



## EU Support for further improvement of Public Procurement system in Serbia

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Pursuant to Article 164 paragraph 2 of Public Procurement Law („Official Gazette of RS”, No. 91/2019) and Article 42 paragraph 1 of the Law on Government („Official Gazette of RS”, No. 55/05, 71/05 – correction, 101/07, 65/08, 16/11, 68/12 – CC, 72/12, 7/14 – US, 44/14 and 30/2018 – other law),

the Government adopts

### REGULATION

### ON PUBLIC PROCUREMENT IN THE FIELDS OF DEFENCE AND SECURITY

The Regulation is published in “Official Gazette of RS”, No. 93/2020 on 1 July 2020 and entered into force on the same day, whereas the provision of Article 15 paragraph 6 of this Regulation shall become effective on the day of accession of the Republic of Serbia to the European union.

#### I. INTRODUCTORY PROVISION

##### Subject matter of Regulation

##### Article 1

This Regulation regulates the types of public procurement procedures in the fields of defence and security, conditions and the manner for their conduct, as well as communication in the public procurement procedures.

The public procurement in the fields of defence and security, in accordance with Public Procurement Law (hereinafter: the Law) shall be the procurement of:

- 1) military equipment, including any parts, components or assembly thereof;
- 2) security-sensitive equipment, including any parts, component or assembly thereof;
- 3) supplies, services or works directly related to the equipment referred to in points 1) and 2) of this paragraph during any of their terms or during their entire life cycle;
- 4) services and works for specifically military purposes;
- 5) security-sensitive works and security-sensitive services.

Contracting authorities/entities in cases determined by this Regulation shall conduct public procurement procedures regulated by this Regulation for procurement of supplies, works and services referred to in paragraph 2 of this Article the estimated value of which is equal to or exceeding the thresholds determined by the Law and to which a certain level of classification has been attributed, in accordance with law governing secrecy of data, except for procurement procedures for specific exclusions in the field of defence and security determined by the Law.

Annex 1 – List of services - 1 A – List of services and 1 B – List of services and Annex 2 – Content of public procurement notices in the fields of defence and security - 2 A – Prior information

notices - 2 B – Contract notice and 2 C – Contract award notice, discontinuation of procedure or cancellation of procedure are printed along this Regulation and form its integral part.

## Meaning of terms

### Article 2

Certain concepts used in this Regulation shall have the following meaning:

- 1) **classified information** means any information of interest to Republic of Serbia to which a certain level of classification has been assigned and attributed by law, other regulation or a decision of competent authority adopted in accordance with the law;
- 2) **crisis** means any situation in Republic of Serbia, member state of the European Union or third country in which a harmful event has occurred which clearly exceeds the dimensions of harmful events in everyday life and which substantially endangers or restricts the life and health of people, or has a substantial impact on property values, or requires measures in order to supply the population with necessities; a crisis shall also be deemed to have arisen if the occurrence of such a harmful event is deemed to be impending; armed conflicts and wars shall be regarded as crises for the purposes of this Regulation;
- 3) **public procurement contract containing classified information** means contracts for pecuniary interest concluded in writing between one or more tenderers and one or more contracting authorities/entities and having as its object the supply of goods, provision of services, or execution of works, and which contains classified information or whose performance requires access to classified information;
- 4) **subcontract** means a contract for pecuniary interest concluded in writing between a successful tenderer for a contract and one or more economic operators for the purposes of carrying out the part of that contract and having as its object supplies of goods, provision of services or the execution of works;
- 5) **defence standard** means a technical specification the observance of which is not compulsory and which is approved by a standardisation body specialising in the production of technical specifications for repeated or continuous application in the field of defence.

Other terms used in this Regulation shall have the same meaning established in the Law.

## Communication in public procurement procedure

### Article 3

Communication and exchange of information between contracting authorities/entities and economic operators in public procurement procedure as a rule shall be carried out by post, courier service, directly and electronically – by sending electronic mail.

Communication and exchange of information by electronic means on the Public Procurement Portal shall be mandatory for:

- 1) drawing up and sending for publication of public procurement notices and their amendments;

2) publication of decisions which the contracting authority/entity is obliged to publish on the Public Procurement Portal in accordance with this Regulation.

As an exception from paragraph 2 of this Article contracting authority/entity may determine that communication and exchange of information in particular public procurement procedure shall be fully carried out by electronic means on the Public Procurement Portal, in accordance with Article 45 paragraph 2 of the Law, when technical conditions to do so are met.

In case of paragraphs 2 and 3 of this Article the provisions of the Law and Instructions for the use of Public Procurement Portal referred to in Article 184 of the Law shall apply to communication and exchange of information by electronic means.

Where contracting authority/entity or economic operator has submitted a document in public procurement procedure by electronic mail, the document shall be deemed received at the moment it was sent.

### **Protection of classified information during public procurement procedure**

#### **Article 4**

Where contracting authority/entity intends to make available classified information to economic operators during public procurement procedure, he is obliged to impose requirements with which economic operators must comply aimed at protection of classified information in accordance with special regulation governing protection of classified information.

A tenderer to which a public procurement contract has been awarded must act in accordance with paragraph 1 of this Article when he makes available classified information to subcontractor with which he concludes contract.

Where the release of certain information from contract award decision or framework agreement would impede the provisions of the Law, or would otherwise be contrary to the public interest, in particular interest of defence and security, or would prejudice the legitimate commercial interests of a particular economic operator, or might prejudice fair competition on the market, such information shall not be published.

## **II. PUBLIC PROCUREMENT PROCEDURES**

### **Types of public procurement procedures and conditions for their conduct**

#### **Article 5**

Public procurement procedures within the meaning of this Regulation are:

- 1) restricted procedure;
- 2) negotiated procedure with publication of the contract notice;
- 3) competitive dialogue;
- 4) negotiated procedure without publication of contract notice.



As a rule, contracting authority/entity awards contracts in restricted procedure or negotiated procedure with publication of the contract notice, and may also award contracts in other public procurement procedures if the requirements regulated by this Regulation are met.

The contracting authority/entity may reserve the right to participate in public procurement procedure in accordance with Article 37 of the Law.

The provisions of this Regulation shall apply to procurement of services referred to in Annex 1 B.

## **Restricted procedure**

### **Article 6**

After publication of a contract notice the contracting authority/entity shall also make available to economic operators additional documentation, if needed for preparation of requests to participate.

Where documentation referred to in paragraph 1 of this Article is not available on the Public Procurement Portal the way the documentation may be obtained shall be indicated in the contract notice.

The contracting authority/entity shall exclude the public from the process of opening of requests to participate and tenders, where it is necessary for the sake of the protection of information which constitutes business secret in terms of the law governing the protection of trade secrets, or which constitutes classified data in terms of the law governing the confidentiality of information.

## **Negotiated procedure with publication of the contract notice**

### **Article 7**

Contracting authority/entity intending to award a public procurement contract or a framework agreement in the negotiated procedure with publication of the contract notice shall publish the contract notice.

The contracting authority/entity shall exclude the public from the process of opening of requests to participate, initial, all subsequent and final tenders, where it is necessary for the sake of the protection of information which constitutes business secret in terms of the law governing the protection of trade secrets, or which constitutes classified data in terms of the law governing the confidentiality of information.

To issues of conduct of negotiated procedure with publication of the contract notice which are not regulated by this Regulation corresponding provisions of the Law shall apply accordingly.

## **Competitive dialogue**

### **Article 8**

Contracting authority/entity may use competitive dialogue for the award of public procurement contract of a framework agreement in the case the subject matter of procurement is particularly complex, so that public procurement contract or framework agreement may not be awarded by applying restricted procedure or negotiated procedure with publication of the contract notice.

The subject matter of procurement shall be considered to be particularly complex in the following cases:

- 1) the needs of contracting authority/entity cannot be met without adaptation of the readily available solutions;
- 2) contract involves design or innovative solutions;
- 3) contract may not be awarded without prior negotiations because of specific circumstances related to the nature, complexity, legal or financial structure of the subject-matter of public procurement, or because of the risks related thereto;
- 4) contracting authority/entity cannot determine with sufficient precision the technical specifications of the subject-matter of public procurement in terms of Article 23 of this Regulation.

Contracting authority/entity intending to award a public procurement contract or a framework agreement in the competitive dialogue shall publish the contract notice.

The contracting authority/entity shall exclude the public from the process of opening of requests to participate, solutions and final tenders, where it is necessary for the sake of the protection of information which constitutes business secret in terms of the law governing the protection of trade secrets, or which constitutes classified data in terms of the law governing the confidentiality of information.

### **Negotiated procedure without publication of contract notice**

#### **Article 9**

Contracting authority/entity may conduct negotiated procedure without publication of the contract notice for procurement of supplies, services and works:

- 1) where only a particular economic operator is capable of delivering supplies, provide services or execute works, for any of the following reasons:
  - (1) competition is absent for technical reasons,
  - (2) for the protection of exclusive rights, including intellectual property rights,
  - (3) if the tenderers are at the same time producers, service providers or contractors of importance for defence and security of Republic of Serbia and produce goods, provide services and execute works according to product quality standards or regulations in the fields of defence and security;
- 2) insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority/entity, the time-limit for the restricted procedure or the negotiated procedure with publication of a contract notice, including the shortened time-limits for justified reasons as referred to in Article 14 of this Regulation, cannot be complied with, provided the circumstances invoked to justify extreme urgency must not be attributable to the contracting authority/entity;
- 3) when no tenders or no suitable tenders or no requests to participate or no suitable requests to participate have been submitted in response to a restricted procedure, a negotiated

procedure with prior publication of a contract notice or a competitive dialogue, provided that the initial conditions of the contract are not substantially altered;

4) in the event of submission of tenders which are unacceptable in response to a restricted procedure, a negotiated procedure with publication or a competitive dialogue, provided the contracting authority/entity invites to this procedure all of, and only, tenderers who in a previous procedure have submitted a tender in accordance with formal requirements and satisfy criteria for qualitative selection of economic operator and provided that initial conditions of public procurement are not substantially modified;

5) when the time limits laid down for the restricted procedure or negotiated procedure with publication of a contract notice, including the shortened time limits referred to in Article 14 of this Regulation, are incompatible with the urgency resulting from a crisis.

Contracting authority/entity may conduct negotiated procedure without publication of the contract notice for procurement of supplies:

1) for additional deliveries by the original supplier which are intended as a partial replacement of products, materials or installations or as the extension of existing products, materials or installations where a change of supplier would oblige the contracting authority/entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance, provided the length of such contracts may not exceed five years, except in exceptional circumstances determined by taking into account the expected service life of any delivered product, installations or systems, and the technical difficulties which a change of supplier may cause while the contracting authority/entity must elaborate such exceptional circumstances in the public procurement report;

2) for supplies quoted and purchased on a commodity market;

3) for the purchase of supplies on particularly advantageous terms, from a supplier which is definitely winding up or has already wound up its business activities, from bankruptcy or liquidation administrator within a pertinent procedure, an arrangement with creditors, or another appropriate procedure under national laws of the state of economic operator;

4) for products manufactured purely for the purpose of research, experiment, study or development, provided that the manufactured volume of supplies does not result in securing profit or in recovering the research and development costs.

Contracting authority/entity may conduct negotiated procedure without publication of the contract notice for procurement of services:

1) for research and development services other than those referred to in Article 12 paragraph 1 point 12) of the Law;

2) for additional services whose total value does not exceed 50% of the total value of the originally concluded contract, not included in the original project or in the original public procurement contract but which have, through unforeseen circumstances, become necessary for the performance of the public procurement contract, on condition that the award is made to the economic operator performing original contract and that:



- (1) such additional services cannot be technically or economically separated from the original public procurement contract without major inconvenience to the contracting authority/entity, or
  - (2) such services, although separable from the performance of the original contract, are strictly necessary for completion of the basic public procurement contract;
- 3) for new services consisting in the repetition of similar services entrusted to the economic operator to which the contracting authority/entity awarded an original contract, provided all following conditions are satisfied:
- (1) such services are in conformity with a basic project for which the original contract was awarded;
  - (2) original contract was concluded following the restricted procedure, the negotiated procedure with publication of a contract notice or a competitive dialogue;
  - (3) the option of applying this procedure was envisaged in the contract notice for the original contract;
  - (4) when calculating the estimated value of procurement for the original contract, the total estimated value of new services to be repeated was included in calculation, and
  - (5) this procedure is used within five years following the conclusion of the original contract, except in exceptional circumstances determined by taking into account the expected service life of any delivered products, installations or systems, and the technical difficulties which a change of economic operator may cause while the contracting authority/entity must elaborate such exceptional circumstances in the public procurement report;
- 4) for contracts related to the provision of air and maritime transport services for the armed forces or security forces of the Republic of Serbia deployed or to be deployed abroad, when the contracting authority/entity has to procure such services from economic operators that guarantee the validity of their tenders only for such short periods that the time-limit for the restricted procedure or the negotiated procedure with publication of a contract notice, including the shortened time-limits for reasons of justified urgency as referred to in Article 14 of this Regulation, cannot be complied with.

Contracting authority/entity may conduct negotiated procedure without publication of the contract notice for procurement of works:

- 1) for additional works whose total value does not exceed 50% of the total value of the original contract, not included in the original project or in the original public procurement contract but which have, through unforeseen circumstances, become necessary for the performance of the public procurement contract, on condition that the award is made to the economic operator performing original contract and that:
  - (1) such additional works cannot be technically or economically separated from the basic public procurement contract without major inconvenience to the contracting authority/entity, or
  - (2) such works, although separable from the performance of the basic contract, are strictly necessary for completion of the basic public procurement contract;

2) for new works consisting in the repetition of similar works entrusted to the economic operator to which the contracting authority/ entity awarded an original contract, provided all following conditions are satisfied:

- (1) such works are in conformity with a basic project for which the original contract was awarded;
- (2) original contract was concluded following the restricted procedure, the negotiated procedure with publication of a contract notice or a competitive dialogue;
- (3) the option of applying this procedure was envisaged in the contract notice for the original contract;
- (4) when calculating the estimated value of procurement for the original contract, the total estimated value of new works to be repeated was included in calculation, and
- (5) this procedure is used within five years following the conclusion of the original contract, except in exceptional circumstances determined by taking into account the expected service life of any delivered products, installations or systems, and the technical difficulties which a change of economic operator may cause while the contracting authority/entity must elaborate such exceptional circumstances in the public procurement report.

The terms unsuitable tender and unsuitable request to participate referred to in paragraph 1 point 3) of this Article and the term unacceptable tender referred to in paragraph 1 point 4) of this Article shall have meaning established in the Law.

In case of implementation of negotiated procedure without publication of a contract notice referred to in paragraph 1 point 1) subpoint (3) of this Article, the contracting authority/entity shall determine the criteria for selection of economic operator and means of proof for the criteria for selection of economic operator in the manner appropriate to the circumstances of the particular procurement.

### **Conduct of negotiated procedure without publication of contract notice**

#### **Article 10**

On the Public Procurement Portal, the contracting authority/entity shall publish a notice on the implementation of the negotiated procedure without publication of a contract notice the content of which is indicated in Annex 4 Part G of the Law.

The contracting authority/entity intending to conclude a public procurement contract or a framework agreement in negotiated procedure without publication of a contract notice shall send in writing an invitation to initial tenders to one or, if possible, to a greater number of economic operators.

With the invitation referred to in paragraph 2 of this Article, the contracting authority/entity shall submit the tender documents in which it determines the criteria for the qualitative selection of the economic operator and the contract award criteria, the subject-matter of procurement with a description of the needs and required characteristics of the supplies, services or works, specifying which elements of the description of the needs and the required characteristics of supplies, services or works represent the minimum requirements that all tenders need to meet, as well as the elements of the contract to be negotiated and the method of negotiation.



Initial tenders may be submitted only by those economic operators having received invitation referred to in paragraph 2 of this Article by contracting authority/entity.

Contracting authority/entity negotiates initial and all subsequent tenders with tenderers, so to improve the contents of tenders, except in case of the final tender.

The minimum requirements indicated in the tender documents may not be subject to negotiation.

During the negotiations the contracting authority shall ensure the equal treatment of all tenderers, and may not provide information in a discriminatory manner, which certain tenderers might tend to make use of at the expense of the others.

As an exception, a public procurement contract may be awarded without negotiation, on the basis of initial tenders, where such option was envisaged in the invitation referred to in paragraph 2 of this Article.

Contracting authority/entity shall keep the minutes of negotiation.

Contracting authority shall notify tenderers about the conclusion of negotiations, and set a common deadline for the submission of final tenders.

The contracting authority/entity shall exclude the public from the process of opening of initial, all subsequent and final tenders, where it is necessary for the sake of the protection of information which constitutes business secret in terms of the law governing the protection of trade secrets, or which constitutes classified data in terms of the law governing the confidentiality of information.

Contracting authority shall verify whether the final tenders comply with the minimum requirements specified in the tender documents, evaluate the final tenders, and award public procurement contract on the basis of the contract award criteria.

Contract award decision or decision on discontinuation of procedure shall be sent by contracting authority/entity to all tenderers participating in the procedure.

## **Procurement of services referred to in Annex 1 B**

### **Article 11**

In case of mixed contracts comprising services referred to in Annex 1 A and services referred to in Annex 1 B the contracting authority/entity may act in accordance with provisions of paragraphs 3 – 13 of this Article if the estimated value of services referred to in Annex 1 B is higher than the estimated value of services referred to in Annex 1 A of this Regulation.

For procurement of services referred to in Annex 1 A of this Regulation or in case of mixed contracts, where the estimated value of services referred to in Annex 1 A is higher than the estimated value of services referred to in Annex 1 B of this Regulation, the contracting authority/entity shall implement one of the procedures referred to in Article 5 paragraph 1 points 1) to 4) of this Regulation, in accordance with conditions for the use of those procedures.

The contracting authority/entity intending to conclude a public procurement contract or a framework agreement for procurement of services referred to in Annex 1 B of this Regulation shall send in writing an invitation to tender to certain number of economic operators.

The number of economic operators referred to in paragraph 3 of this Article may not be smaller than three.

As an exception from paragraph 4 of this Article, depending on the nature of services concerned, including the level of competition in that market, the number of economic operators may be smaller than three.

The contracting authority/entity shall send the invitation to tender referred to in paragraph 3 of this Article, in the manner which enables the supplying the proof, if needed, that the invitation has been received by economic operator.

Invitation to tender referred to in paragraph 3 of this Article shall contain at least the following:

- 1) name of contracting authority/entity;
- 2) description of the subject matter of procurement and technical specification;
- 3) criteria for qualitative selection of economic operator;
- 4) contract award criteria;
- 5) time limit for submission of tenders (date and time);
- 6) the manner of submission of tenders;
- 7) address to which tenders are to be submitted;
- 8) address, address of electronic post or internet address at which additional documents may be obtained, if necessary;
- 9) contact person, telephone and address of electronic post.

Contracting authority/entity may determine criteria for qualitative selection of economic operator in accordance with Articles 23 - 25 of this Regulation.

Immediately after the expiry of the time limit for submission of tenders the contracting authority/entity shall open the timely submitted tenders.

The contracting authority/entity shall exclude the public from the process of opening of tenders, where it is necessary for the sake of the protection of information which constitutes business secret in terms of the law governing the protection of trade secrets, or which constitutes classified data in terms of the law governing the confidentiality of information.

Contracting authority/entity shall verify whether the tenders comply with the requirements specified in the invitation, evaluate the tenders and award the public procurement contract on the basis of the contract award criteria.

The contracting authority/entity shall send the contract award decision to all tenderers participating in the procedure and publish on the Public Procurement Portal.

The contracting authority/entity may not conclude a public procurement contract i.e. a framework agreement before the expiry of a period of ten days from the receipt of the contract award decision, unless only one tender had been submitted, which is acceptable.

## Framework agreement

### Article 12

The framework agreement shall not exceed seven years, save in exceptional cases duly justified related to the subject-matter of public procurement determined by taking into account the expected service life of any delivered products, installations or systems, and the technical difficulties which a change of economic operator may cause, which the contracting authority/entity must explain in contract notice.

### **III. CONDITIONS AND THE MANNER FOR THE CONDUCT OF PUBLIC PROCUREMENT PROCEDURES**

#### **Setting the time limits**

##### **Article 13**

When setting time limits for the submission of requests to participate and tenders, contracting authority/entity shall set appropriate time limits, in particular by taking into account the complexity of the subject-matter of procurement and the time required to prepare the requests and tenders, while observing the minimum time limits set forth in Article 14 of this Regulation.

Time limits for the submission of requests and tenders shall be fixed so as to establish a precise date and time by which the requests or tenders may be submitted in a timely fashion.

#### **Minimum time limits**

##### **Article 14**

The minimum time limit for the submission of request to participate in restricted procedure, negotiated procedure with publication of contract notice and competitive dialogue with estimated value equal to or exceeding the amounts of European thresholds shall be determined in accordance with the Law.

Where the estimated value is less than the amounts of European thresholds the minimum time limit for the submission of request to participate in restricted procedure, negotiated procedure with publication of contract notice and competitive dialogue shall be 15 days from the date on which the contract notice was sent for publication.

The minimum time limit for the submission of tenders in restricted procedure shall be:

- 1) 40 days from the date on which the invitation to tender was sent in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;
- 2) 15 days from the date on which the invitation to tender was sent, in case of public procurement with estimated value less than the amounts of European thresholds.

Where contracting authority/entity has published a prior information notice, the minimum time limit for submission of tenders referred to in paragraph 1 of this Article may be reduced to 22 days, provided that following conditions are met:

- 1) prior information notice includes all the information required for the contract referred to in Annex 2 B of this Regulation in so far as that information was available at the time of publication of the prior information notice and

2) the prior information notice was sent for publication between 52 days and 12 months before the date on which the contract notice – defence and security was sent for publication.

The time-limit for submission of tenders referred to in paragraph 3 point 1) of this Article may additionally be reduced by five days where the contracting authority/entity offers unrestricted and full access by electronic means on the Public Procurement Portal to the procurement documents related to restricted procedure from the date of publication of the contract notice in accordance with Article 21 paragraph 4 of this Regulation.

Contracting authority/entity may fix shorter time limit for submission of requests in restricted procedure or negotiated procedure with publication of a contract notice, where urgency renders impracticable the time limits laid down in paragraphs 1 and 2 of this Article, but not less than:

- 1) 15 days from the date on which the contract notice was sent for publication, in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;
- 2) 10 days from the date on which the contract notice was sent for publication, in the case of public procurement with estimated value less than the amounts of European thresholds.

Contracting authority/entity may fix shorter time limit for submission of tenders in restricted procedure, where urgency renders impracticable the time limits laid down in paragraphs 3 - 5 of this Article, but not less than:

- 1) 15 days from the date on which the invitation to tender was sent in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;
- 2) 10 days from the date on which the invitation to tender was sent, in case of public procurement with estimated value less than the amounts of European thresholds.

The contracting authority/entity shall give reasons for justified urgency referred to in paragraphs 6 and 7 in contract notice and tender documents.

In competitive dialogue, negotiated procedure with publication of a contract notice and negotiated procedure without publication of a contract notice the contracting authority/entity shall fix appropriate time limit for submission of solutions, initial tenders, all subsequent and final tenders.

The minimum time limit for the submission of tenders in procurement of services referred to in Annex 1 B shall be:

- 1) 15 days from the date on which the invitation to tender was sent in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;
- 2) 10 days from the date on which the invitation to tender was sent, in case of public procurement with estimated value less than the amounts of European thresholds.

## **Public procurement notices in the fields of defence and security**

### **Article 15**

Public procurement notices in the fields of defence and security shall be:

- 1) Contract notice;

- 2) Prior information notice;
- 3) Contract award notice, discontinuation of procedure or cancellation of procedure;
- 4) Notice on the contracting authority/entity's profile;
- 5) Notice on the conduct of the negotiation procedure without publication of a contract notice;
- 6) Voluntary ex ante transparency notice;
- 7) Corrigendum – notice for changes or additional information;
- 8) Notice on submitted request for protection of rights.

The content of procurement notices referred to in paragraph 1 point 1) - 4) is listed in Annex 2 of this Regulation, whereas the content of procurement notices referred to in paragraph 1 point 5) - 8) of this Article is listed in Annex 4 of the Law.

The procurement notices may also contain other information deemed useful by contracting authority/entity.

Public procurement notices may not contain classified information.

Public procurement notices in the fields of defence and security with estimated value equal to or exceeding the value of European thresholds shall also be published in the Official Journal of the European Union.

### **Contract notice**

#### **Article 16**

Contracting authority is obliged to publish a contract notice in all public procurement procedure provided for in this Regulation, except in negotiated procedure without publication of a contract notice and in case of procurement for services referred to in Annex 1 B.

The content of contract notice is listed in Annex 2 B of this Regulation.

### **Prior information notice**

#### **Article 17**

Contracting authority/entity may make known its intention on procurement through publication of a prior information notice on the Public Procurement Portal or on its profile of:

- 1) where supplies are concerned, the estimated total value of contracts or framework agreements by reference to the CPV nomenclature which the contracting authority/entity intends to award over the following 12 months;
- 2) where services are concerned, the estimated total value of contracts or framework agreements in each of the categories of services which the contracting authority/entity intends to award over the following 12 months;
- 3) where works are concerned, the essential characteristics of contracts or framework agreements which the contracting authority/entity intends to award.

Prior information notice shall be sent for publication in accordance with Article 15 of this Regulation and it may be published on the profile of contracting authority/entity.

Contracting authority shall not publish prior information notice on its profile before sending the notice in accordance with paragraph 2 of this Article and it must specify on its profile the date of dispatch of such notice for publication.

The content of prior information notice and notice on contracting authority/entity profile is listed in Annex 2 A of this Regulation.

## **Contract award notice, discontinuation of procedure or cancellation of procedure**

### **Article 18**

In case of negotiated procedure without publication of a contract notice, the contracting authority/entity shall state in the contract award notice the legal basis from this Regulation and justification.

In case of procurement for services referred to in Annex 1 B, the contracting authority/entity shall state in the contract award notice the legal basis from this Regulation and justify the award of such contract.

The content of contract award notice, discontinuation of procedure or cancellation of procedure is listed in Annex 2 C of this Regulation.

## **Public procurement plan and initiating public procurement procedure**

### **Article 19**

Contracting authority/entity shall adopt an annual public procurement plan in the field of defence and security in accordance with elements prescribed by the Law.

The contracting authority/entity shall deliver the public procurement plan referred to in paragraph 1 of this Article to the Government within 10 days from the day of adoption.

Contracting authority/entity shall adopt a decision on conducting the public procurement procedure containing, in particular, information about the subject-matter of procurement, type of the procedure and the total estimated value of public procurement and separately for each lot, and also information on the composition of the public procurement commission or the person conducting public procurement procedure.

In the case of competitive dialogue, negotiated procedure without the publication of a contract notice and procurement for services referred to in Annex 1 B, the contracting authority/entity shall specify in the decision referred to in paragraph 3 of this Article the reasons for the use of this procedure.

A public procurement procedure is considered to be initiated upon sending a contract notice for publication, except in case of negotiated procedure without publication of a contract notice and procurement for services referred to in Annex 1 B, in which case the procedure is considered initiated on the date on which the invitation to tender or initial tender was sent.

## **Minimum number of candidates**

## Article 20

In restricted procedure, negotiated procedure with the publication of a contract notice, and competitive dialogue, contracting authority/entity may limit the number of candidates it will invite to tender or to participate in dialogue, in accordance with the Law.

Where the number of candidates meeting the criteria for qualitative selection of economic operator is below the minimum number indicated in the contract notice, contracting authority/entity may discontinue the procedure if it considers that the competition is not sufficiently guaranteed.

If the contracting authority/entity, after discontinuation of the procedure, republishes the contract notice it shall send the invitation to tender or to dialogue to the candidates selected upon the prior discontinued procedure and those selected upon the repeated contract notice.

### Invitation to selected candidates and tender documents

## Article 21

In the second phase of restricted procedure, negotiated procedure with publication of contract notice and competitive dialogue, contracting authority/entity shall simultaneously and in writing invite all selected candidates to submit their tenders or, in the case of a competitive dialogue, to take part in the dialogue, taking care not to reveal information on other candidates.

Invitation shall include the tender documents or descriptive document, and any supporting documents.

As an exception to paragraph 2 of this Article, where free, unrestricted and full direct access by electronic means on the Public Procurement Portal is offered to the tender documents or descriptive document, the invitation shall include reference to accessing these documents on the Portal.

Economic operator may require the contracting authority/entity, in writing, additional information or clarifications related to tender documents, whereby it may point out to the contracting authority/entity where it deems that there are deficiencies or irregularities in the procurement documents, no later than:

- 1) on the eighth day before the expiry of the time limit for the submission of tenders, in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;
- 2) on the sixth day before the expiry of the time limit for submission of tenders, in case of public procurement with estimated value less than the amounts of European thresholds.

Provided that the request referred to in paragraph 4 of this Article has been submitted in good time, contracting authority/entity shall deliver additional information and clarifications to invited candidates without disclosing information on the person requesting them, no later than:

- 1) on the sixth day before the expiry of the time limit for the submission of tenders, in case of public procurement with estimated value equal to or exceeding the amounts of European thresholds;

2) on the fourth day before the expiry of the time limit for the submission of tenders, in case of public procurement with estimated value less than the amounts of European thresholds and in the procedures in which the contracting authority/entity has used the option to shorten the time limits due to the reasons of justified urgency.

The invitation to tender must contain at least:

- 1) a reference to the contract notice published;
- 2) the deadline for the submission 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;
- 3) in the case of competitive dialogue the date and the address set for the start of dialogue and the language or languages used;
- 4) a reference to any possible adjoining documents to be submitted, either to support the verifiable statements provided by the candidate, or to supplement the information related to criteria for qualitative selection of economic operator;
- 5) the criteria for the award of the contract.

In the case of a competitive dialogue, the information referred to in paragraph 6 point 2) of this Article shall not appear in the invitation to participate in the dialogue but it shall appear in the invitation to tender.

## Technical specification

### Article 22

Without prejudice to either compulsory national technical rules, including those related to product safety or the technical requirements to be met by the Republic of Serbia under international standardisation agreements in order to guarantee the interoperability required by those agreements, technical specifications shall be drawn up in one of the following ways:

- 1) by reference to technical specifications, in order of preference, to: national civil standards transposing European standards, European technical approvals, common civil technical specifications, national civil standards transposing international standards, other international civil standards, other technical reference systems established by the European standardisation bodies, or, where these do not exist, other national civil standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products, provided every reference is followed by the expression 'or equivalent', civil technical specifications stemming from industry and widely recognised by it, or, the national defence standards defined and defence materiel specifications similar to those standards;
- 2) in terms of performance or functional requirements that may include environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities/entities to award the contract;
- 3) in terms of performance or functional requirements as referred to in point 2) of this paragraph, with reference to the technical specifications referred to in point 1) of this



paragraph which are deemed presume conformity with such performance or functional requirements;

4) by reference to the technical specifications referred to in point 1) of this paragraph for certain characteristics, and by reference to the performance or functional requirements referred to in point 2) of this paragraph for other characteristics.

## **IV. CRITERIA FOR QUALITATIVE SELECTION OF ECONOMIC OPERATORS**

### **Grounds for exclusion**

#### **Article 23**

Contracting authority shall exclude an economic operator from the public procurement procedure if any of the grounds for exclusion envisaged in the Law exist and if it has been found, on the basis of any means of evidence, including protected data sources, not to possess the reliability necessary to exclude risks to the security of the Republic of Serbia which has occurred as a consequence of the event in the period of the previous five years up to the date of expiry of the time limit for submission of tenders or requests to participate.

### **Means of proof of criteria for qualitative selection of economic operator**

#### **Article 24**

Proving fulfilment of criteria for qualitative selection of economic operator in public procurement procedure shall be carried out in accordance with Articles 118 - 130 of the Law, this Article and Article 25 of this Regulation.

In the procurement documents, contracting authority/entity shall indicate whether the economic operator may submit a declaration on fulfilment of criteria for qualitative selection of economic operator.

If the contracting authority/entity in accordance with paragraph 2 of this Article has allowed the submission of declaration on fulfilment of criteria for qualitative selection of economic operator, the declaration shall be submitted by the same means of communication as the request to participate or the tender is submitted.

### **Technical and professional capacities**

#### **Article 25**

Technical and professional capacities of the economic operator, alongside evidences referred to in Article 124 of the Law, shall be as a rule proved by one or more following evidences:

- 1) a description of the technical facilities and measures used by the economic operator to ensure quality and the undertaking's study and research facilities, as well as internal rules regarding intellectual property;
- 2) a check carried out by the contracting authorities/entities or on their behalf by a competent official body of the country in which the economic operator is established, subject to that

body's agreement, on the production capacities of the supplier or the technical capacity of the economic operator and, if necessary, on the means of study and research which are available to it and the quality control measures it will operate;

3) in the case of works contracts, service contracts or supply contracts also covering siting and installation operations or services, the educational and professional qualifications of the economic operator 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;

4) a description of the tools, material, technical equipment, staff numbers and know-how and/or sources of supply — with an indication of the geographical location when it is outside the territory of the Union — which the economic operator has at its disposal to perform the contract, cope with any additional needs required by the contracting authority/entity as a result of a crisis or carry out the maintenance, modernisation or adaptation of the supplies covered by the contract;

5) in the case of contracts involving, entailing and/or containing classified information, a certificate to access classified information at the level required by the contracting authority in accordance with special regulation governing protection of classified information on the ability to process, store and transmit such information.

In case of paragraph 1 point 5) of this Article the contracting authority/entity shall accept security clearances issued to economic operator by another state, provided that the authority of the Republic of Serbia competent for national security and protection of classified information has carried out the procedure for establishing equivalence of the issued certificate.

If considered necessary, the contracting authority/entity may request the authority competent for national security and protection of classified information to conduct further investigations and to take account the results of these procedures.

The contracting authority/entity may grant economic operator, which at the moment of submission of request to participate in public procurement procedure does not yet hold certificate referred to in paragraph 1 point 5) of this Article, additional time to obtain such certificate where it has indicated this possibility and the additional time-limit in the contract notice.

The contracting authority/entity may ask the national security authority of the economic operator's state or the security authority designated by that state to check the conformity of the premises and facilities that may be used, the industrial and administrative procedures that will be followed, the methods for managing information and/or the situation of staff likely to be employed to carry out the contract.

The contracting authority/entity shall specify in the contract notice or invitation to selected candidates referred to in Article 21 of this Regulation which of the references referred to in the paragraph 1 of this Article it has chosen and which other references must be provided.

If, for any valid reason, the economic operator is unable to provide the references referred to in paragraph 1 points 1) - 4) of this Article requested by the contracting authority/ entity, it may prove its technical and/or professional ability by any other document from which the contracting authority/entity may beyond any doubt establish the fulfilment of the required capacities.

### Special conditions for performance of contracts

## Article 26

Contracting authority/entity may lay down special conditions relating to the performance of a contract, provided that these are related to the subject matter of procurement and are not directly or indirectly discriminatory.

The conditions referred to in paragraph 1 of this Article may, in particular, concern the security of classified information, the security of supply, subcontracting or social and environmental considerations.

The conditions referred to in paragraph 1 of this Article the contracting authority/entity shall lay down in contract notice, tender document, descriptive document or supporting documents.

### Security of secret information during performance of the contract

## Article 27

When contracting authority/entity intends to conclude public procurement contract containing classified information, it shall specify in the procurement documents the measures and requirements necessary to ensure the security of such information at the requisite level during performance of the contract in accordance with special regulation governing the protection of classified information.

With the aim of protecting of classified information referred to in paragraph 1 of this Article, the contracting authority/entity shall require that the tender contain, inter alia, the following particulars:

- 1) a commitment from the tenderer and the subcontractors already identified to appropriately safeguard the confidentiality of all classified information in their possession or coming to their notice throughout the duration of the contract and after termination or conclusion of the contract containing classified information;
- 2) a commitment from the tenderer to obtain the commitment from other subcontractors to which it will subcontract during the execution of the contract containing classified information to appropriately safeguard the confidentiality of all classified information in their possession or coming to their notice throughout the duration of the contract and after termination or conclusion of the contract containing classified information;
- 3) sufficient information on subcontractors already identified to enable the contracting authority/entity to determine that each of them possesses the capabilities required to appropriately safeguard the confidentiality of the classified information to which they have access or which they are required to produce when carrying out their subcontracting activities;
- 4) a commitment from the tenderer to provide the information required under point 3) of this paragraph on any new subcontractor before awarding a subcontract.

The contracting authority/entity may require a tenderer and already identified subcontractor to possess a certificate to access to classified information at the required level of protection in accordance with special regulation governing protection of classified information.

The contracting authority/entity shall accept security clearances issued to economic operator by another state, provided

that the authority of the Republic of Serbia competent for national security and protection of classified information has carried out the procedure for establishing equivalence of the issued certificate.

If considered necessary, the contracting authority/entity may request the authority competent for national security and protection of classified information to conduct further investigations and to take account the results of these procedures.

Where contracting authority/entity evaluates that the tenderer is not in conformity with measures and requirements of security of information referred to in this Article, it shall state in the contract award decision the reasons for its decision, paying attention not to reveal information which are classified.

## Security of supply

### Article 28

The contracting authority/entity may specify in the procurement documents its security of supply requirements.

With an aim specifying requirements referred to in paragraph 1 of this Article, the contracting authority/entity may require that the tender contain, inter alia, the following particulars:

- 1) certification or documentation demonstrating to the satisfaction of the contracting authority/entity that the tenderer will be able to honour its obligations regarding the export, transfer and transit of goods associated with the contract, including any supporting documentation received from the state(s) concerned;
- 2) the indication of any restriction on the contracting authority/entity regarding disclosure, transfer or use of the products and services or any result of those products and services, which would result from export control or security arrangements;
- 3) certification or documentation demonstrating that the organisation and location of the tenderer's supply chain will allow it to comply with the requirements of the contracting authority/entity concerning security of supply set out in the contract documents, and a commitment to ensure that possible changes in its supply chain during the execution of the contract will not affect adversely compliance with these requirements;
- 4) a commitment from the tenderer to establish and/or maintain the capacity required to meet additional needs required by the contracting authority/entity as a result of a crisis, according to terms and conditions to be agreed;
- 5) any supporting documentation received from the tenderer's national authorities regarding the fulfilment of additional needs required by the contracting authority/entity as a result of a crisis;
- 6) a commitment from the tenderer to carry out the maintenance, modernisation or adaptation of the supplies covered by the public procurement contract;
- 7) a commitment from the tenderer to inform the contracting authority/entity in due time of any change in its organisation, supply chain or industrial strategy that may affect its obligations to that authority/entity;

8) a commitment from the tenderer to provide the contracting authority/entity, according to terms and conditions to be agreed, with all specific means necessary for the production of spare parts, components, assemblies and special testing equipment, including technical drawings, licenses and instructions for use, in the event that it is no longer able to provide these supplies.

Where contracting authority/entity evaluates that the tenderer does not meet requirements related to security of supply from this Article, it shall state in the contract award decision or decision on discontinuing the procedure the reasons for its decision.

### **General requirements with regard to subcontractors**

#### **Article 29**

Economic operator shall be free to select its subcontractors for all subcontracts it intends to conclude, except where contracting authority/entity lays down specific requirements with regard to conclusion of contract with subcontractor in accordance with Article 31 of this Regulation.

The contracting authority/entity shall not require tenderer to discriminate against potential subcontractors on any ground.

The contracting authority/entity shall specify requirements related to subcontracting in contract notice and tender documents.

The economic operator shall remain fully responsible to the contracting authority/entity for the execution of contractual obligations, regardless of the involvement of subcontractors.

### **Specific requirements with regard to subcontractors**

#### **Article 30**

The contracting authority/entity shall ask the tenderer:

- 1) to indicate in its tender any percentage of the contract it may intend to subcontract and any proposed subcontractor and
- 2) to notify the contracting authority/entity of any change occurring at the level of subcontractors during the execution of the public procurement contract.

### **Specific requirements with regard to conclusion of contract with subcontractor**

#### **Article 31**

The contracting authority/entity may oblige the tenderer who has been awarded the public procurement contract to act in accordance with Articles 35 - 37 of this Regulation when awarding all or certain contracts it intends to conclude with subcontractors.

The contracting authority/entity may ask the tenderer who has been awarded the public procurement contract to entrust to subcontractor a performance of the share of the public procurement contract.

## Setting the minimal share of contract to be entrusted to subcontractor

### Article 32

In case of Article 31 paragraph 2 of this Regulation, the contracting authority/entity shall express this minimal share of contract which must be entrusted to subcontractor in the form of a range of values, comprising a minimum and maximum percentage.

The maximum percentage may not exceed 30 % of the value of the public procurement contract, whereas a range of value shall be proportionate to the subject matter and value of the public procurement contract and the nature of the industry sector involved, including the level of competition in that market and the relevant technical capabilities of the industrial base.

Any percentage of subcontracting falling within the range of values indicated by the contracting authority/entity shall be considered to fulfil the subcontracting requirement.

Tenderer shall specify in its tender which part or parts of tender it intends to entrust to subcontractor.

The tenderer who has been awarded the public procurement contract shall be obliged to act in accordance with Articles 35 – 37 of this Regulation for engaging subcontractors corresponding to the percentage which the contracting authority/entity indicated.

Tenderer may propose a percentage of subcontract with a total value which is above the maximum percentage indicated by the contracting authority/entity and in this case it is obliged to specify in its tender which part or parts of its tender it intends to entrust to subcontractor beyond the required percentage, as well as the subcontractors it has already identified.

### Criteria for qualitative selection of economic operator for subcontractors

### Article 33

The contracting authority/entity shall require the tenderer to prove that with regard to proposed subcontractors with which it intends to conclude the contract there are no grounds for exclusion prescribed by the contracting authority for the tenderer in accordance with the provisions of the Law and this Regulation.

The contracting authority/entity shall require the tenderer to prove that proposed subcontractors with which it intends to conclude the contract and whose capacities it uses for the execution of contract fulfil the relevant criteria for selection of economic operator prescribed by the contracting authority for the tenderer in accordance with the provisions of the Law and this Regulation.

Where contracting authority/entity evaluates that the grounds for exclusion exist for a subcontractor or that it does not fulfil the relevant criteria for selection of economic operator, it shall state in the contract award decision the reasons for its decision, taking account not to reveal information which are classified.

In case of paragraph 3 of this Article the contracting authority/entity may ask tenderer to replace a subcontractor within a reasonable time limit, not shorter than 5 days.

### Related undertakings

## Article 34

Where the tenderer who has been awarded the public procurement contract is obliged to act in accordance with Article 31 paragraph 1 or Article 32 paragraph 5 of this Regulation, the award of contract to subcontractor shall be carried out in accordance with Articles 35 - 37 of this Regulation.

For the purposes of paragraph 1 of this Article, members of group of economic operators which have been formed to submit joint tender, or undertakings related to them, shall not be considered subcontractors.

Related undertaking in terms of paragraph 2 of this Article means any undertaking:

- 1) over which the successful tenderer can exert a dominant influence, whether directly or indirectly, or
- 2) any undertaking which can exert a dominant influence on the successful tenderer or
- 3) which, jointly with the successful tenderer, is subject to the dominant influence of another undertaking as a result of ownership, financial participation or the rules which govern it.

Dominant influence in terms of paragraph 3 of this Article is presumed in any of the following cases in which undertaking, directly or indirectly in relation to another undertaking:

- 1) holds the majority of the undertaking's subscribed capital;
- 2) controls majority of votes attaching to the shares issued by the undertaking;
- 3) can appoint more than a half of members of the company's supervisory or management body.

The tenderer shall include the list of all undertakings referred to in paragraph 2 of this Article in the tender and that list shall be updated following any change in the relationship between the undertakings.

## Award of contract to subcontractor

### Article 35

The tenderer who has been awarded a public procurement contract shall during the award of contract to subcontractor act transparently and treat all potential subcontractors in an equal and non-discriminatory way.

The tenderer who has been awarded a public procurement contract which intends to conclude a contract with subcontractor with estimated value equal or exceeding the amounts of European thresholds shall publish a contract notice.

The tenderer who has been awarded a public procurement contract which intends to conclude a contract with subcontractor with estimated value less than the amounts of European thresholds shall act transparently and enable as much as competition as possible.

The estimated value of subcontract shall be determined in accordance with the Law.

Where conditions for negotiated procedure without publication of a contract notice referred to in Article 9 of this Regulation are met, a subcontract notice for the award of contract to

subcontractor shall not be mandatory.

#### **Article 36**

In the subcontract notice, the tenderer who has been awarded a public procurement contract shall indicate the criteria for qualitative selection prescribed by the contracting authority/entity, as well as any other criteria it will apply for the qualitative selection of subcontractors.

The criteria referred to in paragraph 1 of this Article shall be objective, non-discriminatory, logically related and proportionate to the subject matter of procurement and consistent with the criteria applied by the contracting authority/entity for the selection economic operator in public procurement procedure.

The contracting authority/entity shall not require the successful tenderer to subcontract if the tenderer proves that none of the bids of subcontractors participating in the procedure for the award of contract to subcontractor meet the conditions for the award of contract and thereby would prevent the successful tenderer from fulfilling the requirements set out in the public procurement contract.

#### **Article 37**

Where successful tenderer is contracting authority/entity, for the award of contract to subcontractor referred to in Article 31 paragraph 1 or Article 32 paragraph 5 of this Regulation it shall be obliged to conduct a public procurement procedure referred to in Article 5 of this Regulation in accordance with conditions for their use.

### **Modification of public procurement contract**

#### **Article 38**

The provisions of Article 156, Article 159 and Articles 160 – 162 of the Law shall be applicable to the issues of modifications to public procurement contract.

## **V. TRANSITIONAL AND FINAL PROVISIONS**

### **Initiated public procurement procedures**

#### **Article 39**

Public procurement procedures initiated before this Regulation becomes applicable shall be finalised in line with regulations in accordance with which they were initiated.

### **Entering into force**

#### **Article 40**

This Regulation enters into force on 1 July 2020, whereas the provision of Article 15 paragraph 6 of this Regulation shall become effective on the day of accession of the Republic of Serbia to the European Union.





REPUBLIC OF SERBIA  
MINISTRY OF FINANCE  
Department for Contracting and  
Financing EU Funded Programmes  
PUBLIC PROCUREMENT OFFICE

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05 number 110-5374/2020  
In Belgrade, 1 July 2020

**Government**

President,  
**Ana Brnabić, m.p.**



## ANNEX 1

### LIST OF SERVICES

#### 1 A – LIST OF SERVICES

Category no.	Subject	CPV reference
1	Maintenance and repair services	50000000-5, od 50100000-6 to 50884000-5 (except from 50310000-1 do 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9 do 51900000-1
2	Foreign military-aid-related services	75211300-1
3	Defence services, military defence services and civil defence services	75220000-4, 75221000-1, 7522000-8
4	Investigation and security services	From 79700000-1 to 79720000-7
5	Land transport services	60000000-8, from 60100000-9 to 60183000-4 (except 60160000-7, 60161000-4), and from 64120000-3 to 64121200-2
6	Air transport services of passengers and freight, except transport of mail	60400000-2, from 60410000-5 ro 60424120-3 (except 60411000-2, 60421000-5), from 60440000-4 to 60445000-9 and 60500000-3
7	Transport of mail by land and by air	60160000-7, 60161000-4, 60411000-2, 60421000-5
8	Rail transport services	From 60200000-0 to 60220000-6
9	Water transport services	From 60600000-4 to 60653000-0, and from 63727000-1 to 63727200-3
10	Supporting and auxiliary transport services	From 63100000-0 to 63111000-0, from 63120000-6 to 63121100-4, 63122000-0, 63512000-1 and from 63520000-0 to 6370000-6
11	Telecommunication services	From 64200000-8 to 64228200-2, 72318000-7, and from 72700000-7 to 72720000-3
12	Financial services: Insurance services	From 66500000-5 to 66720000-3



13	Computer and related services	From 50310000-1 to 50324200-4, from 72000000-5 to 72920000-5 (except 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4, 9342410-4
14	Research and development services <sup>1</sup> and evaluation tests	From 73000000-2 to 73436000-7
15	Accounting, auditing and bookkeeping services	From 79210000-9 to 79212500-8
16	Management consulting services <sup>2</sup> and related services	From 73200000-4 to 73220000-0, from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4, 79342300-6, 79342320-2, 79342321-9, 79910000-6, 79991000-7, 98362000-8
17	Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services	From 71000000-8 to 71900000-7 (except 71550000-8) and 79994000-8
18	Building-cleaning services and property management services	From 70300000-4 to 70340000-6, and from 90900000-6 to 90924000-0
19	Sewage and refuse disposal services; sanitation and similar services	From 90400000-1 to 90743200-9 (except 90712200-3), from 90910000-9 to 90920000-2 and 50190000-3, 50229000-6, 50243000-0
20	Training and simulation services in the fields of defence and security	80330000-6, 80600000-0, 80610000-3, 80620000-6, 80630000-9, 80640000-2, 80650000-5, 80660000-8

<sup>1</sup> Except research and development services referred to in Article 12 paragraph 1 point 12) of the Law.

<sup>2</sup> Except arbitration and conciliation services.



## 1 B – LIST OF SERVICES

Category no.	Subject	CPV reference
21	Hotel and restaurant services	From 55100000-1 to 55524000-9 and from 98340000-8 to 98341100-6
22	Supporting and auxiliary transport services	From 63000000-9 to 63734000-3 (except 63711200-8, 63712700-0, 63712710-3), and from 63727000-1 to 63727200-3 and 98361000-1
23	Legal services	From 79100000-5 to 79140000-7
24	Personnel placement and supply services, except employment contracts	From 79600000-0 to 79635000-4 (except 79611000-0, 79632000-3, 79633000-0), and from 98500000-8 to 98514000-9
25	Health and social services	79611000-0 and from 85000000-9 to 85323000-9 (except 85321000-5, 85322000-2)
26	Other services	

## ANNEX 2

### CONTENT OF PUBLIC PROCUREMENT NOTICES IN THE FIELD OF DEFENCE AND SECURITY

#### 2 A – PRIOR INFORMATION NOTICE

##### 2 A 1 – Information to be included in prior information notice

- 1) Name, tax identification number, address including NUTS code, telephone, fax number, email and internet address of the contracting authority/entity and, where different, of the service from which additional information may be obtained.
- 2) Type of contracting authority/entity and main activity exercised.
- 3) Where appropriate, indication that the contracting authority/entity is a centralised purchasing body or that any other form of joint procurement is involved.
- 4) Where appropriate, indication whether the contract is reserved for economic operators referred to in Article 37 paragraph 1 of this law or whether its performance is reserved in the context of sheltered employment programmes.
- 5) For public procurement contracts for:
  - (1) works: the nature and extent of the works and the place of execution; if the work is to be subdivided into several lots, the essential characteristics of those lots; if available, an estimate of the range of the cost of the proposed works; CPV codes.
  - (2) supplies: nature and quantity or value of the products to be supplied; CPV codes.
  - (3) services: total procurement in each of the service categories envisaged; CPV codes.
- 6) Estimated date for initiating the award procedures in respect of the contract or contracts, in the case of service contracts by category.
- 7) Where appropriate, indicate whether a framework agreement is involved.
- 8) All other relevant information.
- 9) Date of dispatch of the notice or of dispatch notice on the contracting authority/entity profile.

##### 2 A 2 – Information to be included on notice on a contracting authority profile

- 1) Name, tax identification number, address including NUTS code, telephone, fax number, email and internet address of the contracting authority/entity and, where different, of the service from which additional information may be obtained.
- 2) Type of contracting authority/entity and main activity exercised.
- 3) Where appropriate, indication that the contracting authority/entity is a centralised purchasing body or that any other form of joint procurement is involved.
- 4) CPV codes.
- 5) Internet address of the 'buyer profile' (URL).

6) Date of dispatch of the notice.

## 2 B – CONTRACT NOTICE

1) Name, tax identification number, address including NUTS code, telephone, fax number, email and internet address of the contracting authority/entity and, where different, of the service from which additional information may be obtained.

2) Type of contracting authority/entity and main activity exercised.

3) Where appropriate, indication whether the right to participate is reserved for economic operators referred to in Article 37 paragraph of this law 1 or whether the performance of a public contract is reserved in the context of sheltered employment programmes.

4) The award procedure chosen; where appropriate, the reasons for use of the accelerated procedure for reasons of justified urgency (in restricted and negotiated procedures with publication of contract notice).

5) Where appropriate, indication whether a framework agreement is involved.

6) Type of public procurement contract.

7) NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in supplies and service; if the contract is divided into lots, this information shall be provided for each lot.

8) In case of public procurement contracts for

(1) works:

— 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; CPV nomenclature reference no(s),

— information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects,

— in the case 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.

(2) supplies:

— 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, CPV nomenclature reference no(s). 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; CPV nomenclature reference no(s),

— in the case of regular or renewable contracts during the course of a given period, indication also, if known, of the timetable for subsequent contracts for intended purchases of supplies,



— in the case 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.

(3) services:

— category and description of the service. CPV nomenclature reference no(s). Quantity of services to be provided. Indication in particular of 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 contracts for intended purchases of services.

— in the case 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,

9) Where the contract is to be subdivided into lots, indication of the possibility of tendering for one, for several or for all of the lots; indication of any possible limitation of the number of lots that may be awarded to any one tenderer.

10) Admission or prohibition of variants.

11) Where applicable, specific requirements related to subcontracting

12) Time-limit for completion of works/supplies/services or duration of the works/supply/services contract; where possible, time-limit by which works will begin or time-limit by which delivery of supplies or services will begin.

13) Where applicable, particular conditions to which the performance of the contract is subject.

14) The final date for the receipt of requests to participate;

15) Address to which they must be sent;

16) The language or languages in which they must be drawn up.

17) Where applicable, any deposits and guarantees required.

18) Main terms concerning financing and payment and/or references to the texts in which these are contained.

19) Where applicable, the legal form to be taken by the grouping of economic operators to which the contract is to be awarded.

20) Grounds for exclusion of economic operators, and if applicable, of subcontractors from public procurement procedure and documents required for proving that they do not fall within the cases justifying



exclusion. Selection criteria of economic operators and documents with which economic operator proves the fulfilment of criteria, and if applicable, for subcontractors Where applicable, minimum level(s) possibly required of financial and economic capacities and technical and professional capacities required of the economic operator, and if applicable of subcontractor.

21) In the case of framework agreements: the number and, where appropriate, proposed maximum number of economic operators which will be members of it and the duration of the framework agreement.

22) In the case of a competitive dialogue or a negotiated procedure with the publication of a contract notice, indication, if appropriate, of recourse to a staged procedure in order gradually to reduce the number of solutions to be discussed or tenders to be negotiated.

23) In the case of a restricted procedure, a negotiated procedure or a competitive dialogue, 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.

24) Criteria to be used for award of the contract. Except where the most economically advantageous tender is identified on the basis of price alone, criteria representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of those criteria shall be mentioned, where they do not appear in the tender documents, in case of competitive dialogue, in descriptive document.

25) Name and address of the body responsible for legal protection. Precise information concerning time limits for lodging requests, 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.

26) Where appropriate, date(s) of publication of the prior information notice or statement that no such publication was made

27) Date of dispatch of the notice.

## **2 V – CONTRACT AWARD NOTICE, DISCONTINUATION OF PROCEDURE OR CANCELLATION OF PROCEDURE**

1) Name, tax identification number, address including NUTS code, telephone, fax number, email and internet address of the contracting authority/entity and, where different, of the service from which additional information may be obtained.

2) Type of contracting authority/entity and main activity exercised.

3) Award procedure chosen.

4) In case of public procurement contracts for:

(1) works: nature and extent of the works.

(2) supplies: nature and quantity of products supplied, where appropriate, by the supplier; CPV codes.

(3) services: category and description of the service, CPV codes quantity of services purchased.

5) Date of the conclusion of the contract(s) or of the framework agreement(s) following the contract award decision(s).





- 6) Contract award criteria.
- 7) Number of tenders received with respect of each contract awarded, including:
  - (1) number of tenders received from economic operators which are small and medium enterprises,
  - (2) number of tenders received from a Member State or from a third country,
  - (3) number of tenders received electronically.
- 8) For each contract awarded, name, address including NUTS code, telephone, fax number, email address and internet address of the successful tenderer(s) including
  - (1) information whether the successful tenderer is small and medium enterprise,
  - (2) information whether the contract was awarded to a group of economic operators (joint venture, consortium or other).
- 9) Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the contract award or awards.
- 10) Where appropriate, for each contract awarded, value and proportion of contract which has been or will be subcontracted to third parties.
- 11) Where applicable, information on non-award:
  - (1) not a single tender or a request to participate has been submitted,
  - (2) all tenders are unacceptable;
  - (3) other reasons for discontinuation of the procedure.
- 12) If appropriate, the reasons for the framework agreement lasting more than seven years.
- 13) Justification of the contracting authority/entity for the award of contract without prior publication of a contract notice:
  - (1) In the case of negotiated procedure without publication of a contract notice, a legal basis from this Regulation and justification for conclusion of such contract.
  - (2) In the case of procurement of services referred to in Annex 1 B – List of services, a legal basis from this Regulation and justification for conclusion of such contract.
  - (3) Where appropriate, a legal basis from the Law and justification for the award of the contract based on the exclusion from the application of the Law.
- 14) Name and address of the body responsible for legal protection procedures. Precise information concerning the deadline for lodging requests, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
- 15) Date(s) of publication of contract notice relevant to the contract(s) advertised in this notice.
- 16) Date of dispatch of the notice.