τμήμα Κοινωνικών Ασφαλίσεων
  - Τμήμα Υπηρεσιών Κοινωνικής Ευημερίας
  - Κέντρο Παραγωγικότητας Κύπρου
  - Ανώτερο Ξενοδοχειακό Ινστιτούτο Κύπρου
  - Ανώτερο Τεχνολογικό Ινστιτούτο
  - Τμήμα Επιθεώρησης Εργασίας
  - Τμήμα Εργασιακών Σχέσεων
- Υπουργείο Εσωτερικών
  - Επαρχιακές Διοικήσεις
  - Τμήμα Πολεοδομίας και Οικήσεως
  - Τμήμα Αρχείου Πληθυσμού και Μεταναστεύσεως
  - Τμήμα Κτηματολογίου και Χωρομετρίας
  - Γραφείο Τύπου και Πληροφοριών
  - Πολιτική Άμυνα
  - Υπηρεσία Μέριμνας και Αποκαταστάσεων Εκτοπισθέντων
  - Υπηρεσία Ασύλου
- Υπουργείο Εξωτερικών
- Υπουργείο Οικονομικών
  - Τελωνεία

- Τμήμα Εσωτερικών Προσόδων
- Στατιστική Υπηρεσία
- Τμήμα Κρατικών Αγορών και Προμηθειών
- Τμήμα Δημόσιας Διοίκησης και Προσωπικού
- Κυβερνητικό Τυπογραφείο
- Τμήμα Υπηρεσιών Πληροφορικής
- Υπουργείο Παιδείας και Πολιτισμού
- Υπουργείο Συγκοινωνιών και Έργων
  - Τμήμα Δημοσίων Έργων
  - Τμήμα Αρχαιοτήτων
  - Τμήμα Πολιτικής Αεροπορίας
  - Τμήμα Εμπορικής Ναυτιλίας
  - Τμήμα Οδικών Μεταφορών
  - Τμήμα Ηλεκτρομηχανολογικών Υπηρεσιών
  - Τμήμα Ηλεκτρονικών Επικοινωνιών
- Υπουργείο Υγείας
  - Φαρμακευτικές Υπηρεσίες
  - Γενικό Χημείο
  - Ιατρικές Υπηρεσίες και Υπηρεσίες Δημόσιας Υγείας
  - Οδοντιατρικές Υπηρεσίες
  - Υπηρεσίες Ψυχικής Υγείας

### **Latvia**

- Ministries, secretariats of ministers for special assignments, and their subordinate institutions
- Aizsardzības ministrija un tās padotībā esošās iestādes
- Ārlietu ministrija un tas padotībā esošās iestādes
- Bērnu un ģimenes lietu ministrija un tās padotībā esošās iestādes
- Ekonomikas ministrija un tās padotībā esošās iestādes

- Finanšu ministrija un tās padotībā esošās iestādes
- Iekšlietu ministrija un tās padotībā esošās iestādes
- Izglītības un zinātnes ministrija un tās padotībā esošās iestādes
- Kultūras ministrija un tās padotībā esošās iestādes
- Labklājības ministrija un tās padotībā esošās iestādes
- Reģionālās attīstības un pašvaldības lietu ministrija un tās padotībā esošās iestādes
- Satiksmes ministrija un tās padotībā esošās iestādes
- Tieslietu ministrija un tās padotībā esošās iestādes
- Veselības ministrija un tās padotībā esošās iestādes
- Vides ministrija un tās padotībā esošās iestādes
- Zemkopības ministrija un tās padotībā esošās iestādes
- Īpašu uzdevumu ministra sekretariāti un to padotībā esošās iestādes
- Satversmes aizsardzības birojs
- Other state institution
  - Augstākā tiesa
  - Centrālā vēlēšanu komisija
  - Finanšu un kapitāla tirgus komisija
  - Latvijas Banka
  - Prokuratūra un tās pārraudzībā esošās iestādes
  - Saeimas kanceleja un tās padotībā esošās iestādes
  - Satversmes tiesa
  - Valsts kanceleja un tās padotībā esošās iestādes
  - Valsts kontrole
  - Valsts prezidenta kanceleja
  - Tiesībsarga birojs
  - Nacionālā radio un televīzijas padome
  - Citas valsts iestādes, kuras nav ministriju padotībā (Other state institutions not subordinate to ministries)

## **Lithuania**

- Prezidentūros kanceliarija
- Seimo kanceliarija
- Institutions accountable to the Seimas [Parliament]:
  - Lietuvos mokslo taryba;
  - Seimo kontrolierių įstaiga;
  - Valstybės kontrolė;
  - Specialiųjų tyrimų tarnyba;
  - Valstybės saugumo departamentas;
  - Konkurencijos taryba;
  - Lietuvos gyventojų genocido ir rezistencijos tyrimo centras;
  - Vertybinių popierių komisija;
  - Ryšių reguliavimo tarnyba;
  - Nacionalinė sveikatos taryba;
  - Etninės kultūros globos taryba;
  - Lygių galimybių kontrolieriaus tarnyba;
  - Valstybinė kultūros paveldo komisija;
  - Vaiko teisių apsaugos kontrolieriaus įstaiga;
  - Valstybinė kainų ir energetikos kontrolės komisija;
  - Valstybinė lietuvių kalbos komisija;
  - Vyriausioji rinkimų komisija;
  - Vyriausioji tarnybinės etikos komisija;
  - Žurnalistų etikos inspektoriaus tarnyba.
- Vyriausybės kanceliarija
- Institutions accountable to the Vyriausybės [Government]:
  - Ginklų fondas;
  - Informacinės visuomenės plėtros komitetas;

- Kūno kultūros ir sporto departamentas;
- Lietuvos archyvų departamentas;
- Mokestinių ginčų komisija;
- Statistikos departamentas;
- Tautinių mažumų ir išeivijos departamentas;
- Valstybinė tabako ir alkoholio kontrolės tarnyba;
- Viešųjų pirkimų tarnyba;
- Narkotikų kontrolės departamentas;
- Valstybinė atominės energetikos saugos inspekcija;
- Valstybinė duomenų apsaugos inspekcija;
- Valstybinė lošimų priežiūros komisija;
- Valstybinė maisto ir veterinarijos tarnyba;
- Vyriausioji administracinių ginčų komisija;
- Draudimo priežiūros komisija;
- Lietuvos valstybinis mokslo ir studijų fondas;
- Lietuvių grįžimo į Tėvynę informacijos centras
- Konstitucinis Teismas
- Lietuvos bankas
- Aplinkos ministerija
- Institutions under the Aplinkos ministerija [Ministry of Environment]:
  - Generalinė miškų urėdija;
  - Lietuvos geologijos tarnyba;
  - Lietuvos hidrometeorologijos tarnyba;
  - Lietuvos standartizacijos departamentas;
  - Nacionalinis akreditacijos biuras;
  - Valstybinė metrologijos tarnyba;
  - Valstybinė saugomų teritorijų tarnyba;

- Valstybinė teritorijų planavimo ir statybos inspekcija.
- Finansų ministerija
- Institutions under the Finansų ministerija [Ministry of Finance]:
  - Muitinės departamentas;
  - Valstybės dokumentų technologinės apsaugos tarnyba;
  - Valstybinė mokesčių inspekcija;
  - Finansų ministerijos mokymo centras.
- Krašto apsaugos ministerija
- Institutions under the Krašto apsaugos ministerijos [Ministry of National Defence]:
  - Antrasis operatyvinių tarnybų departamentas;
  - Centralizuota finansų ir turto tarnyba;
  - Karo prievolės administravimo tarnyba;
  - Krašto apsaugos archyvas;
  - Krizių valdymo centras;
  - Mobilizacijos departamentas;
  - Ryšių ir informacinių sistemų tarnyba;
  - Infrastruktūros plėtros departamentas;
  - Valstybinis pilietinio pasipriešinimo rengimo centras.
- Lietuvos kariuomenė
- Krašto apsaugos sistemos kariniai vienetai ir tarnybos
- Kultūros ministerija
- Institutions under the Kultūros ministerijos [Ministry of Culture]:
  - Kultūros paveldo departamentas;
  - Valstybinė kalbos inspekcija.
- Socialinės apsaugos ir darbo ministerija
- Institutions under the Socialinės apsaugos ir darbo ministerijos [Ministry of Social Security and Labour]:
  - Garantinio fondo administracija;



- Valstybės vaiko teisių apsaugos ir įvaikinimo tarnyba;
- Lietuvos darbo birža;
- Lietuvos darbo rinkos mokymo tarnyba;
- Trišalės tarybos sekretoriatas;
- Socialinių paslaugų priežiūros departamentas;
- Darbo inspekcija;
- Valstybinio socialinio draudimo fondo valdyba;
- Neįgalumo ir darbingumo nustatymo tarnyba;
- Ginčų komisija;
- Techninės pagalbos neįgaliesiems centras;
- Neįgaliųjų reikalų departamentas.
- Susisiekimo ministerija
- Institutions under the Susisiekimo ministerijos [Ministry of Transport and Communications]:
  - Lietuvos automobilių kelių direkcija;
  - Valstybinė geležinkelio inspekcija;
  - Valstybinė kelių transporto inspekcija;
  - Pasienio kontrolės punktų direkcija.
- Sveikatos apsaugos ministerija
- Institutions under the Sveikatos apsaugos ministerijos [Ministry of Health]:
  - Valstybinė akreditavimo sveikatos priežiūros veiklai tarnyba;
  - Valstybinė ligonių kasa;
  - Valstybinė medicininio audito inspekcija;
  - Valstybinė vaistų kontrolės tarnyba;
  - Valstybinė teismo psichiatrijos ir narkologijos tarnyba;
  - Valstybinė visuomenės sveikatos priežiūros tarnyba;
  - Farmacijos departamentas;
  - Sveikatos apsaugos ministerijos Ekstremalių sveikatai situacijų centras;

- Lietuvos bioetikos komitetas;
- Radiacinės saugos centras.
- Švietimo ir mokslo ministerija
- Institutions under the Švietimo ir mokslo ministerijos [Ministry of Education and Science]:
  - Nacionalinis egzaminų centras;
  - Studijų kokybės vertinimo centras.
- Teisingumo ministerija
- Institutions under the Teisingumo ministerijos [Ministry of Justice]:
  - Kalėjimų departamentas;
  - Nacionalinė vartotojų teisių apsaugos taryba;
  - Europos teisės departamentas
- Ūkio ministerija
- Įstaigos prie the Ūkio ministerijos [Ministry of Economy]:
  - Įmonių bankroto valdymo departamentas;
  - Valstybinė energetikos inspekcija;
  - Valstybinė ne maisto produktų inspekcija;
  - Valstybinis turizmo departamentas
- Užsienio reikalų ministerija
- Diplomatinės atstovybės ir konsulinės įstaigos užsienyje bei atstovybės prie tarptautinių organizacijų
- Vidaus reikalų ministerija
- Institutions under the Vidaus reikalų ministerijos [Ministry of the Interior]:
  - Asmens dokumentų išrašymo centras;
  - Finansinių nusikaltimų tyrimo tarnyba;
  - Gyventojų registro tarnyba;
  - Policijos departamentas;
  - Priešgaisrinės apsaugos ir gelbėjimo departamentas;
  - Turto valdymo ir ūkio departamentas;

- Vadovybės apsaugos departamentas;
- Valstybės sienos apsaugos tarnyba;
- Valstybės tarnybos departamentas;
- Informatikos ir ryšių departamentas;
- Migracijos departamentas;
- Sveikatos priežiūros tarnyba;
- Bendrasis pagalbos centras.
- Žemės ūkio ministerija
- Institutions under the Žemės ūkio ministerijos [Ministry of Agriculture]:
  - Nacionalinė mokėjimo agentūra;
  - Nacionalinė žemės tarnyba;
  - Valstybinė augalų apsaugos tarnyba;
  - Valstybinė gyvulių veislininkystės priežiūros tarnyba;
  - Valstybinė sėklų ir grūdų tarnyba;
  - Žuvininkystės departamentas
- Teismai [Courts]:
  - Lietuvos Aukščiausiasis Teismas;
  - Lietuvos apeliacinis teismas;
  - Lietuvos vyriausiasis administracinis teismas;
  - apygardų teismai;
  - apygardų administraciniai teismai;
  - apylinkių teismai;
  - Nacionalinė teismų administracija
- Generalinė prokuratūra
- Other Central Public Administration Entities (institucijos [institutions], įstaigos [establishments], tarnybos[agencies])
  - Aplinkos apsaugos agentūra;
  - Valstybinė aplinkos apsaugos inspekcija;

- Aplinkos projektų valdymo agentūra;
- Miško genetinių išteklių, sėklų ir sodmenų tarnyba;
- Miško sanitarinės apsaugos tarnyba;
- Valstybinė miškotvarkos tarnyba;
- Nacionalinis visuomenės sveikatos tyrimų centras;
- Lietuvos AIDS centras;
- Nacionalinis organų transplantacijos biuras;
- Valstybinis patologijos centras;
- Valstybinis psichikos sveikatos centras;
- Lietuvos sveikatos informacijos centras;
- Slaugos darbuotojų tobulinimosi ir specializacijos centras;
- Valstybinis aplinkos sveikatos centras;
- Respublikinis mitybos centras;
- Užkrečiamųjų ligų profilaktikos ir kontrolės centras;
- Trakų visuomenės sveikatos priežiūros ir specialistų tobulinimosi centras;
- Visuomenės sveikatos ugdymo centras;
- Muitinės kriminalinė tarnyba;
- Muitinės informacinių sistemų centras;
- Muitinės laboratorija;
- Muitinės mokymo centras;
- Valstybinis patentų biuras;
- Lietuvos teismo ekspertizės centras;
- Centrinė hipotekos įstaiga;
- Lietuvos metrologijos inspekcija;
- Civilinės aviacijos administracija;
- Lietuvos saugios laivybos administracija;
- Transporto investicijų direkcija;

- Valstybinė vidaus vandenų laivybos inspekcija;
- Pabėgėlių priėmimo centras

### **Luxembourg**

- Ministère d'Etat
- Ministère des Affaires Etrangères et de l'Immigration
- Ministère de l'Agriculture, de la Viticulture et du Développement Rural
- Ministère des Classes moyennes, du Tourisme et du Logement
- Ministère de la Culture, de l'Enseignement Supérieur et de la Recherche
- Ministère de l'Economie et du Commerce extérieur
- Ministère de l'Education nationale et de la Formation professionnelle
- Ministère de l'Egalité des chances
- Ministère de l'Environnement
- Ministère de la Famille et de l'Intégration
- Ministère des Finances
- Ministère de la Fonction publique et de la Réforme administrative
- Ministère de l'Intérieur et de l'Aménagement du territoire
- Ministère de la Justice
- Ministère de la Santé
- Ministère de la Sécurité sociale
- Ministère des Transports
- Ministère du Travail et de l'Emploi
- Ministère des Travaux publics

### **Hungary**

- Egészségügyi Minisztérium
- Földművelésügyi és Vidékfejlesztési Minisztérium
- Gazdasági és Közlekedési Minisztérium
- Honvédelmi Minisztérium

- Igazságügyi és Rendészeti Minisztérium
- Környezetvédelmi és Vízügyi Minisztérium
- Külügyminisztérium
- Miniszterelnöki Hivatal
- Oktatási és Kulturális Minisztérium
- Önkormányzati és Területfejlesztési Minisztérium
- Pénzügyminisztérium
- Szociális és Munkaügyi Minisztérium
- Központi Szolgáltatási Főigazgatóság

### **Malta**

- Uffiċċju tal-Prim Ministru (Office of the Prime Minister)
- Ministeru għall-Familja u Solidarjeta' Soċjali (Ministry for the Family and Social Solidarity)
- Ministeru ta' l-Edukazzjoni Zghazagh u Impjieg (Ministry for Education Youth and Employment)
- Ministeru tal-Finanzi (Ministry of Finance)
- Ministeru tar-Riżorsi u l-Infrastruttura (Ministry for Resources and Infrastructure)
- Ministeru tat-Turiżmu u Kultura (Ministry for Tourism and Culture)
- Ministeru tal-Ġustizzja u l-Intern (Ministry for Justice and Home Affairs)
- Ministeru għall-Affarijiet Rurali u l-Ambjent (Ministry for Rural Affairs and the Environment)
- Ministeru għal Għawdex (Ministry for Gozo)
- Ministeru tas-Saħħa, l-Anzjani u Kura fil-Kommunita' (Ministry of Health, the Elderly and Community Care)
- Ministeru ta' l-Affarijiet Barranin (Ministry of Foreign Affairs)
- Ministeru għall-Investimenti, Industrija u Teknologija ta' Informazzjoni (Ministry for Investment, Industry and Information Technology)
- Ministeru għall-Kompetittivà u Komunikazzjoni (Ministry for Competitiveness and Communications)
- Ministeru għall-Iżvilupp Urban u Toroq (Ministry for Urban Development and Roads)

## **Netherlands**

- Ministerie van Algemene Zaken
  - Bestuursdepartement
  - Bureau van de Wetenschappelijke Raad voor het Regeringsbeleid
  - Rijksvoorlichtingsdienst
- Ministerie van Binnenlandse Zaken en Koninkrijksrelaties
  - Bestuursdepartement
  - Centrale Archiefselectiedienst (CAS)
  - Algemene Inlichtingen- en Veiligheidsdienst (AIVD)
  - Agentschap Basisadministratie Persoonsgegevens en Reisdocumenten (BPR)
  - Agentschap Korps Landelijke Politiediensten
- Ministerie van Buitenlandse Zaken
  - Directoraat-generaal Regiobeleid en Consulaire Zaken (DGRC)
  - Directoraat-generaal Politieke Zaken (DGPZ)
  - Directoraat-generaal Internationale Samenwerking (DGIS)
  - Directoraat-generaal Europese Samenwerking (DGES)
  - Centrum tot Bevordering van de Import uit Ontwikkelingslanden (CBI)
  - Centrale diensten ressorterend onder S/PlvS (Support services falling under the Secretary-general and Deputy Secretary-general)
  - Buitenlandse Posten (ieder afzonderlijk)
- Ministerie van Defensie — (Ministry of Defence)
  - Bestuursdepartement
  - Commando Diensten Centra (CDC)
  - Defensie Telematica Organisatie (DTO)
  - Centrale directie van de Defensie Vastgoed Dienst
  - De afzonderlijke regionale directies van de Defensie Vastgoed Dienst
  - Defensie Materieel Organisatie (DMO)
  - Landelijk Bevoorradingsbedrijf van de Defensie Materieel Organisatie

- Logistiek Centrum van de Defensie Materieel Organisatie
- Marinebedrijf van de Defensie Materieel Organisatie
- Defensie Pijpleiding Organisatie (DPO)
- Ministerie van Economische Zaken
  - Bestuursdepartement
  - Centraal Planbureau (CPB)
  - SenterNovem
  - Staatstoezicht op de Mijnen (SodM)
  - Nederlandse Mededingingsautoriteit (NMa)
  - Economische Voorlichtingsdienst (EVD)
  - Agentschap Telecom
  - Kenniscentrum Professioneel & Innovatief Aanbesteden, Netwerk voor Overheidsopdrachtgevers (PIANOo)
  - Regiebureau Inkoop Rijksoverheid
  - Octrooicentrum Nederland
  - Consumentenautoriteit
- Ministerie van Financiën
  - Bestuursdepartement
  - Belastingdienst Automatiseringscentrum
  - Belastingdienst
  - de afzonderlijke Directies der Rijksbelastingen (the various Divisions of the Tax and Customs Administration throughout the Netherlands)
  - Fiscale Inlichtingen- en Opsporingsdienst (incl. Economische Controle dienst (ECD))
  - Belastingdienst Opleidingen
  - Dienst der Domeinen
- Ministerie van Justitie
  - Bestuursdepartement
  - Dienst Justitiële Inrichtingen



- Raad voor de Kinderbescherming
- Centraal Justitie Incasso Bureau
- Openbaar Ministerie
- Immigratie en Naturalisatiedienst
- Nederlands Forensisch Instituut
- Dienst Terugkeer & Vertrek
- Ministerie van Landbouw, Natuur en Voedselkwaliteit
  - Bestuursdepartement
  - Dienst Regelingen (DR)
  - Agentschap Plantenziektenkundige Dienst (PD)
  - Algemene Inspectiedienst (AID)
  - Dienst Landelijk Gebied (DLG)
  - Voedsel en Waren Autoriteit (VWA)
- Ministerie van Onderwijs, Cultuur en Wetenschappen
  - Bestuursdepartement
  - Inspectie van het Onderwijs
  - Erfgoedinspectie
  - Centrale Financiën Instellingen
  - Nationaal Archief
  - Adviesraad voor Wetenschaps- en Technologiebeleid
  - Onderwijsraad
  - Raad voor Cultuur
- Ministerie van Sociale Zaken en Werkgelegenheid
  - Bestuursdepartement
  - Inspectie Werk en Inkomen
  - Agentschap SZW
- Ministerie van Verkeer en Waterstaat

- Bestuursdepartement
- Directoraat-Generaal Transport en Luchtvaart
- Directoraat-generaal Personenvervoer
- Directoraat-generaal Water
- Centrale diensten (Central Services)
- Shared services Organisatie Verkeer en Watersaat
- Koninklijke Nederlandse Meteorologisch Instituut KNMI
- Rijkswaterstaat, Bestuur
- De afzonderlijke regionale Diensten van Rijkswaterstaat (Each individual regional service of the Directorate-general of Public Works and Water Management)
- De afzonderlijke specialistische diensten van Rijkswaterstaat (Each individual specialist service of the Directorate-general of Public Works and Water Management)
- Adviesdienst Geo-Informatie en ICT
- Adviesdienst Verkeer en Vervoer (AVV)
- Bouwdienst
- Corporate Dienst
- Data ICT Dienst
- Dienst Verkeer en Scheepvaart
- Dienst Weg- en Waterbouwkunde (DWW)
- Rijksinstituut voor Kunst en Zee (RIKZ)
- Rijksinstituut voor Integraal Zoetwaterbeheer en Afvalwaterbehandeling (RIZA)
- Waterdienst
- Inspectie Verkeer en Waterstaat, Hoofddirectie
- Port state Control
- Directie Toezichtontwikkeling Communicatie en Onderzoek (TCO)
- Toezichthouder Beheer Eenheid Lucht
- Toezichthouder Beheer Eenheid Water
- Toezichthouder Beheer Eenheid Land

- Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer
  - Bestuursdepartement
  - Directoraat-generaal Wonen, Wijken en Integratie
  - Directoraat-generaal Ruimte
  - Directoraat-general Milieubeheer
  - Rijksgebouwendienst
  - VROM Inspectie
- Ministerie van Volksgezondheid, Welzijn en Sport
  - Bestuursdepartement
  - Inspectie Gezondheidsbescherming, Waren en Veterinaire Zaken
  - Inspectie Gezondheidszorg
  - Inspectie Jeugdhulpverlening en Jeugdbescherming
  - Rijksinstituut voor de Volksgezondheid en Milieu (RIVM)
  - Sociaal en Cultureel Planbureau
  - Agentschap t.b.v. het College ter Beoordeling van Geneesmiddelen
- Tweede Kamer der Staten-Generaal
- Eerste Kamer der Staten-Generaal
- Raad van State
- Algemene Rekenkamer
- Nationale Ombudsman
- Kanselarij der Nederlandse Orden
- Kabinet der Koningin
- Raad voor de rechtspraak en de Rechtbanken

### **Austria**

- Bundeskanzleramt
- Bundesministerium für europäische und internationale Angelegenheiten
- Bundesministerium für Finanzen

- Bundesministerium für Gesundheit, Familie und Jugend
- Bundesministerium für Inneres
- Bundesministerium für Justiz
- Bundesministerium für Landesverteidigung
- Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft
- Bundesministerium für Soziales und Konsumentenschutz
- Bundesministerium für Unterricht, Kunst und Kultur
- Bundesministerium für Verkehr, Innovation und Technologie
- Bundesministerium für Wirtschaft und Arbeit
- Bundesministerium für Wissenschaft und Forschung
- Österreichische Forschungs- und Prüfzentrum Arsenal Gesellschaft m.b.H
- Bundesbeschaffung G.m.b.H
- Bundesrechenzentrum G.m.b.H

### **Poland**

- Kancelaria Prezydenta RP
- Kancelaria Sejmu RP
- Kancelaria Senatu RP
- Kancelaria Prezesa Rady Ministrów
- Sąd Najwyższy
- Naczelny Sąd Administracyjny
- Wojewódzkie sądy administracyjne
- Sądy powszechne - rejonowe, okręgowe i apelacyjne
- Trybunał Konstytucyjny
- Najwyższa Izba Kontroli
- Biuro Rzecznika Praw Obywatelskich
- Biuro Rzecznika Praw Dziecka
- Biuro Ochrony Rządu

- Biuro Bezpieczeństwa Narodowego
- Centralne Biuro Antykorupcyjne
- Ministerstwo Pracy i Polityki Społecznej
- Ministerstwo Finansów
- Ministerstwo Gospodarki
- Ministerstwo Rozwoju Regionalnego
- Ministerstwo Kultury i Dziedzictwa Narodowego
- Ministerstwo Edukacji Narodowej
- Ministerstwo Obrony Narodowej
- Ministerstwo Rolnictwa i Rozwoju Wsi
- Ministerstwo Skarbu Państwa
- Ministerstwo Sprawiedliwości
- Ministerstwo Infrastruktury
- Ministerstwo Nauki i Szkolnictwa Wyższego
- Ministerstwo Środowiska
- Ministerstwo Spraw Wewnętrznych i Administracji
- Ministerstwo Spraw Zagranicznych
- Ministerstwo Zdrowia
- Ministerstwo Sportu i Turystyki
- Urząd Komitetu Integracji Europejskiej
- Urząd Patentowy Rzeczypospolitej Polskiej
- Urząd Regulacji Energetyki
- Urząd do Spraw Kombatantów i Osób Represjonowanych
- Urząd Transportu Kolejowego
- Urząd Dozoru Technicznego
- Urząd Rejestracji Produktów Leczniczych, Wyrobów Medycznych i Produktów Biobójczych
- Urząd do Spraw Repatriacji i Cudzoziemców

- Urząd Zamówień Publicznych
- Urząd Ochrony Konkurencji i Konsumentów
- Urząd Lotnictwa Cywilnego
- Urząd Komunikacji Elektronicznej
- Wyższy Urząd Górniczy
- Główny Urząd Miar
- Główny Urząd Geodezji i Kartografii
- Główny Urząd Nadzoru Budowlanego
- Główny Urząd Statystyczny
- Krajowa Rada Radiofonii i Telewizji
- Generalny Inspektor Ochrony Danych Osobowych
- Państwowa Komisja Wyborcza
- Państwowa Inspekcja Pracy
- Rządowe Centrum Legislacji
- Narodowy Fundusz Zdrowia
- Polska Akademia Nauk
- Polskie Centrum Akredytacji
- Polskie Centrum Badań i Certyfikacji
- Polska Organizacja Turystyczna
- Polski Komitet Normalizacyjny
- Zakład Ubezpieczeń Społecznych
- Komisja Nadzoru Finansowego
- Naczelna Dyrekcja Archiwów Państwowych
- Kasa Rolniczego Ubezpieczenia Społecznego
- Generalna Dyrekcja Dróg Krajowych i Autostrad
- Państwowa Inspekcja Ochrony Roślin i Nasiennictwa
- Komenda Główna Państwowej Straży Pożarnej

- Komenda Główna Policji
- Komenda Główna Straży Granicznej
- Inspekcja Jakości Handlowej Artykułów Rolno-Spożywczych
- Główny Inspektorat Ochrony Środowiska
- Główny Inspektorat Transportu Drogowego
- Główny Inspektorat Farmaceutyczny
- Główny Inspektorat Sanitarny
- Główny Inspektorat Weterynarii
- Agencja Bezpieczeństwa Wewnętrznego
- Agencja Wywiadu
- Agencja Mienia Wojskowego
- Wojskowa Agencja Mieszkaniowa
- Agencja Restrukturyzacji i Modernizacji Rolnictwa
- Agencja Rynku Rolnego
- Agencja Nieruchomości Rolnych
- Państwowa Agencja Atomistyki
- Polska Agencja Żeglugi Powietrznej
- Polska Agencja Rozwiązywania Problemów Alkoholowych
- Agencja Rezerw Materiałowych
- Narodowy Bank Polski
- Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej
- Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych
- Instytut Pamięci Narodowej - Komisja Ścigania Zbrodni Przeciwko Narodowi Polskiemu
- Rada Ochrony Pamięci Walk i Męczeństwa
- Służba Celna Rzeczypospolitej Polskiej
- Państwowe Gospodarstwo Leśne „Lasy Państwowe"
- Polska Agencja Rozwoju Przedsiębiorczości

- Urzędy wojewódzkie
- Samodzielne Publiczne Zakłady Opieki Zdrowotnej, jeśli ich organem założycielskim jest minister, centralny organ administracji rządowej lub wojewoda

### **Portugal**

- Presidência do Conselho de Ministros
- Ministério das Finanças e da Administração Pública
- Ministério da Defesa Nacional
- Ministério dos Negócios Estrangeiros
- Ministério da Administração Interna
- Ministério da Justiça
- Ministério da Economia e da Inovação
- Ministério da Agricultura, Desenvolvimento Rural e Pescas
- Ministério da Educação
- Ministério da Ciência, Tecnologia e do Ensino Superior
- Ministério da Cultura
- Ministério da Saúde
- Ministério do Trabalho e da Solidariedade Social
- Ministério das Obras Públicas, Transportes e Comunicações
- Ministério do Ambiente, do Ordenamento do Território e do Desenvolvimento Regional
- Presidência da República
- Tribunal Constitucional
- Tribunal de Contas
- Provedoria de Justiça

### **Romania**

- Administrația Prezidențială
- Senatul României
- Camera Deputaților
- Înalta Curte de Casație și Justiție



- Curtea Constituțională
- Consiliul Legislativ
- Curtea de Conturi
- Consiliul Superior al Magistraturii
- Parchetul de pe lângă Inalta Curte de Casație și Justiție
- Secretariatul General al Guvernului
- Cancelaria primului ministru
- Ministerul Afacerilor Externe
- Ministerul Economiei și Finanțelor
- Ministerul Justiției
- Ministerul Apărării
- Ministerul Internelor și Reformei Administrative
- Ministerul Muncii, Familiei și Egalității de Sanse
- Ministerul pentru Intreprinderi Mici și Mijlocii, Comerț, Turism și Profesii Libérale
- Ministerul Agriculturii și Dezvoltării Rurale
- Ministerul Transporturilor
- Ministerul Dezvoltării, Lucrărilor Publice și Locuinței
- Ministerul Educației Cercetării și Tineretului
- Ministerul Sănătății Publice
- Ministerul Culturii și Cultelor
- Ministerul Comunicațiilor și Tehnologiei Informației
- Ministerul Mediului și Dezvoltării Durabile
- Serviciul Român de Informații
- Serviciul de Informații Externe
- Serviciul de Protecție și Pază
- Serviciul de Telecomunicații Speciale
- Consiliul Național al Audiovizualului

- Consiliul Concurenței (CC)
- Direcția Națională Anticorupție
- Inspectoratul General de Poliție
- Autoritatea Națională pentru Reglementarea și Monitorizarea Achizițiilor Publice
- Consiliul Național de Soluționare a Contestațiilor
- Autoritatea Națională de Reglementare pentru Serviciile Comunitare de Utilități Publice(ANRSC)
- Autoritatea Națională Sanitară Veterinară și pentru Siguranța Alimentelor
- Autoritatea Națională pentru Protecția Consumatorilor
- Autoritatea Navală Română
- Autoritatea Feroviară Română
- Autoritatea Rutieră Română
- Autoritatea Națională pentru Protecția Drepturilor Copilului
- Autoritatea Națională pentru Persoanele cu Handicap
- Autoritatea Națională pentru Turism
- Autoritatea Națională pentru Restituirea Proprietăților
- Autoritatea Națională pentru Tineret
- Autoritatea Națională pentru Cercetare Științifică
- Autoritatea Națională pentru Reglementare în Comunicații și Tehnologia Informației
- Autoritatea Națională pentru Serviciile Societății Informaționale
- Autoritatea Electorală Permanente
- Agenția pentru Strategii Guvernamentale
- Agenția Națională a Medicamentului
- Agenția Națională pentru Sport
- Agenția Națională pentru Ocuparea Forței de Muncă
- Agenția Națională de Reglementare în Domeniul Energiei
- Agenția Română pentru Conservarea Energiei
- Agenția Națională pentru Resurse Minerale

- Agenția Română pentru Investiții Străine
- Agenția Națională pentru Intreprinderi Mici și Mijlocii și Cooperatie
- Agenția Națională a Funcționarilor Publici
- Agenția Națională de Administrare Fiscală
- Agenția de Compensare pentru Achiziții de Tehnică Specială
- Agenția Națională Anti-doping
- Agenția Nucleară
- Agenția Națională pentru Protecția Familiei
- Agenția Națională pentru Egalitatea de Sanse între Bărbați și Femei
- Agenția Națională pentru Protecția Mediului
- Agenția națională Antidrog

### **Slovenia**

- Predsednik Republike Slovenije
- Državni zbor Republike Slovenije
- Državni svet Republike Slovenije
- Varuh človekovih pravic
- Ustavno sodišče Republike Slovenije
- Računsko sodišče Republike Slovenije
- Državna revizijska komisja za revizijo postopkov oddaje javnih naročil
- Slovenska akademija znanosti in umetnosti
- Vladne službe
- Ministrstvo za finance
- Ministrstvo za notranje zadeve
- Ministrstvo za zunanje zadeve
- Ministrstvo za obrambo
- Ministrstvo za pravosodje
- Ministrstvo za gospodarstvo

- Ministrstvo za kmetijstvo, gozdarstvo in prehrano
- Ministrstvo za promet
- Ministrstvo za okolje in, prostor
- Ministrstvo za delo, družino in socialne zadeve
- Ministrstvo za zdravje
- Ministrstvo za javno upravo
- Ministrstvo za šolstvo in šport
- Ministrstvo za visoko šolstvo, znanost in tehnologijo
- Ministrstvo za kulturo
- Vrhovno sodišče Republike Slovenije
- višja sodišča
- okrožna sodišča
- okrajna sodišča
- Vrhovno državno tožilstvo Republike Slovenije
- Okrožna državna tožilstva
- Državno pravobranilstvo
- Upravno sodišče Republike Slovenije
- Višje delovno in socialno sodišče
- delovna sodišča
- Davčna uprava Republike Slovenije
- Carinska uprava Republike Slovenije
- Urad Republike Slovenije za preprečevanje pranja denarja
- Urad Republike Slovenije za nadzor prirejanja iger na srečo
- Uprava Republike Slovenije za javna plačila
- Urad Republike Slovenije za nadzor proračuna
- Policija
- Inšpektorat Republike Slovenije za notranje zadeve

- General štab Slovenske vojske
- Uprava Republike Slovenije za zaščito in reševanje
- Inšpektorat Republike Slovenije za obrambo
- Inšpektorat Republike Slovenije za varstvo pred naravnimi in drugimi nesrečami
- Uprava Republike Slovenije za izvrševanje kazenskih sankcij
- Urad Republike Slovenije za varstvo konkurence
- Urad Republike Slovenije za varstvo potrošnikov
- Tržni inšpektorat Republike Slovenije
- Urad Republike Slovenije za intelektualno lastnino
- Inšpektorat Republike Slovenije za elektronske komunikacije, elektronsko podpisovanje in pošto
- Inšpektorat za energetiko in rudarstvo
- Agencija Republike Slovenije za kmetijske trge in razvoj podeželja
- Inšpektorat Republike Slovenije za kmetijstvo, gozdarstvo in hrano
- Fitosanitarna uprava Republike Slovenije
- Veterinarska uprava Republike Slovenije
- Uprava Republike Slovenije za pomorstvo
- Direkcija Republike Slovenije za caste
- Prometni inšpektorat Republike Slovenije
- Direkcija za vodenje investicij v javno železniško infrastrukturo
- Agencija Republike Slovenije za okolje
- Geodetska uprava Republike Slovenije
- Uprava Republike Slovenije za jedrsko varstvo
- Inšpektorat Republike Slovenije za okolje in prostor
- Inšpektorat Republike Slovenije za delo
- Zdravstveni inšpektorat
- Urad Republike Slovenije za kemikalije
- Uprava Republike Slovenije za varstvo pred sevanji

- Urad Republike Slovenije za meroslovje
- Urad za visoko šolstvo
- Urad Republike Slovenije za mladino
- Inšpektorat Republike Slovenije za šolstvo in šport
- Arhiv Republike Slovenije
- Inšpektorat Republike Slovenije za kulturo in medije
- Kabinet predsednika Vlade Republike Slovenije
- Generalni sekretariat Vlade Republike Slovenije
- Služba vlade za zakonodajo
- Služba vlade za evropske zadeve
- Služba vlade za lokalno samoupravo in regionalno politiko
- Urad vlade za komuniciranje
- Urad za enake možnosti
- Urad za verske skupnosti
- Urad za narodnosti
- Urad za makroekonomske analize in razvoj
- Statistični urad Republike Slovenije
- Slovenska obveščevalno-varnostna agencija
- Protokol Republike Slovenije
- Urad za varovanje tajnih podatkov
- Urad za Slovence v zamejstvu in po svetu
- Služba Vlade Republike Slovenije za razvoj
- Informacijski pooblaščenec
- Državna volilna komisija

### **Slovakia**

Ministries and other central government authorities referred to as in Act No. 575/2001 Coll. on the structure of activities of the Government and central state administration authorities in wording of later regulations:

- Kancelária Prezidenta Slovenskej republiky
- Národná rada Slovenskej republiky
- Ministerstvo hospodárstva Slovenskej republiky
- Ministerstvo financií Slovenskej republiky
- Ministerstvo dopravy, pôšt a telekomunikácií Slovenskej republiky
- Ministerstvo pôdohospodárstva Slovenskej republiky
- Ministerstvo výstavby a regionálneho rozvoja Slovenskej republiky
- Ministerstvo vnútra Slovenskej republiky
- Ministerstvo obrany Slovenskej republiky
- Ministerstvo spravodlivosti Slovenskej republiky
- Ministerstvo zahraničných vecí Slovenskej republiky
- Ministerstvo práce, sociálnych vecí a rodiny Slovenskej republiky
- Ministerstvo životného prostredia Slovenskej republiky
- Ministerstvo školstva Slovenskej republiky
- Ministerstvo kultúry Slovenskej republiky
- Ministerstvo zdravotníctva Slovenskej republiky
- Úrad vlády Slovenskej republiky
- Protimonopolný úrad Slovenskej republiky
- Štatistický úrad Slovenskej republiky
- Úrad geodézie, kartografie a katastra Slovenskej republiky
- Úrad jadrového dozoru Slovenskej republiky
- Úrad pre normalizáciu, metrológiu a skúšobníctvo Slovenskej republiky
- Úrad pre verejné obstarávanie
- Úrad priemyselného vlastníctva Slovenskej republiky
- Správa štátnych hmotných rezerv Slovenskej republiky
- Národný bezpečnostný úrad
- Ústavný súd Slovenskej republiky

- Najvyšší súd Slovenskej republiky
- Generálna prokuratúra Slovenskej republiky
- Najvyšší kontrolný úrad Slovenskej republiky
- Telekomunikačný úrad Slovenskej republiky
- Úrad priemyselného vlastníctva Slovenskej republiky
- Úrad pre finančný trh
- Úrad na ochranu osobných údajov
- Kancelária verejného ochrany práv

### **Finland**

- Oikeuskanslerinvirasto – Justitiekanslersämbetet
- Liikenne- Ja Viestintäministeriö – Kommunikationsministeriet
  - Ajoneuvohallintokeskus AKE – Fordonsförvaltningscentralen AKE
  - Ilmailuhallinto – Luftfartsförvaltningen
  - Ilmatieteen laitos – Meteorologiska institutet
  - Merenkulkulaitos – Sjöfartsverket
  - Merentutkimuslaitos – Havsforskningsinstitutet
  - Ratahallintokeskus RHK – Banförvaltningscentralen RHK
  - Rautatievirasto – Järnvägsverket
  - Tiehallinto – Vägförvaltningen
  - Viestintävirasto – Kommunikationsverket
- Maa- Ja Metsätalousministeriö – Jord- Och Skogsbruksministeriet
  - Elintarviketurvallisuusvirasto – Livsmedelssäkerhetsverket
  - Maanmittauslaitos – Lantmäteriverket
  - Maaseutuvirasto – Landsbygdsverket
- Oikeusministeriö – Justitieministeriet
  - Tietosuojavaltuutetun toimisto – Dataombudsmannens byrå
  - Tuomioistuimet – domstolar



- Korkein oikeus – Högsta domstolen
- Korkein hallinto-oikeus – Högsta förvaltningsdomstolen
- Hovioikeudet – hovrätter
- Käräjäoikeudet – tingsrätter
- Hallinto-oikeudet – förvaltningsdomstolar
- Markkinaoikeus - Marknadsdomstolen
- Työtuomioistuin – Arbetsdomstolen
- Vakuutusoiikeus – Försäkringsdomstolen
- Kuluttajariitalautakunta – Konsumenttvistnämnden
- Vankeinhoitolaitos – Fångvårdsväsendet
- HEUNI - Yhdistyneiden Kansakuntien yhteydessä toimiva Euroopan kriminaalipolitiikan instituutti – HEUNI - Europeiska institutet för kriminalpolitik, verksamt i anslutning till Förenta Nationerna
- Konkurssiasiamiehen toimisto – Konkursombudsmannens byrå
- Kuluttajariitalautakunta – Konsumenttvistnämnden
- Oikeushallinnon palvelukeskus – Justitieförvaltningens servicecentral
- Oikeushallinnon tietotekniikkakeskus – Justitieförvaltningens datateknikcentral
- Oikeuspoliittinen tutkimuslaitos (Optula) – Rättspolitiska forskningsinstitutet
- Oikeusrekisterikeskus – Rättsregistercentralen
- Onnettomuustutkintakeskus – Centralen för undersökning av olyckor
- Rikosseuraamusvirasto – Brottspåföljdsverket
- Rikosseuraamusalan koulutuskeskus – Brottspåföljdsområdets utbildningscentral
- Rikoksantorjuntaneuvosto Rådet för brottsförebyggande
- Saamelaiskäräjät – Sametinget
- Valtakunnansyyttäjänvirasto – Riksåklagarämbetet
- Vankeinhoitolaitos – Fångvårdsväsendet
- Opetusministeriö – Undervisningsministeriet
  - Opetushallitus – Utbildningsstyrelsen

- Valtion elokuvatarkastamo – Statens filmgranskningsbyrå
- Puolustusministeriö – Försvarsministeriet
  - Puolustusvoimat – Försvarsmakten
- Sisäasiainministeriö – Inrikesministeriet
  - Väestörekisterikeskus – Befolkningsregistercentralen
  - Keskusrikospoliisi – Centralkriminalpolisen
  - Liikkuva poliisi – Rörliga polisen
  - Rajavartiolaitos – Gränsbevakningsväsendet
  - Lääninhallitukset – Länstyrelserna
  - Suojelupoliisi – Skyddspolisen
  - Poliisiammattikorkeakoulu – Polisyrkeshögskolan
  - Poliisin tekniikkakeskus – Polisens teknikcentral
  - Poliisin tietohallintokeskus – Polisens datacentral
  - Helsingin kihlakunnan poliisilaitos – Polisinrättningen i Helsingfors
  - Pelastusopisto – Räddningsverket
  - Hätäkeskuslaitos – Nödcentralsverket
  - Maahanmuuttovirasto – Migrationsverket
  - Sisäasiainhallinnon palvelukeskus – Inrikesförvaltningens servicecentral
  - Sosiaali- Ja Terveysministeriö – Social- Och Hälsovårdsministeriet
  - Työttömyysturvan muutoksenhakulautakunta – Besvärnämnden för utkomstskyddsärenden
  - Sosiaaliturvan muutoksenhakulautakunta – Besvärnämnden för socialtrygghet
  - Lääkelaitos – Läkemedelsverket
  - Terveysturvan oikeusturvakeskus – Rättsskyddscentralen för hälsovården
  - Säteilyturvakeskus – Strålsäkerhetscentralen
  - Kansanterveyslaitos – Folkhälsoinstitutet
  - Lääkehoidon kehittämiskeskus ROHTO – Utvecklingscentralen för läkemedelsbehandling

- Sosiaali- ja terveydenhuollon tuotevalvontakeskus – Social- och hälsovårdens produktill-synscentral
- Sosiaali- ja terveystalans forskning- och utvecklingscentralen för social- och hälsovården Stakes – Forsknings- och utvecklingscentralen för social- och hälsovården Stakes
- Vakuutusvalvontavirasto – Försäkringsinspektionen
- Työ- Ja Elinkeinoministeriö – Arbets- Och Näringsministeriet
- Kuluttajavirasto – Konsumentverket
- Kilpailuvirasto – Konkurrensverket
- Patentti- ja rekisterihallitus – Patent- och registerstyrelsen
- Valtakunnansovittelijain toimisto – Riksförlikningsmännens byrå
- Valtion turvapaikanhakijoiden vastaanottokeskukset– Statliga förläggningar för asylsökande
- Energiarmerginsvirasto – Energiarmerginsverket
- Geologian tutkimuskeskus – Geologiska forskningscentralen
- Huoltovarmuuskeskus – Försörjningsberedskapscentralen
- Kuluttajatutkimuskeskus – Konsumentforskningscentralen
- Matkailun edistämiskeskus (MEK) – Centralen för turistfrämjande
- Mittatekniikan keskus (MIKES) – Mätteknikcentralen
- Tekes - teknologian ja innovaatioiden kehittämiskeskus –Tekes - utvecklingscentralen för teknologi och innovationer
- Turvatekniikan keskus (TUKES) – Säkerhetsteknikcentralen
- Valtion teknillinen tutkimuskeskus (VTT) – Statens tekniska forskningscentral
- Syrjintälautakunta – Nationella diskrimineringsnämnden
- Työneuvosto – Arbetsrådet
- Vähemmistövaltuutetun toimisto – Minoritetsombudsmännens byrå
- Ulkoasiainministeriö – Utrikesministeriet
- Valtioneuvoston Kanslia – Statsrådets Kansli
- Valtiovarainministeriö – Finansministeriet
  - Valtiokonttori – Statskontoret

- Verohallinto – Skatteförvaltningen
- Tullilaitos – Tullverket
- Tilastokeskus – Statistikcentralen
- Valtiontaloudellinen tutkimuskeskus – Statens ekonomiska forskningscentral
- Ympäristöministeriö – Miljöministeriet
  - Suomen ympäristökeskus - Finlands miljöcentral
  - Asumisen rahoitus- ja kehityskeskus – Finansierings- och utvecklingscentralen för boendet
- Valtiontalouden Tarkastusvirasto – Statens Revisionsverk

### **Sweden**

A

- Affärsverket svenska kraftnät
- Akademien för de fria konsterna
- Alkohol- och läkemedelssortiments-nämnden
- Allmänna pensionsfonden
- Allmänna reklamationsnämnden
- Ambassader
- Ansvarsnämnd, statens
- Arbetsdomstolen
- Arbetsförmedlingen
- Arbetsgivarverk, statens
- Arbetslivsinstitutet
- Arbetsmiljöverket
- Arkitekturmuseet
- Arrendenämnder
- Arvsfondsdelegationen
- Arvsfondsdelegationen

## B

- Banverket
- Barnombudsmannen
- Beredning för utvärdering av medicinsk metodik, statens
- Bergsstaten
- Biografbyrå, statens
- Biografiskt lexikon, svenskt
- Birgittaskolan
- Blekinge tekniska högskola
- Bokföringsnämnden
- Bolagsverket
- Bostadsnämnd, statens
- Bostadskreditnämnd, statens
- Boverket
- Brottsförebyggande rådet
- Brottsoffermyndigheten

## C

- Centrala studiestödsnämnden

## D

- Danshögskolan
- Datainspektionen
- Departementen
- Domstolsverket
- Dramatiska institutet

## E

- Ekeskolan
- Ekobrottsmyndigheten

- Ekonomistyrningsverket
- Ekonomiska rådet
- Elsäkerhetsverket
- Energimarknadsinspektionen
- Energimyndighet, statens
- EU/FoU-rådet
- Exportkreditnämnden
- Exportråd, Sveriges

## F

- Fastighetsmäklarnämnden
- Fastighetsverk, statens
- Fideikommissnämnden
- Finansinspektionen
- Finanspolitiska rådet
- Finsk-svenska gränsälvscommissionen
- Fiskeriverket
- Flygmedicincentrum
- Folkhälsoinstitut, statens
- Fonden för fukt- och mögelskador
- Forskningsrådet för miljö, areella näringar och samhällsbyggande, Formas
- Folke Bernadotte Akademin
- Forskarskattenämnden
- Forskningsrådet för arbetsliv och socialvetenskap
- Fortifikationsverket
- Forum för levande historia
- Försvarets materielverk
- Försvarets radioanstalt

- Försvarets underrättelsenämnd
- Försvarshistoriska museer, statens
- Försvarshögskolan
- Försvarsmakten
- Försäkringskassan

## G

- Gentekniknämnden
- Geologiska undersökning
- Geotekniska institut, statens
- Giftinformationscentralen
- Glesbygdsverket
- Grafiska institutet och institutet för högre kommunikation- och reklamutbildning
- Granskningsnämnden för radio och TV
- Granskningsnämnden för försvarsuppfinningar
- Gymnastik- och Idrottshögskolan
- Göteborgs universitet

## H

- Handelsflottans kultur- och fritidsråd
- Handelsflottans pensionsanstalt
- Handelssekreterare
- Handelskamrar, auktoriserade
- Handikappombudsmannen
- Handikappråd, statens
- Harpsundsnämnden
- Haverikommission, statens
- Historiska museer, statens
- Hjälpmedelsinstitutet

- Hovrätterna
- Hyresnämnder
- Häktena
- Hälso- och sjukvårdens ansvarsnämnd
- Högskolan Dalarna
- Högskolan i Borås
- Högskolan i Gävle
- Högskolan i Halmstad
- Högskolan i Kalmar
- Högskolan i Karlskrona/Ronneby
- Högskolan i Kristianstad
- Högskolan i Skövde
- Högskolan i Trollhättan/Uddevalla
- Högskolan på Gotland
- Högskolans avskiljandenämnd
- Högskoleverket
- Högsta domstolen

## I

- ILO kommittén
- Inspektionen för arbetslöshetsförsäkringen
- Inspektionen för strategiska produkter
- Institut för kommunikationsanalys, statens
- Institut för psykosocial medicin, statens
- Institut för särskilt utbildningsstöd, statens
- Institutet för arbetsmarknadspolitisk utvärdering
- Institutet för rymdfysik
- Institutet för tillväxtpolitiska studier



- Institutionsstyrelse, statens
- Insättningsgarantinämnden
- Integrationsverket
- Internationella programkontoret för utbildningsområdet

## J

- Jordbruksverk, statens
- Justitiekanslern
- Jämställdhetsombudsmannen
- Jämställdhetsnämnden
- Järnvägar, statens
- Järnvägsstyrelsen

## K

- Kammarkollegiet
- Kammarrätterna
- Karlstads universitet
- Karolinska Institutet
- Kemikalieinspektionen
- Kommerskollegium
- Konjunkturinstitutet
- Konkurrensverket
- Konstfack
- Konsthögskolan
- Konstnärsnämnden
- Konstråd, statens
- Konsulat
- Konsumentverket
- Krigsvetenskapsakademin

- Krigsförsäkringsnämnden
- Kriminaltekniska laboratorium, statens
- Kriminalvården
- Krisberedskapsmyndigheten
- Kristinaskolan
- Kronofogdemyndigheten
- Kulturråd, statens
- Kungl. Biblioteket
- Kungl. Konsthögskolan
- Kungl. Musikhögskolan i Stockholm
- Kungl. Tekniska högskolan
- Kungl. Vitterhets-, historie- och antikvitetsakademien
- Kungl Vetenskapsakademin
- Kustbevakningen
- Kvalitets- och kompetensråd, statens
- Kärnavfallsfondens styrelse

## L

- Lagrådet
- Lantbruksuniversitet, Sveriges
- Lantmäteriverket
- Linköpings universitet
- Livrustkammaren, Skoklosters slott och Hallwylska museet
- Livsmedelsverk, statens
- Livsmedelsekonomiska institutet
- Ljud- och bildarkiv, statens
- Lokala säkerhetsnämnderna vid kärnkraftverk
- Lotteriinspektionen

- Luftfartsverket
- Luftfartsstyrelsen
- Luleå tekniska universitet
- Lunds universitet
- Läkemedelsverket
- Läkemedelsförmånsnämnden
- Länsrätterna
- Länsstyrelserna
- Lärarhögskolan i Stockholm

## M

- Malmö högskola
- Manillaskolan
- Maritima muséer, statens
- Marknadsdomstolen
- Medlingsinstitutet
- Meteorologiska och hydrologiska institut, Sveriges
- Migrationsverket
- Militärhögskolor
- Mittuniversitetet
- Moderna museet
- Museer för världskultur, statens
- Musikaliska Akademien
- Musiksamlingar, statens
- Myndigheten för handikappolitisk samordning
- Myndigheten för internationella adoptionsfrågor
- Myndigheten för skolutveckling
- Myndigheten för kvalificerad yrkesutbildning

- Myndigheten för nätverk och samarbete inom högre utbildning
- Myndigheten för Sveriges nätuniversitet
- Myndigheten för utländska investeringar i Sverige
- Mälardalens högskola

## N

- Nationalmuseum
- Nationellt centrum för flexibelt lärande
- Naturhistoriska riksmuseet
- Naturvårdsverket
- Nordiska Afrikainstitutet
- Notarienämnden
- Nämnd för arbetstagares uppfinningar, statens
- Nämnden för statligt stöd till trossamfund
- Nämnden för styrelserepresentationsfrågor
- Nämnden mot diskriminering
- Nämnden för elektronisk förvaltning
- Nämnden för RH anpassad utbildning
- Nämnden för hemslöjdsfrågor

## O

- Oljekrisnämnden
- Ombudsmannen mot diskriminering på grund av sexuell läggning
- Ombudsmannen mot etnisk diskriminering
- Operahögskolan i Stockholm

## P

- Patent- och registreringsverket
- Patentbesvärsrätten
- Pensionsverk, statens

- Personregisternämnd statens, SPAR-nämnden
- Pliktverk, Totalförsvarets
- Polarforskningssekretariatet
- Post- och telestyrelsen
- Premiepensionsmyndigheten
- Presstödsnämnden

## R

- Radio- och TV-verket
- Rederinämnden
- Regeringskansliet
- Regeringsrätten
- Resegarantinämnden
- Registernämnden
- Revisorsnämnden
- Riksantikvarieämbetet
- Riksarkivet
- Riksbanken
- Riksdagsförvaltningen
- Riksdagens ombudsmän
- Riksdagens revisorer
- Riksgäldskontoret
- Rikshemvärnsrådet
- Rikspolisstyrelsen
- Riksrevisionen
- Rikstrafiken
- Riksutställningar, Stiftelsen
- Riksvärderingsnämnden

- Rymdstyrelsen
- Rådet för Europeiska socialfonden i Sverige
- Räddningsverk, statens
- Rättshjälpsmyndigheten
- Rättshjälpsnämnden
- Rättsmedicinalverket

## S

- Samarbetsnämnden för statsbidrag till trossamfund
- Sameskolstyrelsen och sameskolor
- Sametinget
- SIS, Standardiseringen i Sverige
- Sjöfartsverket
- Skatterättsnämnden
- Skatteverket
- Skaderegleringsnämnd, statens
- Skiljenämnden i vissa trygghetsfrågor
- Skogsstyrelsen
- Skogsvårdsstyrelserna
- Skogs och lantbruksakademien
- Skolverk, statens
- Skolväsendets överklagandenämnd
- Smittskyddsinstitutet
- Socialstyrelsen
- Specialpedagogiska institutet
- Specialskolemyndigheten
- Språk- och folkminnesinstitutet
- Sprängämnesinspektionen

- Statistiska centralbyrån
- Statskontoret
- Stockholms universitet
- Stockholms internationella miljöinstitut
- Strålsäkerhetsmyndigheten
- Styrelsen för ackreditering och teknisk kontroll
- Styrelsen för internationellt utvecklingssamarbete, SIDA
- Styrelsen för Samefonden
- Styrelsen för psykologiskt försvar
- Stängselnämnden
- Svenska institutet
- Svenska institutet för europapolitiska studier
- Svenska ESF rådet
- Svenska Uneskorådet
- Svenska FAO kommittén
- Svenska Språknämnden
- Svenska Skeppshypotekskassan
- Svenska institutet i Alexandria
- Sveriges författarfond
- Säkerhetspolisen
- Säkerhets- och integritetsskyddsnämnden
- Södertörns högskola

## T

- Taltidningsnämnden
- Talboks- och punktskriftsbiblioteket
- Teaterhögskolan i Stockholm
- Tingsrätterna

- Tjänstepensions och grupplivnämnd, statens
- Tjänsteförslagsnämnden för domstolsväsendet
- Totalförsvarets forskningsinstitut
- Totalförsvarets pliktverk
- Tullverket
- Turistdelegationen

## U

- Umeå universitet
- Ungdomsstyrelsen
- Uppsala universitet
- Utlandslönenämnd, statens
- Utlänningsnämnden
- Utrikesförvaltningens antagningsnämnd
- Utrikesnämnden
- Utsädeskontroll, statens

## V

- Valideringsdelegationen
- Valmyndigheten
- Vatten- och avloppsnämnd, statens
- Vattenöverdomstolen
- Verket för förvaltningsutveckling
- Verket för högskoleservice
- Verket för innovationssystem (VINNOVA)
- Verket för näringslivsutveckling (NUTEK)
- Vetenskapsrådet
- Veterinärmedicinska anstalt, statens
- Veterinära ansvarsnämnden



- Väg- och transportforskningsinstitut, statens
- Vägverket
- Vänerskolan
- Växjö universitet
- Växsortsnämnd, statens

## Å

- Åklagarmyndigheten
- Åsbackaskolan

## Ö

- Örebro universitet
- Örlogsmannasällskapet
- Östervångsskolan
- Överbefälhavaren
- Överklagandenämnden för högskolan
- Överklagandenämnden för nämndemanna-uppdrag
- Överklagandenämnden för studiestöd
- Överklagandenämnden för totalförsvaret

## **United Kingdom**

- Cabinet Office
  - Office of the Parliamentary Counsel
- Central Office of Information
- Charity Commission
- Crown Estate Commissioners (Vote Expenditure Only)
- Crown Prosecution Service
- Department for Business, Enterprise and Regulatory Reform
  - Competition Commission
  - Gas and Electricity Consumers' Council

- Office of Manpower Economics
- Department for Children, Schools and Families
- Department of Communities and Local Government
  - Rent Assessment Panels
- Department for Culture, Media and Sport
  - British Library
  - British Museum
  - Commission for Architecture and the Built Environment
  - The Gambling Commission
  - Historic Buildings and Monuments Commission for England (English Heritage)
  - Imperial War Museum
  - Museums, Libraries and Archives Council
  - National Gallery
  - National Maritime Museum
  - National Portrait Gallery
  - Natural History Museum
  - Science Museum
  - Tate Gallery
  - Victoria and Albert Museum
  - Wallace Collection
- Department for Environment, Food and Rural Affairs
  - Agricultural Dwelling House Advisory Committees
  - Agricultural Land Tribunals
  - Agricultural Wages Board and Committees
  - Cattle Breeding Centre
  - Countryside Agency
  - Plant Variety Rights Office

- Royal Botanic Gardens, Kew
- Royal Commission on Environmental Pollution
- Department of Health
  - Dental Practice Board
  - National Health Service Strategic Health Authorities
  - NHS Trusts
  - Prescription Pricing Authority
- Department for Innovation, Universities and Skills
  - Higher Education Funding Council for England
  - National Weights and Measures Laboratory
  - Patent Office
- Department for International Development
- Department of the Procurator General and Treasury Solicitor
  - Legal Secretariat to the Law Officers
- Department for Transport
  - Maritime and Coastguard Agency
- Department for Work and Pensions
  - Disability Living Allowance Advisory Board
  - Independent Tribunal Service
  - Medical Boards and Examining Medical Officers (War Pensions)
  - Occupational Pensions Regulatory Authority
  - Regional Medical Service
  - Social Security Advisory Committee
- Export Credits Guarantee Department
- Foreign and Commonwealth Office
  - Wilton Park Conference Centre
- Government Actuary's Department

- Government Communications Headquarters
- Home Office
  - HM Inspectorate of Constabulary
- House of Commons
- House of Lords
- Ministry of Defence
  - Defence Equipment & Support
  - Meteorological Office
- Ministry of Justice
  - Boundary Commission for England
  - Combined Tax Tribunal
  - Council on Tribunals
  - Court of Appeal - Criminal
  - Employment Appeals Tribunal
  - Employment Tribunals
  - HMCS Regions, Crown, County and Combined Courts (England and Wales)
  - Immigration Appellate Authorities
  - Immigration Adjudicators
  - Immigration Appeals Tribunal
  - Lands Tribunal
  - Law Commission
  - Legal Aid Fund (England and Wales)
  - Office of the Social Security Commissioners
  - Parole Board and Local Review Committees
  - Pensions Appeal Tribunals
  - Public Trust Office
  - Supreme Court Group (England and Wales)

- Transport Tribunal
- The National Archives
- National Audit Office
- National Savings and Investments
- National School of Government
- Northern Ireland Assembly Commission
- Northern Ireland Court Service
  - Coroners Courts
  - County Courts
  - Court of Appeal and High Court of Justice in Northern Ireland
  - Crown Court
  - Enforcement of Judgements Office
  - Legal Aid Fund
  - Magistrates' Courts
  - Pensions Appeals Tribunals
- Northern Ireland, Department for Employment and Learning
- Northern Ireland, Department for Regional Development
- Northern Ireland, Department for Social Development
- Northern Ireland, Department of Agriculture and Rural Development
- Northern Ireland, Department of Culture, Arts and Leisure
- Northern Ireland, Department of Education
- Northern Ireland, Department of Enterprise, Trade and Investment
- Northern Ireland, Department of the Environment
- Northern Ireland, Department of Finance and Personnel
- Northern Ireland, Department of Health, Social Services and Public Safety
- Northern Ireland, Office of the First Minister and Deputy First Minister
- Northern Ireland Office

- Crown Solicitor’s Office
- Department of the Director of Public Prosecutions for Northern Ireland
- Forensic Science Laboratory of Northern Ireland
- Office of the Chief Electoral Officer for Northern Ireland
- Police Service of Northern Ireland
- Probation Board for Northern Ireland
- State Pathologist Service
- Office of Fair Trading
- Office for National Statistics
  - National Health Service Central Register
- Office of the Parliamentary Commissioner for Administration and Health Service Commissioners
- Paymaster General’s Office
- Postal Business of the Post Office
- Privy Council Office
- Public Record Office
- HM Revenue and Customs
  - The Revenue and Customs Prosecutions Office
- Royal Hospital, Chelsea
- Royal Mint
- Rural Payments Agency
- Scotland, Auditor-General
- Scotland, Crown Office and Procurator Fiscal Service
- Scotland, General Register Office
- Scotland, Queen’s and Lord Treasurer’s Remembrancer
- Scotland, Registers of Scotland
- The Scotland Office
- The Scottish Ministers

- Architecture and Design Scotland
- Crofters Commission
- Deer Commission for Scotland
- Lands Tribunal for Scotland
- National Galleries of Scotland
- National Library of Scotland
- National Museums of Scotland
- Royal Botanic Garden, Edinburgh
- Royal Commission on the Ancient and Historical Monuments of Scotland
- Scottish Further and Higher Education Funding Council
- Scottish Law Commission
- Community Health Partnerships
- Special Health Boards
- Health Boards
- The Office of the Accountant of Court
- High Court of Justiciary
- Court of Session
- HM Inspectorate of Constabulary
- Parole Board for Scotland
- Pensions Appeal Tribunals
- Scottish Land Court
- Sheriff Courts
- Scottish Police Services Authority
- Office of the Social Security Commissioners
- The Private Rented Housing Panel and Private Rented Housing Committees
- Keeper of the Records of Scotland
- The Scottish Parliamentary Body Corporate

- HM Treasury
  - Office of Government Commerce
  - United Kingdom Debt Management Office
- The Wales Office (Office of the Secretary of State for Wales)
- The Welsh Ministers
  - Higher Education Funding Council for Wales
  - Local Government Boundary Commission for Wales
  - The Royal Commission on the Ancient and Historical Monuments of Wales
  - Valuation Tribunals (Wales)
  - Welsh National Health Service Trusts and Local Health Boards
  - Welsh Rent Assessment Panels



**ANNEX III**  
**LIST OF PRODUCTS REFERRED TO IN ARTICLE 13 b) WITH REGARD TO**  
**CONTRACTS AWARDED BY CONTRACTING AUTHORITIES IN THE FIELD OF**  
**DEFENCE**<sup>36</sup>

Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes  except:  ex 27.10: special engine fuels
Chapter 28:	Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radioactive elements and of isotopes  except:  ex 28.09: explosives  ex 28.13: explosives  ex 28.14: tear gas  ex 28.28: explosives  ex 28.32: explosives  ex 28.39: explosives  ex 28.50: toxic products  ex 28.51: toxic products  ex 28.54: explosives
Chapter 29:	Organic chemicals  except:  ex 29.03: explosives  ex 29.04: explosives

<sup>36</sup> The only text applicable for the purpose of this Directive is that within Annex 1, point 3 of the Agreement.

	ex 29.07: explosives ex 29.08: explosives ex 29.11: explosives ex 29.12: explosives ex 29.13: toxic products ex 29.14: toxic products ex 29.15: toxic products ex 29.21: toxic products ex 29.22: toxic products ex 29.23: toxic products ex 29.26: explosives ex 29.27: toxic products ex 29.29: explosives
Chapter 30:	Pharmaceutical products
Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and 'dental waxes'
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods
Chapter 38:	Miscellaneous chemical products, except: ex 38.19: toxic products

Chapter 39:	Artificial resins and plastic materials, celluloses esters and ethers, articles thereof, except: ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof, except: ex 40.11: bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silk-worm gut)
Chapter 43:	Fur skins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork
Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basketware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware

Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof
Chapter 81:	Other base metals employed in metallurgy and articles thereof
Chapter 82:	Tools, implements, cutlery, spoons and forks, of base metal, parts thereof, except: ex 82.05: tools ex 82.07: tools, parts
Chapter 83:	Miscellaneous articles of base metal
Chapter 84:	Boilers, machinery and mechanical appliances, parts thereof, except: ex 84.06: engines ex 84.08: other engines ex 84.45: machinery ex 84.53: automatic data-processing machines ex 84.55: parts of machines under heading No 84.53 ex 84.59: nuclear reactors
Chapter 85:	Electrical machinery and equipment, parts thereof,

	<p>except:</p> <p>ex 85.13: telecommunication equipment</p> <p>ex 85.15: transmission apparatus</p>
Chapter 86:	<p>Railway and tramway locomotives, rolling-stock and parts thereof, railway and tramway tracks fixtures and fittings, traffic signalling equipment of all kinds (not electrically powered),</p> <p>except:</p> <p>ex 86.02: armoured locomotives, electric</p> <p>ex 86.03: other armoured locomotives</p> <p>ex 86.05: armoured wagons</p> <p>ex 86.06: repair wagons</p> <p>ex 86.07: wagons</p>
Chapter 87:	<p>Vehicles, other than railway or tramway rolling-stock, and parts thereof,</p> <p>except:</p> <p>ex 87.08: tanks and other armoured vehicles</p> <p>ex 87.01: tractors</p> <p>ex 87.02: military vehicles</p> <p>ex 87.03: breakdown lorries</p> <p>ex 87.09: motorcycles</p> <p>ex 87.14: trailers</p>
Chapter 89:	<p>Ships, boats and floating structures,</p> <p>except:</p> <p>ex 89.01A: warships</p>
Chapter 90:	<p>Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof,</p> <p>except:</p> <p>ex 90.05: binoculars</p>

	ex 90.13: miscellaneous instruments, lasers ex 90.14: telemeters ex 90.28: electrical and electronic measuring instruments ex 90.11: microscopes ex 90.17: medical instruments ex 90.18: mechano-therapy appliances ex 90.19: orthopaedic appliances ex 90.20: X-ray apparatus
Chapter 91:	Manufacture of watches and clocks
Chapter 92:	Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
Chapter 94:	Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar stuffed furnishings, except: ex 94.01A: aircraft seats
Chapter 95:	Articles and manufactures of carving or moulding material
Chapter 96:	Brooms, brushes, powder-puffs and sieves
Chapter 98:	Miscellaneous manufactured articles

## **ANNEX V**

### **DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS**

For the purposes of this Directive:

1.
  - (a) "technical specification", in the case of public works contracts, means the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority. These characteristics shall include levels of environmental performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions and production processes and methods. They shall also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;
  - (b) "technical specification", in the case of public supply or service contracts, means a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods and conformity assessment procedures;
2. "standard" means a technical specification approved by a recognised standardising body for repeated or continuous application, compliance with which is not compulsory and which falls into one of the following categories:
  - international standard: a standard adapted by an international standards organisation and made available to the general public,
  - European standard: a standard adopted by a European standards organisation and made available to the general public,
  - national standard: a standard adopted by a national standards organisation and made available to the general public;
3. "European technical approval" means a favourable technical assessment of the fitness for use of a product for a particular purpose, based on the fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. European technical approvals are issued by an approval body designated for this purpose by the Member State;

4. "Common technical specification" means a technical specification laid down in accordance with a procedure recognised by the Member States which has been published in the Official Journal of the European Union;
5. "Technical reference": any product produced by European standardisation bodies, other than official standards, according to procedures adopted for the development of market needs.

**ANNEX VI**  
**INFORMATION TO BE INCLUDED IN NOTICES**

**ANNEX VI A**  
**INFORMATION TO BE INCLUDED IN NOTICES OF THE PUBLICATION OF A**  
**PRIOR INFORMATION NOTICE ON A BUYER PROFILE**

1. Country of the contracting authority
2. Name and email address of the contracting authority
3. Internet address of the "buyer profile" (URL)
4. CPV Nomenclature reference No(s)

**ANNEX VI B**  
**INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES**

*1. HEADINGS TO BE COMPLETED IN ALL CASES*

1. The name, address and email address of the contracting authority and, if different, of the service from which additional information may be obtained.
2. For public works contracts: the nature and extent of the works; the general characteristics of the work or the lots by reference to the nomenclature reference No(s).  
  
For supply contracts: nature and quantity or value of the products to be supplied, nomenclature reference No(s).  
  
For services contracts: intended total procurement in each of the service categories envisaged; nomenclature reference No(s).
3. Estimated date for initiating the award procedures in respect of the contract or contracts, in the case of public service contracts by category.
4. Where appropriate, indicate whether a framework agreement is involved.
5. Where appropriate, other information.
6. Date of dispatch of the notice or of dispatch of the notice of the publication of the prior information notice on the buyer profile.



## *II. INFORMATION WHICH SHOULD BE SUPPLIED WHERE THE NOTICE IS USED AS A MEANS OF CALLING FOR COMPETITION*

7. A reference to the fact that interested suppliers should advise the authority of their interest in the contract or contracts.
8. Where appropriate, indicate whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes.
9. Time limit for the receipt of applications for an invitation to tender or to negotiate.
10. State whether purchase, lease, rental or hire-purchase or any combination of these is involved.
11. Time limits for delivery or completion or duration of service contract and, as far as possible, for starting.
12. Address to which interested undertakings should send their expressions of interest in writing.
13. Time limit for receipt of expressions of interest.
14. Language or languages authorised for the presentation of candidatures or tenders.
15. Economic and technical conditions, and financial and technical guarantees required of suppliers.
16.
  - (a) Estimated date for initiating the award procedures in respect of the contract or contracts (if known);
  - (b) Type of award procedure (restricted or negotiated);
  - (c) The amount of and payment details for any sum to be paid to obtain documents concerning the consultation.
17. Where appropriate, particular conditions to which performance of the contract is subject.
18. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning time limits for review procedures, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
19. Where known, criteria referred to in Article 64 to be used for award of the contract: "lowest cost" or "most economically advantageous tender". Criteria representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of these criteria shall be mentioned, where they do not appear in the specifications, or will not be indicated in the invitation to confirm interest referred to in Article 44(2)(b) or in the invitation to tender or to negotiate.

**ANNEX VI C**  
**INFORMATION TO BE INCLUDED IN CONTRACT NOTICES**

1. Name, address, telephone and fax number, and email address of the contracting authority. The internet address at which the specifications and any supporting documents are available for unrestricted and full direct access, free of charge.
2. Where appropriate, indicate whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes.
3.
  - (a) The award procedure chosen;
  - (b) Where appropriate, the reasons for use of an accelerated procedure (in open, restricted and negotiated procedures);
  - (c) Where appropriate, indicate whether a framework agreement is involved;
  - (d) Where appropriate, indicate whether a dynamic purchasing system is involved;
  - (e) Where appropriate, the holding of an electronic auction (in the event of open, restricted or negotiated procedures with prior publication).
4. Form of the contract.
5. Place of execution/performance of the works, for delivery of products or of the provision of services.
6.
  - (a) Public works contracts:
    - nature and extent of the works and general nature of the work. Indication in particular of options concerning supplementary works, and, if known, the provisional timetable for recourse to these options as well as the number of possible renewals, if any. If the work or the contract is subdivided into several lots, the size of the different lots; Nomenclature reference number(s),
    - information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects,
    - in the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the works for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded.
  - (b) Public supply contracts:
    - nature of the products to be supplied, indicating in particular whether tenders are requested with a view to purchase, lease rental, hire or hire purchase or a combination of these, nomenclature reference number. Quantity of products to be supplied, indicating in particular options concerning supplementary purchases and, if known, the provisional

timetable for recourse to these options as well as the number of renewals, if any. Nomenclature reference number(s),

- in the case of regular or renewable contracts during the course of a given period, indicate also, if known, the timetable for subsequent contracts for purchase of intended supplies,
- in the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the supplies for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded.

(c) Public service contracts:

- category and description of service. Nomenclature reference number(s). Quantity of services to be provided. Indicate in particular options concerning supplementary purchases and, if known, the provisional timetable for recourse to these options as well as the number of renewals, if any. In the case of renewable contracts over a given period, an estimate of the time frame, if known, for subsequent public contracts for purchase of intended services,

in the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the services for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded,

- indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.

Reference to the law, regulation or administrative provision.

- indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.

7. If the contracts are subdivided into lots, indication of the possibility of tendering for one, for several or for all the lots. Indication of any possible limitation of the number of lots that may be awarded to any one tenderer.
8. Any time limit for completion of works/supplies/services or duration of the works/supply/services contract; where possible any time limit by which works will begin or any time limit by which delivery of supplies or services will begin.
9. Admission or prohibition of variants.
10. Where applicable particular conditions to which the performance of the contract is subject.
11. (a) Time limit for receipt of tenders or indicative tenders where a dynamic purchasing system is being used (open procedures);

- (b) time limit for receipt of request to participate (restricted and negotiated procedures);
  - (c) address where these have to be transmitted;
  - (d) the language or languages in which they must be drawn up.
- 12. In the case of open procedures:
  - (a) persons authorised to be present at the opening of tenders;
  - (b) date, time and place for such opening.
- 13. Where appropriate any deposit and guarantees required.
- 14. Main terms concerning financing and payment and/or references to the texts in which these are contained.
- 15. Where applicable, the legal form to be taken by the grouping of economic operators to whom the contract is to be awarded.
- 16. Selection criteria regarding the personal situation of economic operators that may lead to their exclusion, and required information proving that they do not fall within the cases justifying exclusion. Selection criteria and information concerning the economic operators' personal situation, information and any necessary formalities for assessment of the minimum economic and technical standards required of the economic operator. Minimum level(s) of standards possibly required.
- 17. Where there is a framework agreement: the number and, where appropriate, proposed maximum number of economic operators who will be members of it, the duration of the framework agreement provided for, stating, if appropriate, the reasons for any duration exceeding four years.
- 18. In the case of a competitive dialogue or a negotiated procedure with prior publication, indicate, if appropriate, recourse to a staged procedure in order gradually to reduce the number of solutions to be discussed or tenders to be negotiated.
- 19. In the case of a restricted procedure, a competitive dialogue, an innovation partnership or a negotiated procedure with prior publication, when recourse is had to the option of reducing the number of candidates to be invited to submit tenders, to engage in dialogue or to negotiate: minimum and, if appropriate, proposed maximum number of candidates and objective criteria to be used to choose that number of candidates.
- 20. Time frame during which the tenderer must maintain its tender (open procedures).
- 21. Criteria referred to in Article 64 to be used for award of the contract: "lowest cost" or "most economically advantageous tender". Criteria representing the most economically advantageous tender as well as their weighting shall be mentioned where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.

22. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning deadlines for review procedures, or if need be the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
23. Date(s) of publication in accordance with the technical specifications of publication indicated in Annex VIII of the prior information notice, not used as a means of calling for competition, or a statement that no such publication was made.
24. Date of dispatch of the notice.
25. Indicate whether the contract is covered by the Agreement.

**ANNEX VI D**  
**INFORMATION TO BE INCLUDED IN CONTRACT AWARD NOTICES**

1. Name, address and email address of the contracting authority.
2. Award procedures chosen. In the case of negotiated procedure without prior publication (Article 30), justification.
3. Publication reference of the contract notice for the framework agreement.
4. Publication reference of the call for competition for the dynamic purchasing system.
5. Email or electronic address at which the technical specifications and additional documents relating to the dynamic purchasing system are available.
6. If tenders had to be submitted by electronic means, email or electronic address to which tenders had to be sent.
7. Public works contracts: nature and extent of the contract, general characteristics of the work. Public supply contracts: nature and quantity of products supplied, where appropriate, by the supplier; nomenclature reference number.
8. Public service contracts: category and description of the service; nomenclature reference number; quantity of services bought.
9. Date of contract award.
10. Contract award criteria.
11. Number of tenders received.
12. Name and address of the successful economic operators.
13. Price or range of prices (minimum/maximum) paid.
14. Value of the tender (tenders) retained or the highest tender and lowest tender taken into consideration for the contract award.

15. Where appropriate, value and proportion of contract likely to be subcontracted to third parties.
16. Date of publication of the call for competition in accordance with the technical specifications for publication in Annex VI.
17. Date of dispatch of the notice.
18. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

**ANNEX VI E**  
**INFORMATION TO BE INCLUDED IN PUBLIC WORKS CONCESSION NOTICES**

1. Name, address, fax number and email address of the contracting authority
2.
  - (a) Place of execution
  - (b) Subject of the concession; nature and extent of the services
3.
  - (a) Time limit for the submission of applications
  - (b) Address to which they must be sent
  - (c) Language(s) in which they must be written
4. Personal, technical and financial conditions to be met by the candidates
5. Criteria which will be applied in the award of the contract
6. If appropriate, the minimum proportion of the works which will be contracted out
7. Date of dispatch of the notice
8. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

**ANNEX VI F**  
**INFORMATION TO BE INCLUDED IN WORKS CONTRACT NOTICES OF CONCESSIONNAIRES WHO ARE NOT CONTRACTING AUTHORITIES**

1.
  - (a) Place of execution
  - (b) Nature and extent of the services, general characteristics of the works
2. Any time limit for completion imposed

3. Name and address of the body from whom the specifications and the additional documents may be requested
4.
  - (a) Time limit for the receipt of applications to participate and/or the receipt of tenders
  - (b) Address to which they must be sent
  - (c) Language(s) in which they must be written
5. Any deposits or guarantees required
6. Economic and technical conditions to be met by the contractor
7. Criteria which will be applied in the award of the contract
8. Date of dispatch of the notice

**ANNEX VI G**  
**INFORMATION TO BE INCLUDED IN DESIGN CONTEST NOTICES**

1. Name, address, fax number and email address of the contracting authority and those of the service from which the additional documents may be obtained
2. Description of the project
3. Type of contest: open or restricted
4. In the event of an open contest: time limit for the submission of projects
5. In the event of a restricted contest:  
 number of participants contemplated
  - (a) names of the participants already selected, if any
  - (b) criteria for the selection of participants
  - (c) time limit for requests to participate
6. If appropriate, indicate that the participation is restricted to a specified profession
7. Criteria which will be applied in the evaluation of the projects
8. Names of any members of the jury who have already been selected
9. Indicate whether the jury's decision is binding on the contracting authority
10. Number and value of any prizes
11. Payments to be made to all participants, if any
12. Indicate whether any contracts following the contest will or will not be awarded to the winner or winners of the contest

13. Date of dispatch of the notice

**ANNEX VI H**  
**INFORMATION TO BE INCLUDED IN NOTICES OF THE RESULTS OF A**  
**CONTEST**

1. Name, address, fax number and email address of the contracting authority
2. Description of the project
3. Total number of participants
4. Number of foreign participants
5. Winner(s) of the contest
6. Any prizes
7. Reference of the contest notice
8. Date of dispatch of the notice

**ANNEX VI I**  
**INFORMATION TO BE INCLUDED IN NOTICES OF INTENDED**  
**MODIFICATIONS OF A CONTRACT DURING ITS TERM**

1. Name, address and email address of the contracting authority.
2. Publication reference of the call for competition and the contract award notice.
3. Email or electronic address at which the technical specifications and additional documents are available.
4. Public works contracts: nature and extent of the contract following the proposed modifications, general characteristics of the work following the proposed modifications. Public supply contracts: nature and quantity of products to be supplied following the proposed modifications, where appropriate, by the supplier; nomenclature reference number.
5. Public service contracts: category and description of the service following the proposed modifications; nomenclature reference number; quantity of services bought.
6. Date of contract award.
7. Where applicable, name and address of the new contractual partner.
8. Value of the intended modification.
9. Date of dispatch of the notice.
10. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the



deadline for review procedures, or if need be the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

#### **ANNEX VI J**

##### **Information to be included in contract notices concerning contracts for social and other specific services (Article 71)**

1. Name, address, telegraphic address, electronic address, telephone number, telex and fax number of the contracting authority or the service from which additional information may be obtained.
2. Description of the services or categories thereof to be procured, including an indication of the quantities or values involved, nomenclature reference No(s).
3. Where appropriate, state whether the contract is reserved for sheltered workshops or whether its performance is reserved in the context of sheltered employment programmes.
4. Main conditions to be fulfilled by the economic operators in view of their participation, or, where appropriate, the electronic address where detailed information may be obtained.
5. Time limit(s) for contacting the contracting authority in view of participation.
6. Any other relevant information.

#### **ANNEX VI K**

##### **Information to be included in contract award notices concerning contracts for social and other specific services (Article 71)**

1. Name and address of the contracting authority.
2. At least a summary indication of the nature and quantity of the services provided.
3. Reference of publication of the contract notice in the Official Journal of the European Union.
4. Number of tenders received.
5. Name and address of the chosen economic operator(s).
6. Any other relevant information.

**ANNEX VII**  
**FEATURES CONCERNING PUBLICATION**

1. Publication of notices

Notices referred to in Articles 44, 45, 46, 72, 76 and 85 must be sent by the contracting authorities to the Office for Official Publications of the European Communities in the format established by implementing measures to be adopted by the Commission in accordance with the procedure referred to Article 101(2). The prior information notices referred to in Article 44(1), published on a buyer profile as described in point 2(b), must also use that format, as must the notice of such publication.

- (a) Notices referred to in Articles 44, 45, 46, 72, 76 and 85 are published by the Office for Official Publications of the European Communities or by the contracting authorities in the event of a prior information notice published on a buyer profile in accordance with Article 44(1).

In addition, contracting authorities may publish this information on the Internet on a "buyer profile" as referred to in point 2(b).

- (b) The Office for Official Publications of the European Communities will give the contracting authority the confirmation referred to in Article 47(5), second subparagraph.

2. Publication of complementary or additional information

- (c) Contracting authorities shall publish the specifications and the additional documents in their entirety on the Internet.
- (d) The buyer profile may include prior information notices as referred to in Article 44(1), information on ongoing invitations to tender, scheduled purchases, contracts concluded, procedures cancelled and any useful general information, such as a contact point, a telephone and a fax number, a postal address and an e-mail address.

3. Format and procedures for sending notices electronically

The format and procedure for sending notices electronically are accessible at the Internet address "<http://simap.europa.eu>".

## ANNEX VIII REGISTERS<sup>37</sup>

The relevant professional and trade registers and corresponding declarations and certificates for each Member State are:

- in Belgium the "Registre du Commerce"/"Handelsregister", and, *in the case of service contracts*, the "Ordres professionnels/Beroepsorden";
- in Bulgaria, the "Търговски регистър";
- in the Czech Republic, the "obchodní rejstřík";
- in Denmark, the "Erhvervs- og Selskabsstyrelsen";
- in Germany, the "Handelsregister", the "Handwerksrolle", and, *in the case of service contracts*, the "Vereinsregister", the "Partnerschaftsregister" and the "Mitgliedsverzeichnisse der Berufskammern der Länder";
- in Estonia, the "Registrite ja Infosüsteemide Keskus";
- in Ireland, the economic operator may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies or, if he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place under a given business name;
- in Greece, the "Μητρώο Εργοληπτικών Επιχειρήσεων — ΜΕΕΠ" of the Ministry for Environment, Town and Country Planning and Public Works (Υ.Π.Ε.ΧΩ.Δ.Ε) *in respect of works contracts*; the "Βιοτεχνικό ή Εμπορικό ή Βιομηχανικό Επιμελητήριο" and the "Μητρώο Κατασκευαστών Αμυντικού Υλικού" *in the case of supplies contracts*; *in the case of service contracts*, the service provider may be asked to provide a declaration on the exercise of the profession concerned made on oath before a notary; in the cases provided for by existing national legislation, for the provision of research services as mentioned in Annex I, the professional register "Μητρώο Μελετητών" and the "Μητρώο Γραφείων Μελετών";
- in Spain, the "Registro Oficial de Licitadores y Empresas Clasificadas del Estado" *in respect of works and services contracts*, and, *in the case of supplies contracts*, the "Registro Mercantil" or, in the case of non-registered individuals, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question;
- in France, the "Registre du commerce et des sociétés" and the "Répertoire des métiers";

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<sup>37</sup> For the purposes of Article 54(2), "professional or trade registers" means those listed in this Annex and, where changes have been made at national level, the registers which have replaced them. **This Annex is only indicative and does not prejudice the compatibility of these registers with Union law on the freedom of establishment and the freedom to provide services. [In Directive 2009/81/EC, not in 2004/18/EC - do we really need it?]**

- in Italy, the "Registro della Camera di commercio, industria, agricoltura e artigianato"; ***in the case of supplies and services contracts*** also the "Registro delle commissioni provinciali per l'artigianato" or, in addition to the already mentioned registers, the "Consiglio nazionale degli ordini professionali" ***in respect of services contracts***;
- in Cyprus, the contractor may be requested to provide a certificate from the "Council for the Registration and Audit of Civil Engineering and Building Contractors (Συμβούλιο Εγγραφής και Ελέγχου Εργοληπτών Οικοδομικών και Τεχνικών Έργων)" in accordance with the Registration and Audit of Civil Engineering and Building Contractors Law ***in respect of works contracts***; ***in the case of supplies and services contracts*** the supplier or service provider may be requested to provide a certificate from the "Registrar of Companies and Official Receiver" (Εφορος Εταιρειών και Επίσημος Παραλήπτης) or, if this is not the case, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place and under a given business name;
- in Latvia, the "Uzņēmumu reģistrs";
- in Lithuania, the "Juridinių asmenų registras";
- in Luxembourg, the "Registre aux firmes" and the "Rôle de la Chambre des métiers";
- in Hungary, the "Cégnyilvántartás", the "egyéni vállalkozók jegyzői nyilvántartása" and, ***in the case of service contracts***, some "szakmai kamarák nyilvántartása" or, in the case of some activities, a certificate stating that the person concerned is authorised to be engaged in the commercial activity or profession in question;
- in Malta, the economic operator obtains his "numru ta' registrazzjoni tat-Taxxa tal-Valur Miżjud (VAT) u n-numru tal-licenzja ta' kummerċ", and, in the case of a partnership or company, the relevant registration number as issued by the Malta Financial Services Authority;
- in the Netherlands, the "Handelsregister";
- in Austria, the "Firmenbuch", the "Gewerberegister", the "Mitgliederverzeichnisse der Landeskammern";
- in Poland, the "Krajowy Rejestr Sądowy";
- in Portugal, the "Instituto da Construção e do Imobiliário" (INCI) ***in respect of works contracts***; the "Registro Nacional das Pessoas Colectivas" in the case of ***supplies and services contracts***;
- in Romania, the "Registrul Comerțului";
- in Slovenia, the "Sodni register" and the "obrtni register";
- in Slovakia, the "Obchodný register";
- in Finland, the "Kaupparekisteri"/"Handelsregistret";

- in Sweden, the "aktiebolags-, handels- eller föreningsregistren";
- in the United Kingdom, the economic operator may be requested to provide a certificate from the Registrar of Companies stating that he is certified as incorporated or registered or, if he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in a specific place under a given business name.

**ANNEX IX**  
**REQUIREMENTS RELATING TO DEVICES FOR THE ELECTRONIC RECEIPT**  
**OF TENDERS, REQUESTS FOR PARTICIPATION AND PLANS AND PROJECTS**  
**IN CONTESTS**

1. Devices for the electronic receipt of tenders, requests for participation and plans and projects in contests must at least guarantee, through technical means and appropriate procedures, that:
  - (a) electronic signatures relating to tenders, requests to participate and the forwarding of plans and projects comply with national provisions adopted pursuant to Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures<sup>38</sup>;
  - (b) the exact time and date of the receipt of tenders, requests to participate and the submission of plans and projects can be determined precisely;
  - (c) it may be reasonably ensured that, before the time limits laid down, no-one can have access to data transmitted under these requirements;
  - (d) if that access prohibition is infringed, it may be reasonably ensured that the infringement is clearly detectable;
  - (e) only authorised persons may set or change the dates for opening data received;
  - (f) during the different stages of the contract award procedure or of the contest access to all data submitted, or to part thereof, must be possible only through simultaneous action by authorised persons;
  - (g) simultaneous action by authorised persons must give access to data transmitted only after the prescribed date;
  - (h) data received and opened in accordance with these requirements must remain accessible only to persons authorised to acquaint themselves therewith, and
  - (i) authentication of tenders must conform to the requirements set out in this Annex.
2. Contracting authorities shall be deemed to offer suitable alternative means of access in the sense of Article 9 (4) if they:
  - (a) offer unrestricted and full direct access by electronic means to these tools from the date of publication of the notice in accordance with Annex VII or the invitation to confirm interest is sent. The text of the notice or the invitation to confirm interest shall specify the internet address at which these tools are accessible;

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<sup>38</sup> OJ L 13, 19.1.2000, p. 12.

- (b) ensure that tenderers established in other Member States than the contracting authority's may access the award procedure through the use of provisional tokens made available online at no extra cost, or
  - (c) support an alternative channel for electronic submission of tenders.
- 3. To implement Article 9 (5) with regard to electronic signatures, the following rules shall apply:
  - (a) The contracting authority shall establish the signature format choosing among the commonly used formats established in Commission Decision 2011/130<sup>39</sup>
  - (b) In case of tenders signed with any qualified signature that is included in the Trusted list, and which shall hence be accepted pursuant Article 9 (5) (d) as long as the signature is verified correctly, no further verification requirements can be set up exceeding the amount of information contained in the certificate, neither can special requirements be placed on the signature characteristics such as the signature device.

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<sup>39</sup> OJ L 53, 26.2.2011, p. 66.

**ANNEX X**  
**LIST OF EU LEGISLATION REFERRED TO IN ARTICLE 65(2)**

1. Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles<sup>40</sup>.

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<sup>40</sup> OJ L 120, 15.5.2009, p. 5.



**ANNEX XI**  
**LIST OF INTERNATIONAL LABOUR LAW PROVISIONS WITHIN THE**  
**MEANING OF ARTICLE 53(3)(a)**

- Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- Convention 98 on the Right to Organise and Collective Bargaining;
- Convention 29 on Forced Labour;
- Convention 105 on the Abolition of Forced Labour;
- Convention 138 on Minimum Age;
- Convention 111 on Discrimination (Employment and Occupation);
- Convention 100 on Equal Remuneration;
- Convention 182 on Worst Forms of Child Labour.

**ANNEX XII**  
**CONTENTS OF THE INVITATIONS TO SUBMIT A TENDER, PARTICIPATE IN**  
**THE DIALOGUE OR NEGOTIATE OR TO CONFIRM INTEREST PROVIDED FOR**  
**UNDER ARTICLE 50**

1. The invitation to submit a tender, to participate in the dialogue or to negotiate provided for under Article 50 must contain at least:
  - (a) a reference to the call for competition published;
  - (b) the deadline for the receipt of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up;
  - (c) in the case of competitive dialogue the date and the address set for the start of consultation and the language or languages used;
  - (d) a reference to any possible adjoining documents to be submitted, either in support of verifiable declarations by the tenderer in accordance with Articles 57 and 58 and, where appropriate, Article 59 or to supplement the information referred to in those Articles, and under the conditions laid down in Articles 57, 58 and 59;
  - (e) the relative weighting of criteria for the award of the contract or, where appropriate, the descending order of importance for such criteria, if they are not given in the contract notice, in the invitation to confirm interest, in the specifications or the descriptive document.

However, in the case of contracts awarded through a competitive dialogue or an innovation partnership, the information referred to in (b) above shall not appear in the invitation to participate in the dialogue or to negotiate but it shall appear in the invitation to submit a tender.

2. When a call for competition is made by means of a prior indicative notice, contracting entities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

This invitation shall include at least the following information:

- (a) nature and quantity, including all options concerning complementary contracts and, if possible, the estimated time available for exercising these options for renewable contracts, the nature and quantity and, if possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;
- (b) type of procedure: restricted or negotiated;
- (c) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;

- (d) the address and closing date for the submission of requests for procurement documents and the language or languages in which they are to be drawn up;
- (e) the address of the entity which is to award the contract and the information necessary for obtaining the specifications and other documents;
- (f) economic and technical conditions, financial guarantees and information required from economic operators;
- (g) the amount and payment procedures for any sum payable for obtaining procurement documents;
- (h) the form of the contract which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of these; and
- (i) the contract award criteria and their weighting or, where appropriate, the order of importance of such criteria, if this information is not given in the prior information notice or the specifications or in the invitation to tender or to negotiate.

**ANNEX XIII**  
**MEANS OF PROOF OF SELECTION CRITERIA**

*Chapter 1: Economic and financial standing*

Proof of the economic operator's economic and financial standing may, as a general rule, be furnished by one or more of the following references:

- (a) appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- (b) the presentation of balance-sheets or extracts from the balance-sheets, where publication of the balance-sheet is required under the law of the country in which the economic operator is established;
- (c) a statement of the undertaking's overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last three financial years available, depending on the date on which the undertaking was set up or the economic operator started trading, as far as the information on these turnovers is available.

*Chapter 2: Technical ability*

Evidence of the economic operators' technical abilities may be furnished by one or more of the following means according to the nature, quantity or importance, and use of the works, supplies or services:

- (a)
  - (i) a list of the works carried out over at the most the past five years, accompanied by certificates of satisfactory execution for the most important works. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant works carried out more than five years before will be taken into account;
  - (ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account;
- (b) an indication of the technicians or technical bodies involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control and, in the case of public works contracts, those upon whom the contractor can call in order to carry out the work;
- (c) a description of the technical facilities and measures used by the economic operator for ensuring quality and the undertaking's study and research facilities;
- (d) where the products or services to be supplied are complex or, exceptionally, are required for a special purpose, a check carried out by the contracting authorities or on their behalf by a competent official body of the country in which the supplier or service provider is established, subject to that body's agreement, on the production

capacities of the supplier or the technical capacity of the service provider and, if necessary, on the means of study and research which are available to it and the quality control measures it will operate;

- (e) the educational and professional qualifications of the service provider or contractor and/or those of the undertaking's managerial staff and, in particular, those of the person or persons responsible for providing the services or managing the work;
- (f) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract;
- (g) a statement of the average annual manpower of the service provider or contractor and the number of managerial staff for the last three years;
- (h) a statement of the tools, plant or technical equipment available to the service provider or contractor for carrying out the contract;
- (i) an indication of the proportion of the contract which the economic operator intends possibly to subcontract;
- (j) with regard to the products to be supplied:
  - (i) samples, descriptions and/or photographs, the authenticity of which must be certified if the contracting authority so requests;
  - (ii) certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of products clearly identified by references to specifications or standards.

**ANNEX XIV**  
**CONTENT OF EUROPEAN PROCUREMENT PASSPORT**

The European Procurement Passport contains the following particulars:

- (a) Identification of the economic operator;
- (b) Certification that the economic operator has not been the subject of a conviction by final judgment for one of the reasons listed in Article 53 (1);
- (c) Certification that the economic operator is not the subject of insolvency or winding-up proceedings as referred to in Article 53 (3) (b) ;
- (d) Where applicable, certification of enrolment in a professional or trade register prescribed in the Member State of establishment, as referred to in Article 54 (2);
- (e) Where applicable, certification that the economic operator possesses a particular authorisation or is member of a particular organisation within the meaning of Article 54 (2);
- (f) Indication of the period of validity of the Passport, which shall be not less than 6 months.

**ANNEX XV**  
**INFORMATION TO BE INCLUDED IN THE SPECIFICATIONS IN ELECTRONIC**  
**AUCTIONS**  
**(Article 33(4))**

The specifications to be used where contracting authorities have decided to hold an electronic auction shall include at least the following details:

- (a) the features, the values for which will be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;
- (b) any limits on the values which may be submitted, as they result from the specifications relating to the subject of the contract;
- (c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- (d) the relevant information concerning the electronic auction process;
- (e) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- (f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

**ANNEX XVI**  
**SERVICES REFERRED TO IN ARTICLE 71**

CPV Code	Description
7511000-4 and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2)	Health and social services
75121000-0, 75122000-7, 75124000-1	Administrative educational, healthcare and cultural services
75300000-9	Compulsory social security services
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3	Other community, social and personal services
98120000-0	Services furnished by trade unions
98131000-0	Religious services



**ANNEX XVII**  
**CORRELATION TABLE**

[to be completed when numbering definitive]