

# Public Finance (Control and Audit)

## PUBLIC SUPPLY CONTRACTS REGULATIONS 1996

**1977-09**

**Revoked  
Subsidiary  
1996/007**

Regulations made under section 75 of the Public Finance (Control and Audit) Act.

## PUBLIC SUPPLY CONTRACTS REGULATIONS 1996

**Revoked by LN. 2012/089 as from 21.6.2012**

**(LN. 1996/007)**

**11.1.1996**

Amending enactments	Relevant current provisions	Commencement date
LN. 2005/009	rr. 2(1), 14(1)(h)(4)(6A) and (6B)	1.5.2004
Act. 2007-17	rr. 8(6), 10(6), 21(8), 23(3), 25(1) & (3), 26(1), (2) & (3)	14.6.2007

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**PART I**  
**GENERAL**

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**Title and commencement.**

1. These regulations may be cited as the Public Supply Contracts Regulations 1996 and shall come into effect on the 11th day of January 1996.

**Interpretation.**

2. (1) In these regulations —

“to award” means to accept an offer made in relation to a proposed contract;

“CPA” means the nomenclature classification of products according to activities as set out in the Official Journal at L 342 Volume 36 of 1993;

“contract documents” mean the invitation to tender for or to negotiate the contract, the proposed conditions of contract, the specifications or description of the goods required by the contracting authority and all documents supplementary thereto;

“contract notice” means a notice sent to the Official Journal in accordance with regulation 11(2), 12(2) or 13(2);

“contracting authority” has the meaning given to it in regulation 3;

“the Directive” means Council Directive 93/36/EEC co-ordinating procedures for the award of public supply contracts;

“ECU” means the European Currency Unit as defined in Council Regulation (EEC) No. 3180/78;

“established” has the same meaning as it has for the purposes of the Community Treaties;

“financial year” means the period of 12 months ending on 31st March in any year or, in relation to any person whose accounts are prepared in respect of a different 12 month period, that period of 12 months;

“goods” includes electricity, substances, growing crops and things attached to or forming part of the land which are agreed to be severed before the purchase or hire under the supply contract and any ship, aircraft or vehicle;

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“Government Department” means a department of the Government;

“national of a relevant State” means, in the case of a person who is not an individual, a person formed in accordance with the laws of a relevant State and which has its registered office, central administration or principal place of business in a relevant State;

“negotiated procedure” means a procedure leading to the award of a contract whereby a contracting authority negotiates the terms of the contract with one or more persons selected by it;

“Official Journal” means the Official Journal of the European Communities;

“open procedures” means a procedure leading to the award of a public contract whereby all interested persons may tender for the contract;

“prior information notice” means a notice sent to the Official Journal in accordance with regulation 9;

“public supply contract” means a contract in writing for consideration (whatever the nature of the consideration) —

- (a) for the purchase of goods by a contracting authority (whether or not the consideration is given in instalments and whether or not the purchase is conditional upon the occurrence of a particular event), or
- (b) for the hire of goods by a contracting authority (both where the contracting authority becomes the owner of the goods after the end of the period of hire and where it does not),

and for any siting or installation of those goods, but where under such a contract services are also to be provided, the contract shall only be a public supply contract where the value of the consideration attributable to the goods and any siting or installation of the goods is equal to or greater than the value attributable to the services;

“relevant State” means a member State, Romania, Bulgaria, Iceland, Norway and Liechtenstein;

“restricted procedure” means a procedure leading to the award of a public supply contract whereby only persons selected by the contracting authority may submit tenders for the contract;

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“ship” includes any boat and other description of a vessel used in navigation;

“substance” means any natural or artificial substance, whether in solid, liquid or gaseous form or in the form of a vapour;

“supplier” has the meaning given to it in regulation 4;

“working day” means a day other than a Saturday, Sunday or Bank Holiday (within the meaning of the Banking and Financial Dealings Act); and

“year” means a calendar year.

(2) The value in the currency of any relevant State of any amount expressed in these regulations in ECU or the amount in ECU for the purposes of the regulations shall be calculated by reference to the exchange rate for the time being applying for the purposes of the Directive as published from time to time in the Official Journal.

(3) Where a thing is required to be done under these regulations —

- (a) within a period after an action is taken, the day on which that action was taken shall not be counted in the calculation of that period;
- (b) within a certain period, that period shall include two working days;
- (c) within a period and the last day of that period is not a working day, the period shall be extended to include the following working day.

#### **Contracting authorities.**

3. For the purposes of these regulations each of the following is a “contracting authority” —

- (a) a Government Department;
- (b) the House of Assembly,
- (c) a body governed by public law as defined in Article 1 of the Directive.

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4. (1) For the purposes of these regulations, a “supplier” means a person —
- (a) who sought, or who seeks, or who would have wished, to be the person to whom a public supply contract is awarded, and
  - (b) who is a national of and established in a relevant State.
- (2) Where these regulations apply a contracting authority shall not treat a person who is not a national of and established in a relevant State more favourably than one who is.

#### **Application of these regulations.**

5. These regulations apply whenever a contracting authority seeks offers in relation to a proposed public supply contract other than a public supply contract excluded from the application of these regulations by virtue of regulation 6 or 7.

#### **General exclusions.**

6. These regulations shall not apply to the seeking of offers in relation to a proposed public supply contract —
- (a) which is classified as secret or where the delivery of the goods under it shall be accompanied by special security measures in accordance with the laws, regulations or administrative provisions of the United Kingdom or when the protection of the basic interests of the security of the United Kingdom or of Gibraltar as a dependant territory of the United Kingdom require it;
  - (b) where goods to be purchased or hired under the contract are goods to which the provisions of Article 223.1(b) of the EEC Treaty apply;
  - (c) where different procedures govern the procedures leading to the award of the contract and it is to be entered into —
    - (i) pursuant to an international agreement to which the United Kingdom and a state which is not a relevant State are parties and it relates to goods intended for the joint implementation or exploitation of a project pursuant to that agreement;
    - (ii) pursuant to an international agreement to which the United Kingdom is a party relating to the stationing of troops; or

(iii) in accordance with the contract award procedures of an organisation of which only states are members (an “international organisation”) or of which only states or international organisations are members.

**Thresholds.**

7. (1) These regulations shall not apply to the seeking of offers in relation to a proposed public supply contract where the estimated value of the contract at the relevant time is less than 200,000 ECU.

(2) Subject to sub-regulations (3) to (9), the estimated value of sub-regulation (1) of a public supply contract shall be the value of the consideration which the contracting authority expects to give under the contract.

(3) Subject to sub-regulation (6), where a contracting authority has a single requirement for goods and a number of public supply contracts has been entered or is to be entered into to fulfil that requirement, the estimated value for the purposes of sub-regulation (1) of each public supply contract shall be the aggregate of the value of the consideration which the contracting authority expects to give under each of those contracts.

(4) Subject to sub-regulation (6), where a contracting authority has a requirement over a period for goods of the type to be purchased or hired under the public supply contract and for that purpose enters into —

- (a) a series of contracts; or
- (b) a contract which under its terms is renewable,

the estimated value or the purposes of sub-regulation (1) of the contract shall be the amount calculated under sub-regulation (5).

(5) The contracting authority shall calculate the amount referred to in sub-regulation (4) either —

- (a) by taking the aggregate of the value of the consideration given by the contracting authority under public supply contracts which have similar characteristics and which were for the purchase or hire of goods of the type to be purchased or hired under the contract, during its last financial year ending before, or during the period of 12 months ending immediately before, the relevant time and by adjusting that amount to take account of any expected changes in the quantity and cost of the goods

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of that type in the period of 12 months commencing with the relevant time, or

- (b) by estimating the aggregate of the value of the consideration which the contracting authority expects to give under such public supply contracts which have similar characteristics and which are for the purchase or hire of goods of the type to be purchased or hired under the contract during the period of 12 months from the first date of delivery of the goods to be purchased or hired or, where the contract is for a definite term of more than 12 months, during the term of the contract.

(6) Notwithstanding sub-regulations (3) and (4), when the goods to be purchased or hired under the contract are required for the sole purpose of a discrete operational unit within the organisation of the contracting authority and —

- (a) the decision whether to purchase or hire goods of that type has been devolved to such a unit, and
- (b) that decision is taken independently of any other part of the contracting authority,

the valuation methods described in sub-regulations (3) and (5) shall be adapted by aggregating only the value of the consideration which the contracting authority has given or expects to give, as the case may be, for goods of the type to be purchased or hired under the contract which were or are required for the sole purposes of that unit.

(7) The estimated value for the purposes of sub-regulation (1) of a public supply contract for the hire of goods for an indefinite period, or for a period which is uncertain at the time the contract is entered into, shall be the value of the consideration which the contracting authority expects to give in respect of each month of the hire multiplied by 48.

(8) Where a public supply contract includes one or more options the estimated value of the contract for the purposes of sub-regulation (1) shall be determined by calculating the highest possible consideration which could be payable under the contract.

(9) A contracting authority shall neither enter into separate public supply contracts nor select nor exercise a choice under a valuation method in accordance with sub-regulation (5) with the intention of avoiding the application of these regulations to those contracts.

(10) The relevant time for the purposes of sub-regulations (1) and (5)(a) means, in relation to a public supply contract, the date on which a contract



## **PART II** **TECHNICAL SPECIFICATIONS**

### **Technical specifications in the contract document.**

8. (1) In this regulation —

“common technical specification” means a technical specification drawn up in accordance with a procedure recognised by the member States with a view to uniform application in all member States and which has been published in the Official Journal;

“European specification” means a common technical specification, the standard *of a member State* implementing a European standard or a European technical approval;

“European standard” means a standard approved by the European Committee for Standardisation (“CEN”) or by the European Committee for Electrotechnical Standardisation (“CENELEC”) as a “European Standard (“EN”) or a “Harmonisation Document (“HD”) according to the Common Rules of those organisations;

“European technical approval” means an approval of the fitness for use of a product, issued by an approved body, designated for the purpose by a member State, following a technical assessment of whether the product fulfils the essential requirements for building works, having regard to the inherent characteristics of the product and the defined conditions of application and use;

“standard” means a technical specification approved by a recognised standardising body for repeated and continuous application, compliance with which is in principle not compulsory; and

“technical specifications” means the technical requirements defining the characteristics required of goods (such as quality, performance, safety or dimensions and requirements in respect of quality assurance, terminology, symbols, tests and testing methods, packaging marking and labelling) so that the goods are described objectively in a manner which will ensure that they fulfil the use for which they are intended by the contracting authority.

(2) If a contracting authority wishes to lay down technical specifications which the goods to be purchased or hired under a public supply contract

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shall meet it shall specify all such technical specifications in the contract documents.

(3) Subject to sub-regulation (4), the technical specifications in the contract documents relating to a public supply contract shall be defined by reference to any European specifications which are relevant.

(4) A contracting authority may define the technical specifications referred to in sub-regulation (3) other than by reference to relevant European specifications if—

- (a) the contracting authority is under an obligation to define the technical specifications by reference to technical requirements which are mandatory in Gibraltar for the goods to be purchased or hired under the contract (but only to the extent that such an obligation is compatible with Community obligations applicable in Gibraltar);
- (b) the relevant European specifications do not include provision for establishing conformity to, or it is technically impossible to establish satisfactorily that the goods to be purchased or hired under the contract do conform to, the relevant European specifications;
- (c) definition by reference to European specifications would conflict with the application of—
  - (i) Council Directive 86/361/EEC on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment,
  - (ii) Council Decision 87/95/EEC on standardisation in the field of information technology and telecommunications, or
  - (iii) other Community instruments relating to specific types of services, materials or goods;
- (d) subject to sub-regulation (5), application of the relevant European specifications would oblige the contracting authority to acquire goods incompatible with equipment already in use or would entail disproportionate costs or disproportionate technical difficulties; or
- (e) the project for which the goods to be purchased or hired under the contract are required is of a genuinely innovative nature for which the use of existing relevant European specifications would be inappropriate.

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(5) A contracting authority may only define the technical specifications other than by reference to relevant European specifications on the grounds specified in sub-regulation (4)(d) where the contracting authority has a clearly defined and recorded strategy for changing over, within a set period, to European specifications.

(6) A contracting authority shall state in the contract notice which of the circumstances specified in sub-regulation (4)(b) to (e) was the ground for defining the technical specifications other than by reference to European specifications or, if it is impossible to include this information in the contract notice, the contracting authority shall specify it in the contract documents and shall in any event keep a record of this information and shall, if so required for the purposes of Article 8.4 of the Directive, send that information to the Financial Secretary.

(7) In the absence of European specifications relevant to the supplies to be provided under a public supply contract, the technical specifications in the contract documents —

- (a) shall be defined by reference to the technical specifications of a relevant State recognised as complying with the basic requirements specified in any Council Directive on technical harmonisation in accordance with the procedures laid down in those directives and, in particular, in accordance with the procedures laid down in Council Directive 89/106/EEC on the approximation of laws, regulations and administrative procedures in the member States relating to construction products;
- (b) may be defined by reference to technical specifications of a relevant State relating to design and method of calculation and execution of a work or works and use of materials and goods;
- (c) may be defined by reference to the following standards (and, if they are so defined, preference shall be given to the following standards in the order in which they are listed)-
  - (i) standards of a relevant State implementing international standards;
  - (ii) other standards and technical approvals of a relevant State; or
  - (iii) any other standards.

(8) Subject to sub-regulation (10), the contract documents shall not include technical specifications which refer to goods of a specific make or

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source or to a particular process and which have the effect of favouring or eliminating particular goods or suppliers.

(9) Without prejudice to the generality of sub-regulation (8), but subject to sub-regulation (10), references to trademarks, patents, types, origin or means of production shall not be incorporated into the technical specifications in the contract documents.

(10) Notwithstanding sub-regulations (8) or (9), a contracting authority may incorporate the references referred to in sub-regulations (8) and (9) into the technical specifications in the contract documents if —

- (a) such references are justified by the subject of the contract, or
- (b) the goods to be purchased or hired under the contract cannot otherwise be described by reference to technical specifications which are sufficiently precise and intelligible to all suppliers, provided that the references are accompanied by the words “or equivalent”.

### **PART III**

#### **PROCEDURES LEADING TO THE AWARD OF A PUBLIC SUPPLY CONTRACT**

##### **Prior information notices**

9. (1) Subject to sub-regulation (2), a contracting authority shall, as soon as possible after the commencement of each of its financial years, send to the Official Journal a notice, in a form substantially corresponding to that set out in Part A of the Schedule and containing the information therein specified, in respect of the public supply contracts in relation to which it expects to seek offers leading to an award during that financial year and the notice shall be subdivided to give that information separately for each product area.

- (2) The obligation under sub-regulation (1) shall only apply —
  - (a) to proposed public supply contracts which are not excluded from the application of these regulations by virtue of regulation 6 or 7; and
  - (b) where, at the date of despatch of the notice, the total consideration which the contracting authority expects to give under all the proposed public supply contracts for the purchase or hire of goods falling within the same product area equals or exceeds 750,000 ECU.

**Selection of contract award procedure.**

10. (1) For the purpose of seeking offers in relation to a proposed public supply contract a contracting authority shall use the open procedure, the restricted procedure or the negotiated procedure and shall decide which of those procedures to use in accordance with this regulation.

(2) A contracting authority may use the negotiated procedure in the following circumstances —

- (a) subject to sub-regulation (3), in the event that the procedure leading to the award of a public supply contract by the contracting authority using the open or restricted procedure was discontinued —
  - (i) because of irregular tenders, or
  - (ii) following an evaluation made in accordance with regulation 11(7) or 12(4);

and, without prejudice to the generality of the meaning of the words “irregular tenders”, a tender may be considered irregular if the supplier fails to meet the requirements of, or the tender offers variations on the requirements specified in, the contract documents where this is not permitted under the terms of the invitation to tender, or the goods offered do not meet the technical specifications (within the meaning of regulation 8(1)) of the contracting authority;

- (b) subject to sub-regulations (3) and (6), in the absence of tenders, or of appropriate tenders, in response to an invitation to tender by the contracting authority using the open or restricted procedure;
- (c) when the goods to be purchased or hired under the contract are to be manufactured purely for the purpose of research, experiment, study or development but not when the goods are to be purchased or hired to establish their commercial viability or to recover their research and development costs;
- (d) when for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the goods to be purchased or hired under the contract may only be manufactured or supplied by a particular person;
- (e) when (but only if it is strictly necessary), for reasons of extreme urgency brought about by events unforeseeable by,

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and not attributable to, the contracting authority, the time limits specified in regulations 11 and 12 if the open or restricted procedure is used, or the time limits specified in regulation 13 if the negotiated procedure is used pursuant to paragraph (a), cannot be met; and

- (f) subject to sub-regulation (4) , when the goods to be purchased or hired under the contract are required by the contracting authority as a partial replacement for, or addition to, existing goods or an installation and when to obtain the goods from a person other than the person who supplied the existing goods or the installation would oblige the contracting authority to acquire goods having different technical characteristics which would result in —
  - (i) incompatibility between the existing goods or the installation and the goods to be purchased or hired under the contract, or
  - (ii) disproportionate technical difficulties in the operation and maintenance of the existing goods or the installation.

(3) A contracting authority shall not use the negotiated procedure pursuant to sub-regulation (2)(a) or (b) unless the proposed terms of the contract are substantially unaltered from the proposed terms of the contract in relation to which offers were sought using the open or restricted procedure.

(4) A contracting authority shall not use the negotiated procedure pursuant to sub-regulation (2)(f) if the term of the proposed contract, or the term of that contract and of any other contract entered into for the same purpose, is more than three years unless there are reasons why it is unavoidable that this period shall be exceeded.

(5) In all circumstances other than those permitted by sub-regulations (2) to (4) the contracting authority shall use the open procedure or restricted procedure.

(6) A contracting authority using the negotiated procedure pursuant to sub-regulation (2)(b) shall submit a report recording the fact that it has done so to the Financial Secretary for the purpose of compliance with Article 6.3(a) of the Directive.

### **The open procedure.**

11. (1) A contracting authority using the open procedure shall comply with this regulation.

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(2) The contracting authority shall publicise its intention to seek offers in relation to the public supply contract by sending to the Official Journal as soon as possible after forming the intention a notice, in a form substantially corresponding to that set out in Part B of the Schedule, inviting tenders and containing the information therein specified.

(3) Subject to sub-regulation (6), the date which the contracting authority shall fix as the last date for the receipt by it of tenders made in response to the contract notice shall be specified in the contract notice and shall be not less than 52 days from the date of despatch of the notice.

(4) The contracting authority shall send the contract documents within 6 days of the receipt of a request from any supplier provided that the documents are requested by the date specified in the contract notice and any fee specified in the notice has accompanied the request.

(5) The contracting authority shall supply such further information relating to the contract documents as may reasonably be requested by a supplier provided that the request is received in sufficient time to enable the contracting authority to supply the information no later than 6 days before the date specified in the contract notice as the final date for the receipt of tenders.

(6) If the contract documents are too bulky to be supplied within the periods referred to in sub-regulation (4) and (5) or it is necessary that suppliers be given the opportunity to inspect the premises at which the goods are to be used or documents relating to the contract documents, then the minimum period laid down in sub-regulation (3) shall be extended to allow for such supply or inspection.

(7) The contracting authority may exclude a tender from the evaluation of offers made in accordance with regulation 21 only if the supplier may be treated as ineligible to tender on a ground specified in regulation 14 or if the supplier fails to satisfy the minimum standards of economic and financial standing and technical capacity required of suppliers by the contracting authority and for the purpose of determining whether or not the supplier satisfies the standards the contracting authority shall make its evaluation in accordance with regulations 14, 15, 16 and 17.

#### **The restricted procedure.**

12. (1) A contracting authority using the restricted procedure shall comply with this regulation.

(2) The contracting authority shall publicise its intention to seek offers in relation to the public supply contract by sending to the Official Journal as soon as possible after forming the intention a notice, in a form substantially

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corresponding to that set out in Part C of the Schedule, inviting requests to be selected to tender and containing the information therein specified.

(3) Subject to sub-regulation (14), the date which the contracting authority shall fix as the last date for the receipt by it of requests to be selected to tender shall be specified in the contract notice and shall not be less than 37 days from the date of the despatch of the notice.

(4) The contracting authority may exclude a supplier from those persons from whom it will make the selection of persons to be invited to tender only if the supplier may be treated as ineligible on a ground specified in regulation 14 or if the supplier fails to satisfy the minimum standards of economic and financial standing and technical capacity required of suppliers by the contracting authority and for the purpose of determining whether or not the supplier satisfies the standards the contracting authority shall make its evaluation in accordance with regulations 14, 15, 16 and 17.

(5) The contracting authority shall make the selection of the suppliers to be invited to tender in accordance with regulation 14, 15, 16 and 17 and in making the selection and in issuing invitations the contracting authority shall not discriminate between suppliers on the grounds of their nationality or of the relevant State in which they are established.

(6) The contracting authority may predetermine the range within which the number of persons which it intends to invite to tender for the contract shall be fixed but only if —

- (a) the lower number of the range is not less than 5 and the higher number not more than 20,
- (b) the range is determined in the light of the nature of the goods to be purchased or hired under the contract, and
- (c) the range is specified in the contract notice.

(7) In any event, the number of persons invited to tender shall be sufficient to ensure genuine competition.

(8) The contracting authority shall send invitations to each of the suppliers selected to tender and the invitation shall be accompanied by the contract documents, or the invitation shall state the address from which they may be requested.

(9) The invitation shall be sent in writing simultaneously to each supplier selected to tender.

(10) The following information shall be included in the invitation —



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- (a) the address to which requests for the contract documents (if not accompanying the invitation) and further information relating to those documents should be sent, the final date for making such a request and the amount and terms of the fee which may be charged for supplying that material;
- (b) the final date for the receipt of tenders, the address to which they shall be sent and the language or languages in which they shall be drawn up;
- (c) a reference to the contract notice published in accordance with sub-regulation (2);
- (d) an indication of the information to be included with the tender which the contracting authority may require to be provided in accordance with regulations 15, 16 and 17; and
- (e) the criteria for the award of the contract if this information was not specified in the contract notice published in accordance with sub-regulation (2).

(11) Subject to sub-regulation (14), the date which the contracting authority shall fix as the last date for the receipt by it of tenders made in response to the invitation to tender which shall be specified in the invitation to tender in accordance with sub-regulation (10)(b) shall not be less than 40 days from the date of the despatch of the invitation.

(12) If it is necessary that suppliers should be given the opportunity to inspect the premises at which the goods are to be used or documents relating to the contract documents, then the minimum periods referred to in sub-regulation (11) shall be extended to allow for such inspection.

(13) Subject to sub-regulation (14), the contracting authority shall supply such further information relating to the contract documents as may reasonably be requested by a supplier selected to tender provided that the request for such information is received in sufficient time to enable the contracting authority to supply it not less than 6 days before the date specified in the invitation to tender as the final date for the receipt of tenders.

(14) Where compliance with the minimum periods referred to in sub-regulations (3), (11) and (13) is rendered impracticable for reasons of urgency, the contracting authority may substitute for the periods specified in those sub-regulations periods of not less than 15 days, 10 days and 4 days respectively and, in those circumstances, the contracting authority shall send the invitation to tender by the most rapid means possible.

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(15) A contracting authority shall not refuse to consider an application to be invited to tender for a contract if it is made by letter, telegram, telex, facsimile or telephone provided that, in the last four cases, it is confirmed by letter despatched before the date fixed by the contracting authority as the last date for the receipt of applications to be invited to tender for the contract.

#### **The negotiated procedure.**

13. (1) A contracting authority using the negotiated procedure shall comply with this regulation except that —

- (a) a contracting authority using the negotiated procedure pursuant to regulation 10(2)(b) to (f), and
- (b) a contracting authority using the negotiated procedure pursuant to regulation 10(2)(a) who invites to negotiate the contract every supplier who submitted a tender following an invitation made during the course of the discontinued open or restricted procedure (not being a tender which was excluded pursuant to regulation 11(7) or 12(4)),

need not comply with sub-regulations (2) to (6).

(2) The contracting authority shall publicise its intention to seek offers in relation to the public supply contract by sending to the Official Journal as soon as possible after forming the intention a notice, in a form substantially corresponding to that set out in Part D of the Schedule, inviting requests to be selected to negotiate and containing the information therein specified.

(3) Subject to sub-regulation (4), the date which the contracting authority shall fix as the last date for the receipt by it of requests to be selected to negotiate shall be specified in the contract notice and shall be not less than 37 days from the date of despatch of the notice.

(4) Where compliance with the minimum period of 37 days in sub-regulation (3) is rendered impracticable for reasons of urgency, the contracting authority may substitute a period of not less than 15 days and, in those circumstances, the contracting authority shall send the invitation to negotiate the contract by the most rapid means possible.

(5) A contracting authority shall not refuse to consider an application to be selected to negotiate if it is made by letter, telegram, telex, facsimile or by telephone provided that, in the last four cases, it is confirmed by letter despatched before the date fixed by the contracting authority as the last date for the receipt of applications to be invited to tender for the contract.

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(6) Where there is a sufficient number of persons who are suitable to be selected to negotiate the contract, the number selected to negotiate shall not be less than 3.

(7) The contracting authority may exclude a supplier from those persons from whom it will make the selection of persons to be invited to negotiate the contract only if the supplier may be treated as ineligible on a ground specified in regulation 14 or if the supplier fails to satisfy the minimum standards of economic and financial standing and technical capacity required of suppliers by the contracting authority and for the purpose of determining whether or not the supplier satisfies the standards the contracting authority shall make its evaluation in accordance with regulations 14, 15, 16 and 17.

(8) The contracting authority shall make the selection of the suppliers to be invited to negotiate in accordance with regulations 14, 15, 16 and 17 and in making the selection and in issuing invitations to negotiate the contracting authority shall not discriminate between suppliers on the grounds of their nationality or the relevant State in which they are established.

### **PART IV**

#### **SELECTION OF SUPPLIERS**

##### **Criteria for rejection of suppliers.**

14. (1) A contracting authority may treat a supplier as ineligible to tender for, or to be included amongst those persons from whom it will make the selection of persons to be invited to tender for or to negotiate a contract in accordance with regulations 11(7), 12(4) and 13(7), or decide not to select a supplier to tender for or to negotiate a contract in accordance with regulations 12(5) and 13(8) on one of the following grounds, namely that the supplier —

- (a) being an individual is bankrupt or has had a receiving order or administration order made against him or has made any composition or arrangement with or for the benefit of his creditors or has made any conveyance or assignment for the benefit of his creditors or appears unable to pay, or to have no reasonable prospect of being able to pay, a debt within the meaning of the Bankruptcy Act or is the subject of any similar procedure under the law of any state;
- (b) being a company has passed a resolution or is the subject of an order by the court for the winding up of the company otherwise than for the purposes of bona fide reconstruction or amalgamation, or has had a receiver, manager or administrator

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on behalf of a creditor appointed in respect of the business of the company or any part thereof or is the subject of proceedings for any of the above procedures or is the subject of similar procedures under the law of any state;

- (c) has been convicted of a criminal offence relating to the conduct of his business or profession;
- (d) has committed an act of grave misconduct in the course of his business or profession;
- (e) has not fulfilled obligations relating to the payment of social security contributions under the law of Gibraltar or of the relevant State in which the supplier is established;
- (f) has not fulfilled obligations relating to the payment of taxes under the law of Gibraltar or of the relevant state in which the supplier is established;
- (g) is guilty of serious misrepresentation in providing any information required of him under this regulation or under any of regulations 15, 16 and 17; or
- (h) subject to sub-regulations (5),(6), (6A), (6B) and (7), is not registered on the professional or trade register of the relevant State in which the contractor is established under the conditions laid down by that State.

(2) Subject to regulation 19, the contracting authority may require a supplier to provide such information as it considers it needs to make the evaluation in accordance with sub-regulation (1) except that it shall accept as conclusive evidence that a supplier does not fall within the grounds specified in sub-regulation (1)(a), (b), (c), (e) or (f) if that supplier provides to the contracting authority —

- (a) in relation to the grounds specified in sub-regulation (1)(a) to (c),
  - (i) an extract from the judicial record, or
  - (ii) in a relevant State which does not maintain such a judicial record, a document issued by the relevant judicial or administrative authority;
- (b) in relation to the grounds specified in sub-regulation (1)(e) or (f), a certificate issued by the relevant competent authority;

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(c) in a relevant State where the documentary evidence specified in paragraph (a) and (b) is not issued or where it is issued but does not extend to all of the grounds specified in sub-regulation (1)(a), (b), and (c), a declaration on oath or in a relevant State which does not provide for a declaration on oath a solemn declaration, made by the supplier before the relevant judicial, administrative or competent authority or a relevant notary public or commissioner for oaths.

(3) In this regulation, “relevant” in relation to a judicial, administrative or competent authority, notary public or commissioner for oaths means an authority designated by, or a notary public or commissioner for oaths in, the relevant State in which the supplier is established.

(4) The following are the appropriate professional or trade registers for the purposes of sub-regulation (1) (h) —

in Austria, the Firmenbuch, the Gewerberegister or the Mitgliederverzeichnisse der Landeskammern;

in Belgium, the Registre du commerce/ Handelsregister;

in the Czech Republic the obchodní rejstřík;

in Denmark, the Aktieselskabsregistret, Foreningsregistret or Handelsregistret;

in Estonia the Keskäriregister;

in Finland, the Kaupparegisteri or Handelsregistret;

in France, the Registre du commerce or repertoire des métiers;

in Germany, the Handelsregister and Handwerksrolle;

in Greece, the Biotechniks h Biomhcaniks h Emporiks Epimelhihrio;

in Hungary the Cégnyilvántartás, or the egyéni vállalkozók jegyzői nyilvántartása;

in Iceland, the Firmaskra;

in Italy, the Registro della Camera di commercio, industria, agricoltura e artigianato, and Registro delle Commissioni provinciali per l’artigianato;

in Latvia the Uzņēmumu reģistrs (“Enterprise Register”);

- in Liechtenstein, the Gewerberegister;
- in Lithuania the Juridinių asmenų registras;
- in Luxembourg, the Registre aux firmes and Rôle de la Chambre des métiers
- in the Netherlands, the Handelsregister;
- in Norway, the Foretaksregisteret;
- in Poland the Krajowy Rejestr Sądowy;
- in Portugal, the Registo Nacional das Pessoas Colectivas;
- in Slovakia the Obchodný register;
- in Slovenia the Sodni register or the obrtni register;
- in Spain, the Registo Mercantil; and
- in Sweden, the Aktiebolagsregistret and the Handelsregistret.

(5) A supplier established in Gibraltar, the United Kingdom or Ireland shall be treated as registered on the professional or trade register for the purposes of sub-regulation (1)(h) if the supplier —

- (a) is established in Ireland and is certified as registered with the Registrar of Friendly Societies, or
- (b) is established in Gibraltar or either State and is either —
  - (i) certified as incorporated by the Registrar of Companies appropriate to the place of establishment, or
  - (ii) is certified as having declared on oath that he is established at a specific place of business and under a specific trading name in Gibraltar or in either State, as the case may be, and is carrying on business in the trade in question in whichever location he is established, and
  - (iii) in the case of a supplier established and carrying on business in Gibraltar, is certified as registered under the Business, Trades and Professions (Registration) Act 1989.

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(6) An individual who is established in Spain shall be treated as registered on the professional or trade register for the purposes of sub-regulation (1)(h) if he is certified as having declared on oath that he exercises the particular profession or trade.

(6A) A supplier established in Cyprus shall be treated as registered on the professional or trade register for the purposes of sub-regulation (1)(h) if he provides a certificate from the Έφορος Εταιρειών και Επίσημος Παραλήπτης (“Registrar of Companies and Official Receiver”) that he is incorporated or registered.

(6B) A tenderer (or supplier) established in Malta shall be treated as registered on the professional or trade register for the purposes of sub-regulation (1)(h) if he gives his “numru ta' registrazzjoni tat-Taxxa tal-Valur Miżjud (VAT) u n- numru tal-liċenzja ta' kummerċ, and, if a partnership or company, the relevant registration number as issued by the Malta Financial Services Authority.

(7) A supplier established outside Gibraltar but in a relevant State, other than the United Kingdom, which either has an equivalent professional or trade register which is not listed in sub-regulation (4) or which does not have an equivalent professional or trade register shall be treated as registered on a professional or trade register for the purposes of sub-regulation (1)(h) on production of either a certificate that he is registered on the equivalent professional or trade register or, where no such register exists, a declaration on oath, or in a relevant State which does not provide for a declaration on oath a solemn declaration, made by the supplier before the relevant judicial, administrative or competent authority or a relevant notary public or Commissioner for oaths, that he exercises the particular profession or trade.

### **Information as to economic and financial standing.**

15. (1) Subject to regulation 19 and sub-regulation (2), in assessing whether a supplier meets any minimum standards of economic and financial standing required of suppliers by the contracting authority for the purposes of regulations 11(7), 12(4) and 13(7), and in selecting the suppliers to be invited to tender for or to negotiate the contract in accordance with regulations 12(5) and 13(8), a contracting authority may take into account any of the following information —

- (a) appropriate statements from the supplier’s bankers;
- (b) statements of accounts or extracts therefrom relating to the business of the supplier where publication of the statement is required under the law of the relevant State in which the supplier is established;

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(c) a statement of the overall turnover of the business of the supplier and the turnover in respect of goods of a similar type to the goods to be purchased or hired under the public supply contract in the 3 previous financial years of the supplier.

(2) Where the information specified in sub-regulation (1) is not appropriate in a particular case, a contracting authority may require a supplier to provide other information to demonstrate the supplier's economic and financial standing.

(3) A contracting authority which requires information to be provided in accordance with sub-regulations (1) and (2) shall specify in the contract notice or in the invitation to tender the information which the supplier shall provide and it may require a supplier to provide only such of that information as it considers it needs to make the assessment or selection.

(4) Where a supplier is unable for a valid reason to provide the information which the contracting authority has required, the contracting authority shall accept such other information provided by the supplier as the contracting authority considers appropriate.

#### **Information as to technical capacity.**

16. (1) Subject to regulation 19, in assessing whether or not a supplier meets any minimum standards of technical capacity required of suppliers by the contracting authority for the purposes of regulations 11(7), 12(4) and 13(7), and in selecting the suppliers to be invited to tender for or to negotiate the contract in accordance with regulations 12(5) and 13(8), a contracting authority may take into account any of the following information —

- (a) the principal deliveries by the supplier of goods of a similar type to the goods to be purchased or hired under the public supply contract in the past 3 years, specifying in each case the date of delivery, the consideration received and the identify of the purchaser accompanied by a certificate issued or countersigned by the purchaser confirming the details of the purchase or hire or, but only where the purchaser was not a contracting authority, a declaration by the supplier attesting the details of the purchase or hire;
- (b) the supplier's technical facilities, measures for ensuring quality and study and research facilities in relation to the goods to be purchased or hired under the public supply contract;
- (c) the technicians or technical bodies who would be involved with the production of the goods to be purchased or hired under the public supply contract, particularly those responsible



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for quality control, whether or not they are independent of the supplier;

- (d) samples, descriptions and photographs of the goods to be purchased or hired under the public supply contract and certification of the authenticity of such samples, descriptions or photographs;
- (e) certification of official quality control institutes or agencies of recognised competence attesting that the goods to be purchased or hired under the public supply contract conform to standards and technical specifications (within the meaning of regulation 8(1)) identified by the contracting authority;
- (f) where the goods to be sold or hired under the public supply contract are complex or are required for a special purpose, a check carried out by the contracting authority or on its behalf by a competent official body of the relevant State in which the supplier is established, on the production capacity of the supplier in relation to the goods to be purchased or hired under the contract and if relevant, on the supplier's study and research facilities and any quality control measures.

(2) The contracting authority may only require a supplier to provide information specified in sub-regulation (1) and only such of that information as it considers it needs to make the assessment or selection and it shall specify in the contract notice or in the invitation to tender which of that information it requires to be provided.

### **Supplementary information.**

17. (1) The contracting authority may require a supplier to provide information supplementing the information supplied in accordance with regulations 14, 15 and 16 or to clarify that information, provided that the information so required relates to the matters specified in regulations 14, 15 and 16.

(2) A contracting authority may require a supplier to indicate in his tender what part of the public supply contract he intends to sub-contract to another person.

### **Confidentiality of information.**

18. A contracting authority shall comply with such requirements as to the confidentiality of information provided to it by a supplier as the supplier may reasonably request.

### **Official lists of recognised suppliers.**

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19. Where a supplier is registered on the official list of recognised suppliers in a relevant State which maintains such lists and in which the supplier is established and the supplier submits to the contracting authority a certificate of registration issued by the authority administering the official lists which specifies the information submitted to that authority which enabled the supplier to be registered and which states the classification given, the contracting authority, to the extent that the certificate deals with the grounds referred to in regulations 14(1)(a) to (d),(g) and (h), 15(1)(b) and (c) and 16(1)(a) —

- (a) shall accept the certificate as evidence that the supplier does not fall within the grounds specified in regulation 14(1)(a) to (d) and shall not be entitled to require the supplier to submit such information relating to those grounds as is specified in regulation 14,
- (b) shall not be entitled to require the supplier to provide information specified in regulations 15(1)(b) and (c) and 16(1)(a), and
- (c) shall not be entitled to seek any supplementary information in accordance with regulation 17 in relation to the matters specified in paragraphs (a) and (b).

#### **Consortia.**

20. (1) In this regulation a “consortium” means 2 or more persons, at least one of whom is a supplier, acting jointly for the purpose of being awarded a public supply contract.

(2) A contracting authority shall neither treat the tender of a consortium as ineligible nor decide not to include a consortium amongst those persons from whom it will make the selection of persons to be invited to tender for or to negotiate a public supply contract on the grounds that the consortium has not formed a legal entity for the purpose of tendering for or negotiating the contract but where a contracting authority awards a public supply contract to a consortium it may, if to do so is justified for the satisfactory performance of the contract, require the consortium to form a legal entity before entering into, or as a term of, the contract.

(3) In this Part references to a supplier where the supplier is a consortium includes a reference to each person who is a member of that consortium.

#### **PART V**

#### THE AWARD OF A PUBLIC SUPPLY CONTRACT

**Criteria for the award of a public supply contract.**

21. (1) Subject to sub-regulations (5), (6) and (7), a contracting authority shall award a public supply contract on the basis of the offer which —

- (a) is the most economically advantageous to the contracting authority, or
- (b) offers the lowest price.

(2) The criteria which a contracting authority may use to determine that an offer is the most economically advantageous include delivery date, running costs, cost effectiveness, quality, aesthetic and functional characteristics, technical merit, after sales service, technical assistance and price.

(3) Where a contracting authority intends to award a public supply contract on the basis of the offer which is the most economically advantageous it shall state the criteria on which it intends to base its decision, where possible in descending order of importance, in the contract notice or in the contract documents.

(4) Where a contracting authority awards a public supply contract on the basis of the offer which is the most economically advantageous, it may take account of offers which offer variations on the requirements specified in the contract documents if —

- (a) the offer meets the minimum requirements of the contracting authority, and
- (b) it has stated those minimum requirements and any specific requirements for the presentation of an offer offering variations in the contract documents,

but if the contracting authority will not take account of offers which offer such variations it shall state that fact in the contract notice.

(5) A contracting authority may not reject an offer which offers variations on the requirements specified in the contract documents on the ground that it would lead to the award of a public services contract within the meaning of the Public Services Contracts Regulations 1996.

(6) A contracting authority may not reject an offer on the ground that the technical specifications in the offer have been defined by reference to European specifications (within the meaning of regulation 8(1)) or to the

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technical specifications of a relevant State specified in regulation 8(7)(a) and (b).

(7) If an offer for a public supply contract is abnormally low the contracting authority may reject that offer but only if it has requested in writing an explanation of the offer or of those parts which it considers contribute to the offer being abnormally low and has —

- (a) if awarding the public supply contract on the basis of the offer which offers the lowest price, examined the details of all the offers made, taking into account any explanation given to it of the abnormally low tender, before awarding the contract, or
- (b) if awarding the public supply contract on the basis of the offer which is the most economically advantageous, taken any such explanation into account in assessing which is the most economically advantageous offer,

and, in considering that explanation, the contracting authority may take into account explanations relating to the economics of the manufacturing process, or to the technical solutions suggested by the supplier or the exceptionally favourable conditions available to the supplier for the provision of the supply of goods or the originality of the supplies proposed by the supplier.

(8) If a contracting authority which rejects an abnormally low offer is awarding the public supply contract on the basis of the offer which offers the lowest price, it shall send a report justifying the rejection to the Financial Secretary for the purpose of compliance with Article 27 of the Directive.

(9) For the purposes of this regulation “offer” includes a bid by one part of a contracting authority to make available to another part of the contracting authority the goods required by it when the former part is invited by the latter part to compete with the offers sought from other persons.

#### **Contract award notice.**

22. (1) A contracting authority which has awarded a public supply contract shall, no later than 48 days after the award, send to the Official Journal a notice, substantially corresponding to the form set out in Part E of the Schedule and, subject to sub-regulation (2), including the information therein specified.

(2) Any of the information specified in Part E of the Schedule to be included in the contract award notice may be omitted in a particular case where to publish such information would impede law enforcement, would

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otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of any person or might prejudice fair competition between suppliers.

### **Information about contract award procedures.**

23. (1) A contracting authority shall, within 15 days of the date on which it receives a written request from any supplier who was unsuccessful (whether pursuant to regulation 11(7), 12(4), 12(5), 13(7), 13(8) or 21), inform that supplier of the reasons why he was unsuccessful and, if the supplier was unsuccessful as a result of the evaluation of offers made in accordance with regulation 21, the name of the person awarded the contract.

(2) A contracting authority shall prepare a record in relation to each public supply contract awarded by it specifying —

- (a) the name and address of the contracting authority;
- (b) the type of goods purchased or hired or to be purchased or hired under the contract and the value of the consideration to be given under it;
- (c) the names of the persons whose offers were evaluated in accordance with regulation 21 and, where the contracting authority has used the restricted or negotiated procedure, the reasons why those persons were selected;
- (d) the names of the persons who were unsuccessful pursuant to regulation 11(7), 12(4), 12(5), 13(7) or 13(8) and the reasons why they were not successful;
- (e) the name of the person to whom the public supply contract was awarded and the reasons for having awarded the contract to him;
- (f) if known to the contracting authority, which part of the contract the person to whom the public supply contract has been awarded intends to sub-contract to another person;
- (g) in the case of a contracting authority which used the negotiated procedure, which of the circumstances specified in regulation 10(2) constituted grounds for using that procedure.

(3) If in accordance with Article 7.3 of the Directive the Commission requests a report containing the information specified in sub-regulation (2), the contracting authority shall send a written report containing that information, or the main features of it, to the Financial Secretary

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(4) Where a contracting authority decides not to award a public supply contract in respect of which a contract notice was published or not to seek offers in relation to another contract for the same purpose it shall inform the Official Journal of that decision and shall, if so requested in writing by any supplier who submitted an offer or who applied to be included amongst the persons to be selected to tender for or to negotiate the contract, inform him of the reasons for its decision.

### **PART VI MISCELLANEOUS**

#### **Public service bodies.**

24. Where a contracting authority grants to a person other than a contracting authority special or exclusive rights to carry on a service for the benefit of the public, it shall impose an express duty on that person not to discriminate in seeking offers in relation to, or in awarding, a contract for the purchase or hire of goods on the grounds of nationality against a person who is a national of or established in a relevant State or on the grounds that the goods to be supplied under the contract originate in another relevant State.

#### **Reports.**

25. (1) A contracting authority shall for the purpose of enabling the United Kingdom to comply with Article 31 of the Directive no later than 31 July 1997 and 31 July in each alternate year thereafter, send to the Financial Secretary a report specifying in relation to each public supply contract awarded by it during the reporting period the information specified in sub-regulation (2).

(2) The information referred to in sub-regulation (1) is, in relation to each public supply contract awarded by that contracting authority during the reporting period —

- (a) the value (estimated if necessary) of the consideration payable under the contract;
- (b) whether the open, restricted or negotiated procedure was used;
- (c) if the negotiated procedure was used, pursuant to which provision of sub-regulation 10(2) that procedure was used;
- (d) the type of goods purchased or hired or to be purchased or hired under the contract; and
- (e) the nationality of the person to whom the contract was awarded.

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(3) A contracting authority shall send to the Financial Secretary a report containing such other information as he may from time to time require in respect of a particular public supply contract for the purpose of causing the Commission to be informed.

(4) In this regulation “the reporting period” means the year preceding the year in which the reports referred to in sub-regulation (2) are to be made.

### **Responsibility for obtaining and forwarding reports and information.**

26. (1) Where the Financial Secretary is in possession of information which a contracting authority is required to send to him under these regulations as a result of a Community obligation, he shall send that information to the Secretary of State for onward transmission to the Commission.

(2) Where the Financial Secretary requires information available to a relevant State by virtue of Article 14.4 and submits to the Governor a request for the provision of such information the Governor shall transmit such request to the Secretary of State and shall provide to the Financial Secretary the information provided by the relevant State to the Secretary of State in response to the request.

(3) Where in the Directive, other than in Article 14.4 or 39, provision is made for a relevant State to supply information to or receive information from the Commission or a relevant State the Financial Secretary shall send such information to the Governor for onward transmission to the Secretary of State, or, as the case may be, where such information has been supplied to the Governor the Financial Secretary shall cause that information, or information as to its availability, to be published in appropriate manner in Gibraltar.

### **Publication of notices.**

27. (1) Any notice required by these regulations to be sent to the Official Journal shall be sent by the most appropriate means to the Office for Official Publications of the European Communities and where the contracting authority is applying the restricted procedure or the negotiated procedure and, for reasons of urgency, is applying the provisions of regulation 12(14) and 13(4), the notice shall be sent by telex, telegram or facsimile.

(2) Any such notice as is referred to in sub-regulation (1) shall contain no more than 650 words.

(3) The contracting authority shall retain evidence of the date of despatch to the Official Journal of each notice.

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(4) The contracting authority shall not place a contract notice in the press or like publications in Gibraltar before the date on which the notice is despatched in accordance with sub-regulation (1) and if it does, after that date, so place the notice it shall not add to the notice any information in relation to the public supply contract which was not contained in the notice sent to the Official Journal except that it shall mention the date on which that notice was despatched.

#### **Enforcement of obligations.**

28. The provisions of the Public Procurement (Enforcement of Obligations) Regulations 1996 shall apply for the purpose of enforcing the obligations under these regulations in accordance with Council Directive 89/665/EEC



**SCHEDULE**

Regulations 9(1), 11(2),  
12(2), 13(2), 22(1)

**FORMS OF NOTICES FOR PUBLICATION IN THE OFFICIAL  
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**PART A**

**PRIOR INFORMATION NOTICE**

1. The name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority and of the service from which additional information may be obtained.
2. Nature and quantity or value of the goods to be supplied.  
CPA reference number.
3. Estimated date of the commencement of the procedures leading to the award of the contract(s), if known.
4. Other information.
5. Date of despatch of the notice.

**PART B**

**OPEN PROCEDURE NOTICE**

1. The name, address, telephone number, telegraphic address, telex and facsimile numbers of the contracting authority.
2.
  - (a) The award procedure chosen.
  - (b) Form of contract for which offers are invited.
3.
  - (a) Place of delivery.
  - (b) Nature and quantity of the goods to be supplied.

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- (c) Indication of whether the suppliers can tender for some and/or all of the goods required.
  - (d) Derogation from use of European specifications.
4. Time limit for delivery, if any.
5. (a) Name and address of the service from which the contract documents may be requested.
- (b) Final date for making such requests.
- (c) Where applicable, the amount and terms of payment of the sum to be paid to obtain such documents.
6. (a) The final date for receipt of tenders.
- (b) Address to which they shall be sent.
- (c) Languages in which they shall be drawn up.
7. (a) Persons authorised to be present at the opening of tenders.
- (b) Date, hour and place of such opening.
8. Where applicable, any deposit and guarantees required.
9. The main terms concerning financing, and payment and/or reference the relevant provisions.
10. Where applicable, the legal form to be taken by the grouping of suppliers winning the contract.
11. The information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of the supplier.
12. Period during which the tenderer is bound to keep open his tender.
13. Criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned if they do not appear in the contract documents.
14. Where applicable, prohibition on variants.

15. Other information.

16. Date of publication of the prior information notice in the Official Journal or references to its non-publication.

17. Date of despatch of the notice.

**PART C**

**RESTRICTED PROCEDURE NOTICE**

1. The name, address, telegraphic address, telephone number, telex and facsimile numbers of the contracting authority.

- 2
- (a) Award procedure chosen.
  - (b) Where applicable: justification for the use of the shorter time limits.
  - (c) Form of contract for which offers are invited.
- 3.
- (a) Place of delivery.
  - (b) Nature and quantity of goods to be provided.  
CPA number.
  - (c) Indication of whether the supplier can tender for some and/or all of the goods required.
  - (d) Derogation from the use of European specifications.

4. Time limit on delivery, if any.

5. Where applicable, the legal form to be assumed by a grouping of suppliers winning the contract.

- 6.
- (a) Final date for receipt of requests to participate.
  - (b) Address to which they shall be sent.
  - (c) Languages in which they shall be drawn up.

7. Final date for despatch of invitation to tender.

8. Any deposit and guarantees required.

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9. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of him.
10. Criteria for the award of the contract if these are not stated in the invitation to tender.
11. If known, the number or range of numbers of suppliers which will be invited to tender.
12. Where applicable, prohibition on variants.
13. Other information.
14. Date of publication of the prior information notice in the Official Journal or reference to its non-publication.
15. Date of despatch of the notice.

### **PART D**

#### **NEGOTIATED PROCEDURE NOTICE**

1. The name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority.
2.
  - (a) Award procedure chosen.
  - (b) Where applicable: justification for the use of the shorter time limits.
  - (c) Where applicable, form of contract for which offers are invited.
3.
  - (a) Place of delivery.
  - (b) Nature and quantity of the goods to be delivered.  
CPA reference number.
  - (c) Indication of whether the suppliers can tender for some and/or all of the goods required.
  - (d) Derogation from the use of European specifications.
4. Time limit on delivery, if any.

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5. Where applicable: the legal form to be assumed by a grouping of contractors winning the contract.
6.
  - (a) Final date for receipt of requests to participate.
  - (b) Address to which they shall be sent.
  - (c) Languages in which they shall be drawn up.
7. Any deposit and guarantees required.
8. Information concerning the supplier's own position, and the information and formalities necessary for an appraisal of the minimum standards of economic and financial standing and technical capacity required of him.
10. Where applicable, prohibition on variants.
11. Where applicable, the names and addresses of suppliers already selected by the awarding authority.
12. Date(s) of previous publications in the Official Journal.
13. Other information.
14. Date of despatch of the notice.

## **PART E**

### **CONTRACT AWARD NOTICE**

1. Name and address of contracting authority.
2.
  - (a) Award procedure chosen.
  - (b) Where applicable: justification for the use of the negotiated procedures.
3. Date of award of contract.
4. Criteria for award of contract.
5. Number of offers received.
6. Name and address of successful supplier(s).
7. Nature and quantity of goods supplied, where applicable, by supplier.  
CPA reference number.

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8. Price or range of prices to be paid.
9. Where appropriate, value and proportion of the contract which may be subcontracted to third parties.
10. Other information.
11. Date of publication of the tender notice in the Official Journal.
12. Date of despatch of the notice.