Pursuant to Article 164, paragraph 2 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19), 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 - Constitutional Court, 72/12, 7/14 - Constitutional Court, 44/14 and 30/18 - other law),

The Government adopts the following

Decree on Public Procurement in the Field of Defence and Security

The decree was published in the “Official Gazette of the Republic of Serbia”, no. 93/2020 of 1 July 2020, when it entered into force, and the provision of Article 15, paragraph 6 of this Decree shall apply from the date of accession of the Republic of Serbia to the European Union.

I. INTRODUCTORY PROVISIONS

Subject matter of the Decree

Article 1

This Decree regulates the types of public procurement procedures in the field of defence and security, conditions and manner of their implementation, as well as communication in public procurement procedures.

Public procurements in the field of defence and security, in accordance with the Law on Public Procurement (hereinafter referred to as: the Law) are procurements of:

1) military equipment, including any component, component or assembly thereof;

2) safety-sensitive equipment, including any part, component or assembly thereof;

3) goods, services or works directly related to the equipment from items 1) and 2) of this paragraph during any period or its entire lifetime;

4) services and works exclusively for military purposes;

5) security-sensitive works and security-sensitive services.

Contracting authorities in cases determined by this Decree shall conduct public procurement procedures regulated by this Decree for the procurement of goods, works or services referred to in paragraph 2 of this Article whose estimated value is equal to or greater than the thresholds set by law and marked with a certain degree of secrecy, in accordance with the law regulating the secrecy of data, except for procurement procedures for special exceptions 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 field of defence and security - 2.A - Prior information notice - 2.B - Public invitation and 2 .V - Notice of contract award, suspension of proceedings or annulment of proceedings, are printed with this regulation and form an integral part thereof.

Definitions

Article 2

Certain terms used in this Decree shall have the following meanings:

1) classified information is information of interest to the Republic of Serbia which is determined and marked by a certain degree of secrecy by law, other regulation or decision of the competent authority issued in accordance with the law;

2) crisis is any situation in the Republic of Serbia, a Member State of the European Union or a third country, in which a harmful event has occurred that clearly exceeds the dimensions of harmful events in everyday life and which greatly endangers or limits human life and health or has a significant impact on the value of real estate or which requires measures to provide the population with basic necessities; a crisis is considered to have occurred even if such a harmful event is imminent; armed conflicts and wars shall be considered a crisis within the meaning of this Decree;

3) public procurement contract containing classified information is a freight contract concluded in writing between one or more bidders and one or more contracting authorities whose subject is procurement of goods, provision of services or performance of works, and which contains classified information or whose execution requires access classified information;

4) contract with a subcontractor is a freight contract concluded in writing between a bidder to whom a public procurement contract has been awarded and one or more economic operators for the purpose of executing a part of that public procurement contract which deals with procurement of goods, services or works;

5) defence standard is a technical specification whose observance is not obligatory and which is approved by the standardisation body specialised in the development of technical specifications for multiple or permanent application in the field of defence.

Other terms used in this Decree have the meanings established by law.

Communication in the public procurement procedure

Article 3

Communication and exchange of data between the contracting authority and economic operators in the public procurement procedure, as a rule, is done by mail, courier service, directly and electronically - by sending e-mail.

Communication and exchange of data by electronic means on the Public Procurement Portal is mandatory for:

1) compiling and sending for publication public procurement notices and their amendments;

2) publishing the decisions that the contracting authority is obliged to publish on the Public Procurement Portal in accordance with this Decree.

Notwithstanding paragraph 2 of this Article, the contracting authority may determine that in a particular public procurement procedure communications and data exchange are performed entirely by electronic means on the Public Procurement Portal, in accordance with Article 45, paragraph 2 of the Law, when technically terms.

In the case referred to in para. 2 and 3 of this Article, the provisions of the Law and the Instruction for the use of the Public Procurement Portal referred to in Article 184 of the Law shall apply to the communication and exchange of data by electronic means on the Public Procurement Portal.

If the contracting authority or economic operator submitted the document from the public procurement procedure by e-mail, it will be considered that the document was received on the day of sending.

Protection of classified information during the public procurement procedure

Article 4

When the contracting authority intends to make classified information available to economic operators during the public procurement procedure, it is obliged to determine the requirements that economic operators must meet in order to protect classified information in accordance with special regulations governing data protection.

In accordance with paragraph 1 of this Article, the bidder to whom the public procurement contract has been awarded is also obliged to act when making secret information available when concluding the contract with the subcontractor.

If the publication of certain data from the decision on awarding a public procurement contract or framework agreement would be contrary to the provisions of the Law or otherwise contrary to the general interest, especially the interests of defence or security, if it would harm the legitimate business interests of a particular economic operator until market competition is violated, this information from the decision will not be published.

II. PUBLIC PROCUREMENT PROCEDURES

Types of public procurement procedures and conditions for implementation

Article 5

Public procurement procedures in the sense of this Decree are:

1) restrictive procedure;

2) negotiated procedure with publication of a public invitation;

3) competitive dialogue;

4) negotiated procedure without publishing a public invitation.

As a rule, the contracting authority shall award a public procurement contract in a restrictive procedure or a negotiated procedure with publication of a public invitation, and may also perform it in other public procurement procedures if the conditions prescribed by this Decree are met.

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

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

Restrictive procedure

Article 6

After the announcement of the public invitation, the contracting authority shall make available to economic operators additional documentation, if necessary for the preparation of applications.

If the documentation referred to in paragraph 1 of this Article is not available on the Public Procurement Portal, the public invitation shall state the manner in which the documentation can be downloaded.

In the procedure of opening applications and bids, the contracting authority shall exclude the public if it is necessary for the protection of data that represent a business secret in terms of the law governing the protection of business secrets or represent secret data in terms of the law governing data secrecy.

Negotiated procedure with publication of a public invitation

Article 7

The contracting authority that intends to conclude a public procurement contract or framework agreement in a negotiated procedure with the publication of a public invitation is obliged to publish a public invitation.

In the procedure of opening applications and bids, the contracting authority shall exclude the public if it is necessary for the protection of data that represent a business secret in terms of the law governing the protection of business secrets or represent secret data in terms of the law governing data secrecy.

Relevant provisions of the Law shall accordingly apply to issues of conducting the negotiation procedure with the publication of a public invitation that are not regulated by this Decree.

Competitive dialogue

Article 8

The contracting authority may use competitive dialogue to conclude public procurement contracts or framework agreements in cases where the subject of public procurement is particularly complex, so that a public procurement contract or framework agreement cannot be concluded using a restrictive procedure or a negotiated procedure.

The subject of public procurement is considered particularly complex in the following cases:

1) the needs of the contracting authority cannot be met without adapting easily accessible solutions;

2) the contract includes design or innovative solutions;

3) the contract cannot be awarded without prior negotiations due to specific circumstances related to the nature, complexity, legal or financial structure of the subject of public procurement or related risks;

4) the contracting authority may not determine with sufficient precision the technical specifications of the subject of procurement, in terms of Article 23 of this Decree.

The contracting authority that intends to conclude a public procurement contract or framework agreement in a competitive dialogue is obliged to publish a public invitation.

In the procedure of opening applications, decisions and final bids, the contracting authority shall exclude the public if necessary for the protection of data that constitute business secrets in terms of the law governing the protection of business secrets or represent secret data in terms of laws governing data secrecy.

Negotiated procedure without publishing a public invitation

Article 9

The contracting authority may conduct a negotiated procedure without publishing a public invitation for the procurement of goods, services or works:

1) if only a certain economic operator can deliver goods, provide services or perform works, for any of the following reasons:

(1) lack of competition for technical reasons;

(2) for the protection of exclusive rights, including intellectual property rights;

(3) if the bidders are also producers, service providers or contractors of importance for the defence and security of the Republic of Serbia and produce goods, provide services and perform works according to standards or regulations on product quality in the field of defence and security;

2) to the extent necessary, if due to extreme urgency caused by events that the contracting authority could not foresee, it is not possible to act within the deadlines set for the restrictive procedure or negotiated procedure with publication of a public invitation, including shortened deadlines due to justified urgency referred to in Article 14 of this Decree, provided that the circumstances by which the contracting authority justifies extreme urgency must not be caused by its actions;

3) if in a restrictive procedure, negotiated procedure with publication of a public invitation or competitive dialogue it has not received any bid or all bids are inappropriate, i.e., no application or all applications are inappropriate, provided that the initial conditions of public procurement have not changed significantly;

4) if in the restrictive procedure, negotiated procedure with publication of a public invitation or competitive dialogue all submitted bids were unacceptable, provided that the contracting authority invites all and exclusively bidders who submitted bids in the previous procedure in accordance with the formal requirements of the public procurement procedure and met the criteria for qualitative selection of the economic operator and that the initial conditions of public procurement have not been significantly changed;

5) if the deadlines set for the restrictive procedure or the negotiated procedure with publication of a public invitation, including shortened deadlines due to justified urgency referred to in Article 14 of this Decree, are incompatible with the urgency caused by the crisis.

The contracting authority may conduct a negotiated procedure without publishing a public invitation for the procurement of goods:

1) for additional deliveries by the original supplier intended for partial replacement of products, materials or installations or expansion of existing products, materials or installations, if a change of supplier would oblige the contracting authority to procure materials with different technical characteristics, which would cause non-compliance or disproportionately large technical difficulties in operation and maintenance, provided that the duration of such contracts may not exceed five years, except in exceptional circumstances to be determined taking into account the expected lifespan of any delivered product, installation or system and technical difficulties that would change the supplier could cause the contracting authority to explain such exceptional circumstances in the report on the public procurement procedure;

2) in the case of public procurement of goods that are listed and purchased on commodity exchanges;

3) for the purchase of goods under particularly favourable conditions from the supplier who permanently suspends or has suspended business activities, from the bankruptcy or liquidation trustee within the appropriate procedure, agreement with creditors or other appropriate procedure according to the regulations of the state of the economic operator;

4) if the goods are produced exclusively for the needs of research, experimentation, study or development, provided that the quantity of goods produced does not make a profit or cover the costs of research and development.

The contracting authority may conduct a negotiated procedure without publishing a public invitation for the procurement of goods:

1) research and development, except for services referred to in Article 12, paragraph 1, item 12) of the Law;

2) for additional services whose total value does not exceed 50% of the total value of the originally concluded contract, which were not included in the original project or in the original public procurement contract, and which due to unforeseen circumstances became necessary for the execution of the public procurement contract, provided that the contract is concluded with an economic operator that performs the basic contract and that:

(1) such additional services cannot be separated, technically or economically, from the original public procurement contract without causing significant difficulties for the contracting authority, or

(2) are such services, which the contracting authority could procure separately from the performance of the original contract, are necessary for the performance of the basic public procurement contract;

3) for new services consisting of the repetition of similar services awarded to an economic operator with which the contracting authority has concluded a basic contract, if all the following conditions are met:

(1) such services are in accordance with the basic project for which the basic contract was concluded;

(2) the basic contract was concluded after a restrictive procedure, a negotiated procedure with a public call or a competitive dialogue;

(3) the public call for the basic contract provided for the possibility of applying this procedure;

(4) in determining the estimated value of the procurement for the basic contract, the total estimated value of new services that will be repeated is taken into account;

(5) This procedure shall be carried out within five years of the conclusion of the basic contract, except in exceptional circumstances to be determined taking into account the expected lifespan of any delivered product, installation or system and the technical difficulties why the contracting authority must explain such exceptional circumstances in the report on the public procurement procedure;

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 that are deployed or to be deployed abroad, when the contracting authority needs to procure these services from economic operators that guarantee the validity of their bids only in short periods, so that it is not possible to act within the deadlines set for the restrictive procedure or the negotiated procedure with publication of a public invitation, including shortened deadlines due to justified urgency referred to in Article 14 of this Decree.

The contracting authority may conduct a negotiated procedure without publishing a public invitation for the procurement of works:

1) for additional works whose total value does not exceed 50% of the total value of the basic contract, which were not included in the basic project or in the basic public procurement contract, and which due to unforeseen circumstances became necessary for the execution of the public procurement contract, provided to conclude a contract with an economic operator that performs the basic contract and to:

(1) such additional works cannot be separated, technically or economically, from the basic public procurement contract without causing significant difficulties for the contracting authority, or

(2) such works, which the contracting authority could procure separately from the execution of the basic contract, are necessary for the execution of the basic public procurement contract;

2) for new works consisting of the repetition of similar works assigned to the economic operator with which the contracting authority has concluded the basic contract, if all the following conditions are met:

(1) such works are in accordance with the basic project for which the basic contract was concluded;

(2) the basic contract was concluded after a restrictive procedure, a negotiated procedure with a public call or a competitive dialogue;

(3) the public call for the basic contract provided for the possibility of applying this procedure;

(4) in determining the estimated value of the procurement for the basic contract, the total estimated value of new works that will be repeated is taken into account;

(5) this procedure shall be carried out within five years of the conclusion of the basic contract, except in exceptional circumstances to be determined taking into account the expected lifespan of any delivered product, installation or system and the technical difficulties why the contracting authority must explain such exceptional circumstances in the report on the public procurement procedure;

The terms inappropriate bid and inappropriate application from paragraph 1, item 3) of this Article, as well as the term unacceptable bid from paragraph 1, item 4) of this Article have the meaning determined by the Law.

In case of application of the negotiated procedure without publishing a public invitation from paragraph 1, item 1) sub-item (3) of this Article, the contracting authority shall determine the criteria for selection of economic operator and evidence of fulfilment of criteria for selection of economic operator in a manner appropriate to the circumstances.

Conducting a negotiation procedure without announcing a public invitation

Article 10

The contracting authority is obliged to publish a notice on the Public Procurement Portal on the implementation of the negotiated invitation without publishing a public invitation, the content of which is listed in Annex 4, Part D of the Law.

The contracting authority that intends to conclude a public procurement contract or framework agreement in a negotiated procedure without publishing a public invitation is obliged to send a written invitation to submit initial bids to one or, if possible, a number of economic operators.

Along with the invitation referred to in paragraph 2 of this Article, the contracting authority shall submit tender documentation specifying the criteria for qualitative selection of the economic operator and the criteria for awarding the contract, the subject matter of procurement with a description of needs and required characteristics of goods, services or works, stating the elements of description of the goods, services or works represent the minimum requirements that all bids must meet, as well as the elements of the contract to be negotiated and the manner of negotiation.

The initial bid may be submitted only by those economic operators to which the contracting authority has sent the invitation referred to in paragraph 2 of this Article.

The contracting authority negotiates the initial and all subsequent tenders with the tenderers in order to improve their content, except in the case of the final bid.

The minimum requirements from the tender documentation cannot be negotiated.

The contracting authority must ensure equal treatment of all bidders during the negotiations and cannot provide information in a discriminatory manner that some bidders could use to the detriment of others.

Exceptionally, a public procurement contract may be awarded without negotiation, on the basis of initial bids, if such a possibility was provided for in the invitation referred to in paragraph 2 of this Article.

The contracting authority shall keep a record of the negotiations.

The contracting authority is obliged to inform the bidders about the end of the negotiations and to set a single deadline for the submission of final bids.

In the procedure of opening applications and bids, the contracting authority shall exclude the public if it is necessary for the protection of data that represent a business secret in terms of the law governing the protection of business secrets or represent secret data in terms of the law governing data secrecy.

The contracting authority must check whether the final bids are in accordance with the minimum requirements specified in the tender documentation, evaluate the final bids and award the public procurement contract based on the contract award criteria.

The decision on awarding the contract, i.e., on the suspension of the public procurement procedure, the contracting authority sends to all bidders participating in the procedure.

Procurement of services from Annex 1.B.

Article 11

In the case of mixed contracts covering services referred to in Annex 1.A and services referred to in Annex 1.B, the contracting authority may act in accordance with the provisions of para. 3–13 of this Article if the estimated value of services from Annex 1.B is higher than the estimated value of services from Annex 1.A of this Decree.

For the procurement of services from Annex 1.A of this Decree or in the case of mixed contracts, if the estimated value of services from Annex 1.A is higher than the estimated value of services from Annex 1.B of this Decree, the contracting authority shall perform one of the procedures referred to in Article 5, paragraphs 1)-4) of this Decree in accordance with the conditions for the implementation of these procedures.

The contracting authority that intends to conclude a public procurement contract or framework agreement for the procurement of services referred to in Annex 1.B of this Decree must send a written invitation to submit bids to a certain number of economic operators.

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

Notwithstanding paragraph 4 of this Article, depending on the nature of the service in question, including the level of competition in the sector, the number of economic operators may be less than three.

The invitation for submission of bids referred to in paragraph 3 of this Article shall be sent by the contracting authority in a manner that enables proving, if necessary, that the invitation was received by the economic operator.

The invitation to submit bids referred to in paragraph 3 of this Article must contain at least the following:

1) name of the contracting authority;

2) description of the subject of procurement and technical specifications;

3) criteria for qualitative selection of the economic operator;

(4) contract award criteria;

5) deadline for submission of bids (date and time);

6) manner of submitting the bids;

7) address to which bids are submitted;

8) address, e-mail address or website where additional documentation can be taken over, if necessary;

9) contact person, telephone number and e-mail address.

The contracting authority may determine the criteria for qualitative selection of the economic operator in accordance with Articles 23–25 of this Decree.

Immediately after the deadline for submission of bids, the contracting authority opens the timely submitted bids.

In the procedure of opening bids, the contracting authority shall exclude the public if it is necessary for the protection of data that represent a business secret in terms of the law governing the protection of business secrets or represent secret data in terms of the law governing data secrecy.

The contracting authority is obliged to check whether the bids are in accordance with the requirements stated in the invitation, evaluate the bids and award the public procurement contract on the basis of the contract award criteria.

The contracting authority sends the decision on awarding the contract to all bidders participating in the procedure and publishes it on the Public Procurement Portal.

The contracting authority may not conclude a public procurement contract, i.e., a framework agreement before the expiration of ten days from the date of receipt of the decision on awarding the contract, unless only one bid has been submitted, which is acceptable.

Framework agreement

Article 12

The framework agreement may not last longer than seven years, except in duly justified cases relating to the subject matter of the procurement, which shall be determined taking into account the expected lifespan of any delivered product, installation or system and the technical difficulties could cause, which the contracting authority must explain in the public invitation.

III. CONDITIONS AND MANNER OF IMPLEMENTATION OF PUBLIC PROCUREMENT PROCEDURE

Setting deadlines

Article 13

When determining the deadlines for submitting applications and bids, the contracting authority shall set appropriate deadlines, especially taking into account the complexity of the subject of procurement and the time required for preparation of applications and bids, and respecting the minimum deadlines prescribed by Article 14 of this Decree.

Deadlines for submission of applications and bids are determined in such a way as to determine the exact date and time by which applications or bids may be submitted in a timely manner.

Minimum deadlines

Article 14

The minimum deadline for submitting an application in a restrictive procedure, a negotiated procedure with a public call and a competitive dialogue whose estimated value is equal to or greater than the amount of European thresholds is determined in accordance with the Law.

If the estimated value is less than the amount of the European thresholds, the minimum deadline for submitting applications in the restrictive procedure, the negotiated procedure with publication of a public invitation and competitive dialogue is 15 days from the day of sending for publication of the public invitation.

The minimum deadline for submitting a bid in a restrictive procedure is:

1) 40 days from the day of sending the invitation to submit bids for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) 15 days from the day of sending the invitation for submission of bids for public procurement whose estimated value is less than the amount of European thresholds.

If the contracting authority has published a prior information notice, the minimum deadline for submission of tenders referred to in paragraph 1 of this Article may be shortened to 22 days, if the following conditions are met:

1) the prior information notice shall contain all the information required for the public call referred to in Annex 2.B. of this Decree to the extent that that information was available at the time of publication of the prior information notice and

2) at least 52 days have passed from the day of sending the previous information notice for publication, and at most 12 months before the date of sending the public invitation - defence and security for publication.

The deadline for submission of tenders referred to in paragraph 3, item 1) of this Article may be further shortened by five days if the contracting authority has, from the date of publication of the public invitation in accordance with Article 21, paragraph 4 of this Decree, all procurement documents unlimited and fully made available by electronic means on the Public Procurement Portal.

The contracting authority may set a shorter deadline for the submission of applications in a restrictive or negotiated procedure with the publication of a public invitation if the deadline referred to in para. 1 and 2 of this Article is not appropriate for reasons of justified urgency, but not shorter than:

1) 15 days from the day of sending for publication a public invitation for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) ten days from the day of sending for publication a public invitation for public procurement whose estimated value is less than the amount of European thresholds.

The contracting authority may set a shorter deadline for the submission of bids in a restrictive procedure if the deadlines referred to in para. 3-5. of this Article are not appropriate for reasons of justified urgency, but not less than:

1) 15 days from the day of sending the invitation to submit bids for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) ten days from the day of sending the invitation to submit bids for public procurement whose estimated value is less than the amount of European thresholds.

The contracting authority is obliged to explain in the public invitation and tender documentation the reasons for justified urgency from para. 6 and 7 of this Article.

In the competitive dialogue, the negotiated procedure with publication of a public invitation and the negotiated procedure without publication of a public invitation, the contracting authority shall set an appropriate deadline for the submission of decisions, initial tenders, all subsequent and final bids.

The minimum deadline for submitting a bid for the procurement of services referred to in Annex 1.B is:

1) 15 days from the day of sending the invitation to submit bids for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) ten days from the day of sending the invitation to submit bids for public procurement whose estimated value is less than the amount of European thresholds.

Public procurement notices in the field of defence and security

Article 15

Public procurement notices in the field of defence and security

1) Public invitation;

2) Prior information notice;

3) Notice of contract award, suspension of proceedings or annulment of proceedings;

4) Notice on the profile of the contracting authority;

5) Notice on the implementation of the negotiation procedure without publishing a public invitation;

6) Notice of voluntary prior transparency;

7) Correction - notification of changes or additional information;

8) Notice of submitted request for protection of rights.

The content of the public procurement announcement referred to in paragraph 1, items 1) –4) of this Article, is listed in Annex 2 to this Decree, and the content of the public procurement announcement referred to in paragraph 1, items 5) –8) of this Article is listed in Annex 4 of the Law.

Public procurement notices referred to in paragraph 1 of this Article may also contain other information that the contracting authority deems useful.

Public procurement notices may not contain classified information.

Public procurement notices are published through the Public Procurement Portal. Public procurement notices in the field of defence and security whose estimated value is equal to or greater than the amount of European thresholds are also published in the Official Journal of the European Union.

Public invitation

Article 16

The contracting authority shall publish a public invitation in all public procurement procedures from this Decree, except in the negotiated procedure without publishing a public invitation and in the case of procurement of services from Annex 1.B.

The content of the public invitation is listed in Annex 2.B. of this Decree.

Prior information notice

Article 17

The contracting authority may announce its intention to procure by publishing a prior information notice on the Public Procurement Portal or on the contracting authority's profile:

1) for the procurement of goods - the estimated total value of contracts or framework agreements, in accordance with the indications from the General Procurement Dictionary, which it intends to conclude in the next 12 months;

2) for the procurement of services - the estimated total value of contracts or framework agreements in each of the categories of services it intends to conclude in the next 12 months;

3) for the procurement of works - essential characteristics of the contract or framework agreement that it intends to conclude.

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

The contracting authority may not publish a prior information notice on its profile before sending the notice for publication in accordance with paragraph 2 of this Article and shall indicate on its profile the date of sending that notice for publication.

The content of the previous information notice and the notice on the profile of the contracting authority is listed in Annex 2.A of this Decree.

Notice of contract award, suspension of proceedings or annulment of proceedings

Article 18

In the case of a negotiated procedure without publication of a public invitation, the contracting authority must state the legal basis from this Decree in the contract award notice with an explanation.

In the case of procurement of services referred to in Annex 1.B, the contracting authority shall state in the contract award notice the legal basis referred to in this Regulation and explain the award of such a contract.

The content of the notification on awarding the contract, suspension of the procedure or annulment of the procedure is listed in Annex 2.V to this Decree.

Public procurement plan and initiating a public procurement procedure

Article 19

The contracting authority shall adopt an annual public procurement plan in the field of defence and security, in accordance with the elements prescribed by law.

The contracting authority shall submit the public procurement plan referred to in paragraph 1 of this Article to the Government within ten days from the day of its adoption.

The contracting authority shall make a decision on conducting the public procurement procedure, which shall contain data on the subject of public procurement, type of procedure and estimated value of public procurement in total and for each lot separately, as well as data on the composition of the public procurement commission.

In case of application of competitive dialogue, negotiated procedure without publishing a public invitation and procurement of services from Annex 1.B, in the decision referred to in paragraph 3 of this Article, the contracting authority shall state the reasons for applying that procedure.

The public procurement procedure is considered to be initiated by sending a public invitation, except in the case of a negotiated procedure without publishing a public invitation and procurement of services from Annex 1.B, in which case the procedure is considered initiated on the day of sending an invitation to submit bids.

Minimum number of candidates

Article 20

In a restrictive procedure, a negotiated procedure with a public call and a competitive dialogue, the contracting authority may limit the number of candidates it will invite to submit tenders or to participate in the dialogue, in accordance with the Law.

If the number of candidates who meet the criteria for qualitative selection of an economic operator is less than the minimum number specified in the public invitation, the contracting authority may suspend the procedure if it considers that competition is not sufficiently ensured.

If the contracting authority re-publishes the public invitation after suspending the procedure, it is obliged to send an invitation to submit bids or to participate in the dialogue to the candidates selected in the previously suspended procedure, as well as to the candidates selected after the repeated public invitation.

Invitation to selected candidates and competition documentation

Article 21

The contracting authority is obliged to simultaneously invite all selected candidates in writing to submit their bids in the second phase of the restrictive procedure, the negotiated procedure with the publication of a public invitation or, in case of competitive dialogue, to participate in the dialogue, taking care not to disclose information about other candidates.

Along with the invitation, the ordering party submits the tender documentation or descriptive documentation and, if necessary, additional documentation.

Notwithstanding paragraph 2 of this Article, if free, unlimited and unimpeded direct access to tender documents or descriptive documents is provided by electronic means on the Public Procurement Portal, the invitation shall state the place on the Public Procurement Portal where that documentation is available.

The economic operator may request in writing from the contracting authority additional information or clarifications regarding the procurement documentation, and may indicate to the contracting authority if it considers that there are deficiencies or irregularities in the procurement documentation, no later than:

1) on the eighth day before the expiry of the deadline set for the submission of tenders, for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) on the sixth day before the deadline for submission of bids, for public procurement whose estimated value is less than the amount of European thresholds.

If the request referred to in paragraph 4 of this Article is submitted in a timely manner, the contracting authority shall submit additional information and clarifications in writing to the invited candidates without providing information on the applicant, and no later than:

1) on the eighth day before the expiry of the deadline set for the submission of tenders, for public procurement whose estimated value is equal to or greater than the amount of European thresholds;

2) on the fourth day before the expiry of the deadline set for the submission of tenders for public procurement whose estimated value is less than the amount of European thresholds and in procedures in which the contracting authority used shortened deadlines due to justified urgency.

The invitation to tender must contain at least the following:

1) reference to the published public invitation;

2) deadline for submission of tenders, address to which bids must be sent and language in which tenders must be prepared;

3) in the case of a competitive dialogue, the date and address for the start of the dialogue and the language used;

4) an indication of all possible additional documents to be submitted, for the purpose of verifying the statements submitted by the candidate or supplementing the information related to the criteria for qualitative selection of the economic operator;

5) criteria to be used for contract award.

In the case of a competitive dialogue, the information referred to in paragraph 6, item 2) of this Article shall not be stated in the invitation to participate in the dialogue, but shall be stated in the invitation to submit bids.

Technical specifications

Article 22

Technical specifications are determined in compliance with mandatory national technical rules, including rules related to product safety or technical requirements that the Republic of Serbia must meet under international agreements in the field of standardisation to guarantee interoperability required by such agreements, in one of the following ways:

1) by referring to technical specifications and respecting the following order of priorities, to: national civil standards transposing European standards, European technical assessment, common civil technical specifications, national civil standards transposing international standards, other international civil standards, other technical reference systems established by European standardization bodies or in the absence of some of them, other national civil standards, national technical approvals or national technical specifications relating to the design, calculation and execution of works and use of goods, each reference must be followed by the words “or appropriate”, civilian technical specifications derived from industry and widely accepted by industry or national defence standards and specifications of defence equipment similar to those standards;

2) in the form of characteristics or functional requirements, which may include environmental characteristics, provided that the parameters are sufficiently precise that the bidders can determine the subject of the contract and the contracting authorities to award the contract;

3) in the form of characteristics or functional requirements referred to in item 2) of this paragraph, with reference to the technical specifications referred to in item 1) of this paragraph which are considered a presumption of compliance with those characteristics or functional requirements;

4) by referring to the technical specifications referred to in item 1) of this paragraph for certain characteristics and by referring to the characteristics or functional requirements referred to in item 2) of this paragraph for other characteristics.

IV. CRITERIA FOR QUALITATIVE SELECTION OF ECONOMIC OPERATORS

Exclusion grounds

Article 23

The contracting authority shall exclude an economic operator from the public procurement procedure if there are any grounds for exclusion provided by law, as well as if it is determined on the basis of any evidence, including protected data sources, that it does not have the reliability necessary to exclude security risks. Of the Republic of Serbia, which arose as a consequence of an event that occurred in the period of the previous five years from the date of expiration of the deadline for submission of bids, i.e., applications.

Ways of proving the criteria for qualitative selection of an economic operator

Article 24

Proving the fulfilment of the criteria for the qualitative selection of an economic operator in the public procurement procedure is carried out in accordance with Art. 118–130 of the Law, this Article and Article 25 of this Decree.

The contracting authority shall determine in the procurement documentation whether the economic operator can submit a statement on the fulfilment of the criteria for qualitative selection of the economic operator.

If the contracting authority, in accordance with paragraph 2 of this Article, has enabled the submission of a statement on the fulfilment of the criteria for qualitative selection of the economic operator, it shall be submitted by the same means of communication as the application or bid.

Technical and professional capacity

Article 25

Technical and professional capacity of a economic operator, in addition to the evidence referred to in Article 124 of the Law, as a rule, is proved by one or more of the following evidence:

1) a description of the technical means and measures used by the economic operator to ensure the quality and the means of study and research at its disposal, as well as the internal rules concerning intellectual property;

2) statement of the economic operator on acceptance of quality control by the contracting authority or an authorized body in the country in which the economic operator is established which will perform control on behalf of the contracting authority, regarding production or technical capacities of the economic operator and, if necessary, means of study and research the quality control measures they will have at their disposal;

3) in the case of public works contracts, public service contracts or public supply contracts which also cover works or services of installation or installation, educational and professional qualifications of the economic operator and/or its managerial staff, and especially the person or persons are responsible for providing services or managing works;

4) a description of the tools, materials, technical equipment, number of staff and knowledge and experience and/or sources of supply - indicating the geographical location if outside the European Union - which the economic operator has available to perform the contract, to meet any additional needs requires the contracting authority in the event of a crisis or to carry out maintenance, modernisation or adjustment of the supply to which the public procurement contract relates;

5) in the case of contracts that include, require and/or contain classified information, a certificate of access to classified information of the level of protection required by the contracting authority in accordance with special regulations governing the protection of confidentiality data on the ability to process, store and transmit classified information.

In the case referred to in paragraph 1, item 5) of this Article, the contracting authority accepts the issuance of a security certificate issued to an economic operator by another state, provided that the body of the Republic of Serbia responsible for national security and protection of classified information

If necessary, the contracting authority may request through the body responsible for national security and protection of classified information the implementation of additional verification procedures, and in that case it is obliged to take into account the results of these procedures.

The contracting authority may set an appropriate deadline for issuing that certificate to the economic operator that at the time of submitting the application in the public procurement procedure does not have the certificate referred to in paragraph 1, item 5) of this Article, if it stated such possibility in the public invitation.

The contracting authority may request from the national authority responsible for national security of the state of the economic operator or from the security authority designated by that state to check the compliance of the premises and facilities to be used, industrial and administrative procedures, information management methods and/or the situation regarding the staff who will perform the contract.

The contracting authority shall state in the public invitation or in the invitation to the selected candidates referred to in Article 21 of this Decree which evidence in accordance with paragraph 1 of this Article of the request and which other evidence must be submitted.

If the economic operator, for a justified reason, is not able to submit the evidence referred to in paragraph 1, items 1) –4) of this Article, which the contracting authority requires, technical and professional capacity may be proven by any other evidence from the content of which the contracting authority may unequivocally determine the fulfilment of the required capacity.

Special conditions for contract execution

Article 26

The contracting authority may determine special conditions related to the execution of the public procurement contract, provided that they are related to the subject of the procurement and are not directly or indirectly discriminatory.

The conditions referred to in paragraph 1 of this Article may relate in particular to the protection of classified information during the performance of the contract, to security of supply, to subcontractors or to social and environmental aspects.

The conditions referred to in paragraph 1 of this Article shall be determined by the contracting authority in the public invitation, tender documentation, descriptive documentation or additional documentation.

Protection of classified information during the execution of the contract

Article 27

If the contracting authority intends to conclude a public procurement contract containing classified information, it is obliged to specify in the procurement documentation the measures and requirements necessary to ensure the security of such information at the required level during contract execution in accordance with special regulations governing data protection.

In order to protect classified information referred to in paragraph 1 of this Article, the contracting authority must require that the bid, *inter alia*, contain:

1) the obligation of bidders and already designated subcontractors to, in accordance with special regulations governing the protection of data secrecy, adequately protect the confidentiality, reliability and integrity of classified information in their possession or which they will find out during and after execution, as well as in case of termination a contract containing classified information;

2) the obligation of the bidder to request from other subcontractors with whom it will conclude contracts, during the execution of the contract containing classified information, to adequately protect the confidentiality, reliability and integrity of classified information they possess or find out during and after execution, and in case of termination of the contract containing classified information;

3) sufficient information on already designated subcontractors so that the contracting authority can determine that each of them has the capacity necessary to adequately protect the confidentiality, reliability and integrity of classified information available to him or to be generated during the performance of the subcontract;

4) the obligation of the bidder to provide the information referred to in item 3) of this paragraph for each new subcontractor before concluding the contract with the subcontractor.

The contracting authority may require that the bidder and already selected subcontractors have a certificate for access to classified information of the required level of protection in accordance with special regulations governing the protection of data confidentiality.

The ordering party accepts the issued security certificate issued to the economic operator by another state, provided that the body of the Republic of Serbia responsible for national security and protection of classified information has conducted the procedure of determining the equivalence of the issued certificate.

If necessary, the contracting authority may request through the body responsible for national security and protection of classified information the implementation of additional verification procedures, and in that case it is obliged to take into account the results of these procedures.

If the contracting authority assesses that the bidder does not meet the measures and requirements for protection of classified information referred to in this Article, it is obliged to state the reasons for its decision in the contract award decision, taking care not to disclose information constituting classified information.

Security of supply

Article 28

The contracting authority may specify security of supply requirements in the procurement documentation.

In order to determine the requirements referred to in paragraph 1 of this Article, the contracting authority may require that the bid, *inter alia*, contain:

1) certification or documentation that satisfactorily proves to the contracting authority that the bidder will be able to comply with its obligations regarding the export, transfer and transit of goods in connection with the public procurement contract, including all supporting documentation received from the state or countries concerned;

2) an indication of any restriction on the contracting authority regarding the communication, transfer or use of products and services or any result of those products and services that would result from export controls or security arrangements;

3) certification or documentation proving that the organization and location of its supply chain will enable the bidder to meet the requirements of the contracting authority regarding security of supply set out in the procurement documentation, as well as the obligation to ensure that possible changes in its supply chain during the procurement contract will not negatively affect the fulfilment of these requirements;

4) the obligation of the bidder to establish and / or maintain the capacity necessary to meet the additional needs of the contracting authority in case of crisis, according to the terms and conditions to be agreed later;

5) all supporting documentation received from the national bidding authorities regarding the fulfilment of additional needs required by the contracting authority in case of crisis;

6) the obligation of the bidder to maintain, modernize or adjust the deliveries to which the public procurement contract refers;

7) the obligation of the bidder to timely inform the contracting authority of any change in its organisation, supply chain or industrial strategy that may affect the bidder’s obligations to that contracting authority;

8) the obligation of the bidder to provide the contracting authority, in accordance with the conditions and deadlines to be subsequently agreed, with all special means necessary for the production of spare parts, components, assemblies and special test equipment, including technical drawings, licenses and instructions for use. that the bidder is no longer able to secure their delivery.

If the contracting authority assesses that the bidder does not meet the requirements regarding security of supply referred to in this Article, it is obliged to state the reasons for its decision in the decision on contract award, i.e., suspension of the public procurement procedure.

General subcontracting requirements

Article 29

The economic operator has the freedom to choose the subcontractors with whom it intends to conclude contracts, except in the case when the contracting authority has determined special requirements regarding the engagement of subcontractors in accordance with Article 31 of this Decree.

The contracting authority may not require a tenderer awarded a public procurement contract to discriminate against potential subcontractors on any grounds.

The contracting authority determines the requirements related to the engagement of subcontractors in the public invitation and tender documentation.

The economic operator is fully responsible to the contracting authority for the performance of contractual obligations, regardless of the participation of subcontractors.

Special requirements regarding subcontractors

Article 30

The contracting authority must require the bidder to:

1) state in the bid the percentage of the contract he intends to entrust to the subcontractor and data on all proposed subcontractors and

2) inform the contracting authority about all changes in the subcontractor during the execution of the public procurement contract.

Special requirements regarding the conclusion of a subcontract

Article 31

The contracting authority may request from the bidder who has been awarded a public procurement contract to act in accordance with the provisions of Art. 35–37. of this Decree.

The contracting authority may request from the bidder to whom the public procurement contract has been awarded to entrust the execution of a part of the public procurement contract to subcontractors.

Determining the minimum part of the contract to be entrusted to a subcontractor

Article 32

In the case referred to in Article 31, paragraph 2 of this Decree, the contracting authority shall determine the minimum part of the contract that must be entrusted to a subcontractor, in the form of a value range, which includes the lowest and highest percentages.

The highest percentage determined by the contracting authority may not exceed 30% of the value of the public procurement contract, provided that the range of values ​​must be proportional to the subject and value of the public procurement contract and the nature of the industrial sector concerned, including the level of competition in the sector and appropriate technical capacity of the industrial base.

It is considered that any offered percentage of the contract that will be entrusted to the subcontractor, which corresponds to the range of values ​​determined by the client, meets the requirement regarding the conclusion of the contract with the subcontractor.

The bidder must state in the bid which part or parts of the bid it intends to entrust to the subcontractor.

The bidder to whom the public procurement contract has been awarded is obliged to act in accordance with the provisions of Articles 35–37 of this Decree.

The bidder may offer a percentage of the contract with the subcontractor whose total value is higher than the highest percentage determined by the contracting authority and in that case it is obliged to state in the bid which part or parts of the bid it intends to entrust to the subcontractor.

Criteria for qualitative selection of a economic operator for subcontractors

Article 33

The contracting authority shall request from the bidder to prove that the proposed subcontractors with whom it intends to conclude a contract do not have grounds for exclusion that the contracting authority determined for the bidder in accordance with the provisions of the Law and this Decree.

The contracting authority shall request the bidder to prove that the proposed subcontractors with whom it intends to conclude the contract and whose capacities it uses to perform the contract meet the relevant criteria for selection of the economic operator determined by the contracting authority for the bidder in accordance with the Law and this Decree.

If the contracting authority assesses that the subcontractor has grounds for exclusion or does not meet the relevant criteria for selection of the economic operator, it is obliged to state the reasons for its decision in the contract award decision, taking care not to disclose information constituting classified information.

In the case referred to in paragraph 3 of this Article, the contracting authority may request the bidder to replace that subcontractor within a reasonable time, not less than five days.

Affiliates

Article 34

If the bidder to whom the public procurement contract has been awarded is obliged to act in accordance with Article 31, paragraph 1 or Article 32, paragraph 5 of this Decree, the subcontracting shall be carried out in accordance with the provisions of Articles 35–37 of this Decree.

Members of a group of economic operators that have joined to submit a joint bid or related companies may not be subcontractors within the meaning of paragraph 1 of this Article.

An affiliated company in terms of paragraph 2 of this Article is any company that:

1) may be, directly or indirectly, subject to the predominant influence of the bidder to whom the public procurement contract has been awarded, or

2) may have a predominant influence on the bidder to whom the public procurement contract has been awarded, or

3) is together with the bidder to whom the contract has been awarded under the predominant influence of another company on the basis of ownership over it, financial share or rules on the basis of which those companies are regulated.

Prevailing influence within the meaning of paragraph 3 of this Article shall be implied in any of the following cases in which the company, directly or indirectly, in relation to another company:

1) has a majority of the subscribed capital of the company;

2) control the majority of votes related to shares issued by the company;

3) may appoint more than half of the members of the supervisory body, i.e., the management body of the company.

The bidder must state in its bid a list of all companies referred to in paragraph 2 of this Article, provided that the list must be updated in the event of any change in relations between the companies.

Subcontracting

Article 35

The bidder to whom the public procurement contract has been awarded is obliged to act in a transparent manner when awarding the contract to the subcontractor and to ensure the equal position of all potential subcontractors, without discrimination.

A bidder who has been awarded a public procurement contract who intends to conclude a contract with a subcontractor whose estimated value is equal to or greater than the amount of European thresholds is obliged to publish a public invitation.

A bidder who has been awarded a public procurement contract who intends to conclude a contract with a subcontractor whose estimated value is less than the amount of European thresholds is obliged to ensure transparency of the procedure and to enable the greatest possible competition.

The estimated value of the contract with the subcontractor is determined in accordance with the Law.

If the conditions for conducting a negotiated procedure without publishing a public invitation referred to in Article 9 of this Decree are met for the award of a contract to a subcontractor, the public invitation is not obligatory.

Article 36

In the public invitation for awarding the contract to the subcontractor, the bidder to whom the public procurement contract has been awarded states the criteria for qualitative selection determined by the contracting authority and, if necessary, other criteria to be applied for qualitative selection of subcontractors.

The criteria referred to in paragraph 1 of this Article must be objective, non-discriminatory, logically related to the subject matter of procurement, proportionate to the subject of procurement and consistent with the criteria set by the contracting authority for the selection of economic operators in public procurement.

The contracting authority may not require the tenderer awarded the public procurement contract to hire a subcontractor, if the bidder proves that the bid of all subcontractors do not meet the conditions for awarding the contract, which would prevent the tenderer from fulfilling the requirements specified in the public procurement contract.

Article 37

If the bidder to whom the public procurement contract has been awarded is also the contracting authority, in the case of the award of the contract to the subcontractor referred to in Article 31, paragraph 1 and Article 32, paragraph 5 of this Decree, it is obliged to conduct the public procurement procedure referred to in Article 5 of this Decree in accordance with conditions for conducting proceedings.

Amendment of the public procurement contract

Article 38

The matters of amending the public procurement contract shall be subject to the provisions of Article 156, Article 159 and Articles 160 to 162 of the Law.

V. TRANSITIONAL AND FINAL PROVISIONS

Public procurement procedures started

Article 39

Public procurement procedures initiated before the date of entry into force of this Decree shall be terminated in accordance with the regulations under which they were initiated.

Entry into force

Article 40

This Decree shall enter into force on 1 July 2020, and the provision of Article 15, paragraph 6 of this Decree shall apply from the date of accession of the Republic of Serbia to the European Union.

05 No. 110-5374/2020

In Belgrade, dated 1 July 2020

**Government**

Prime Minister,

**Ana Brnabić**, signed personally

ANNEX 1

LIST OF SERVICES

1.A - LIST OF SERVICES

|  |  |  |
| --- | --- | --- |
| **Category no.** | **Subject matter** | **CPV Code** |
| 1 | Maintenance and repair services | 50000000-5, from 50100000-6 to 50884000-5 (except from 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 50229000-6, 50243000-0) and from 51000000-9 to 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 to 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 services1 and evaluation tests | From 73000000-2 to 73436000-7 |
| 15 | Accounting, auditing and bookkeeping services | From 79210000-9 to 79212500-8 |
| 16 | Management consulting services2 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 |

1 But research and development services referred to in Article 12, paragraph 1, item 12) of the Law on Public Procurement.

2 But not arbitration and conciliation services.

1.B - LIST OF SERVICES

|  |  |  |
| --- | --- | --- |
| **Category no.** | **Subject matter** | **CPV Code** |
| 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 but not 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 THE PUBLIC PROCUREMENT ADVERTISMENT IN THE FIELD OF DEFENCE AND SECURITY

2.A - PRIOR INFORMATION NOTICE

2.A.1 - Information contained in the prior information notice

1) Name, tax identification number, address including NUTS codes, telephone number, fax number, e-mail and website of the contracting authority and, where different, services from which additional information can be obtained.

2) Type of the contracting authority and its main activity.

3) If necessary, an indication that the contracting authority is a centralised procurement body or that some other form of joint procurement is applied.

4) If necessary, information on whether the right to participate is reserved for economic operators referred to in Article 37, paragraph 1 of the Law on Public Procurement (hereinafter referred to as: Law) or whether the public procurement contract is executed within the protective employment programme.

5) In the case of public procurement contracts:

(1) works: type and scope of works and place of performance; when the works are divided into lots, the essential characteristics of those lots; if possible, an estimate of the cost of the proposed works; CPV codes;

(2) goods: the type and quantity or value of the goods to be procured; CPV codes;

(3) service: total value in each of the service categories; CPV codes.

6) Indicative date for initiating public procurement procedures for the contract or contracts, and in the case of public procurement contracts by category.

7) If applicable, information on whether the framework agreement is included.

8) All other relevant information.

9) Date of sending the notice or sending the notice on the profile of the contracting authority.

2.A.2 - Data contained in the notice on the profile of the contracting authority

1) Name, tax identification number, address including NUTS codes, telephone number, fax number, e-mail and website of the contracting authority and, where different, services from which additional information can be obtained.

2) Type of the contracting authority and its main activity.

3) If necessary, an indication that the contracting authority is a centralised procurement body or that some other form of joint procurement is applied.

4) CPV codes.

5) Website of the “contracting authority’s profile” (URL).

6) Date of dispatch of the notice.

2.B - PUBLIC INVITATION

1) Name, tax identification number, address including NUTS codes, telephone number, fax number, e-mail and website of the contracting authority and, where different, services from which additional information can be obtained.

2) Type of the contracting authority and its main activity.

3) If necessary, information on whether the right to participate is reserved for economic operators referred to in Article 37, paragraph 1 of the Law or whether the public procurement contract is executed within the protective employment programme.

4) Type of public procurement procedure; if necessary, the reasons for the application of shortened deadlines due to justified urgency (in a restrictive procedure and a negotiated procedure with publication of a public invitation).

5) If applicable, information on whether the framework agreement is included.

6) Type of public procurement contract.

7) NUTS code for the main place of performance of works or NUTS code for the main place of delivery of goods or provision of services; if the subject of the procurement is divided into lots, this information shall be stated for each lot.

8) In the case of public procurement contracts

(1) works:

– type, scope and general nature of the works. An indication of the option for further procurement of works and, if possible, the estimated time available for the use of these options, as well as the number of possible extensions. If the works are divided into lots, the size of the different lots; CPV code;

– information on the purpose of the works or the contract if the contract includes the preparation of projects;

– in the case of a framework agreement, information on the planned duration of the framework agreement and, if necessary, the reasons for each duration of more than seven years; the total estimated value of the works for the entire duration of the framework agreement and, if possible, information on the value or scope and frequency of contracts awarded on the basis of the framework agreement,

(2) goods:

– type of goods to be delivered, an indication of whether it is a purchase, lease, leasing of goods or purchase in instalments or any combination thereof. The quantity of goods to be delivered, including all options for further procurement of goods and the estimated time available to use those options, as well as the number of possible extensions, if any; CPV codes;

– in the case of recurring contracts, if known, the estimated time of publication of further public calls for goods to be procured;

– in the case of a framework agreement, information on the planned duration of the framework agreement and, where applicable, the reasons for any duration of more than seven years; the total estimated value of the goods for the entire duration of the framework agreement and, if possible, information on the value or scope and frequency of contracts awarded under the framework agreement,

(3) services:

– category and description of the service. The scope of services to be provided, including all options for further procurement of services and, if possible, the estimated time available to use these options, as well as the number of possible extensions. In the case of recurring contracts, if known, the estimated time of publication of further public calls for services to be procured; CPV codes;

– in the case of a framework agreement, information on the planned duration of the framework agreement and, where applicable, the reasons for any duration of more than seven years; the total estimated value of services for the entire duration of the framework agreement and, if possible, information on the value and frequency of contracts awarded under the framework agreement;

– information on whether the provision of services is reserved for a certain profession on the basis of laws or regulations. Reference to the relevant law or regulation;

– indication of whether the legal entities should state the names and professional qualifications of the staff who will be responsible for performing the service.

9) When the subject of procurement is formed by lots, information on the possibility of submitting a bid for one, for several or for all lots; information on any possible restrictions on the number of lots that may be awarded to one bidder.

10) Indication of whether the submission of variants is allowed or prohibited.

11) If applicable, special subcontracting requirements.

12) Deadline for delivery, performance or provision of goods, works or services or duration of the public procurement contract; if possible, the deadline for the start of works or the deadline for the start of delivery of goods or provision of services.

13) If applicable, conditions for performance of the contract.

14) Deadline for submission of applications.

15) Address to which applications are sent.

16) Language or languages ​​in which applications are drawn up.

17) If applicable, deposits and guarantees may be required.

18) Main conditions regarding financing and payment and/or reference to the provisions containing those conditions.

19) If necessary, the legal form in which the group of economic operators to which the contract has been awarded will be connected in the event of an association.

20) Grounds for exclusion of economic operators and, if applicable, subcontractors from the public procurement procedure and documents by which the economic operator proves that there are no circumstances that lead to exclusion. Criteria for selection of the economic operator and documents by which the economic operator proves the fulfilment of the criteria, if applicable, for the subcontractor as well. If applicable, the minimum level(s) of financial and economic capacity and technical and professional capacity that may be required of the economic operator and, if applicable, subcontractors.

21) In the case of a framework agreement: the number and, if necessary, the proposed maximum number of economic operators to participate in the framework agreement.

22) In case of competitive dialogue or negotiated procedure with publication of a public call, information, if necessary, on the use of successive phases in order to gradually reduce the number of tenders to be negotiated or solutions to be discussed.

23) In the case of a restrictive procedure, competitive dialogue or negotiated procedure with publication of a public call, when the option of reducing the number of candidates invited to submit tenders or participate in the dialogue is used: minimum and, if necessary, proposed maximum number of candidates and objective and non-discriminatory criteria or rules to be applied for the selection of these candidates.

24) Criteria to be used for contract award. Except where the most economically advantageous bid is identified solely on the basis of price, the criteria representing the most economically advantageous bid, as well as their weights or, where appropriate, the order of importance of those criteria, shall be stated if they are not specified in the tender documentation, or in the case of competitive dialogue, in the descriptive documentation.

25) Name and address of the body responsible for protection of rights. Precise information on deadlines for protection or, if necessary, name, address, telephone number, fax number, e-mail address of the service from which this information can be obtained.

26) If applicable, date(s) of publication of the prior information notice or indication that there was no publication.

27) Date of sending the invitation.

2.C - CONTRACT AWARD NOTICE, TERMINATION OF PROCEDURE OR CANCELLATION OF PROCEDURE

1) Name, tax identification number, address including NUTS codes, telephone number, fax number, e-mail and website of the contracting authority and, where different, services from which additional information can be obtained.

2) Type of the contracting authority and its main activity.

3) Type of public procurement procedure.

4) In the case of public procurement contracts:

(1) works: type and scope of works.

(2) goods: type and quantity of goods, if applicable, according to the supplier; CPV code.

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

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

6) Award criteria.

7) Number of bids received in respect of each contract awarded, including:

(1) number of bids received from small and medium-sized enterprises;

(2) number of bids received from a Member State of the European Union or a third country;

(3) number of bids received electronically.

8) For each awarded contract, name, address with NUTS code, fax number, e-mail address and website of the selected bidder(s), including:

(1) information on whether the selected bidder is a small and medium enterprise;

(2) information on whether the contract has been awarded to a group of economic operators (joint venture, consortium, etc.).

9) The value of each awarded contract or the highest bid and the lowest bid taken into account when awarding one or more contracts.

10) Where applicable, the value and part of the contract which is or will be subcontracted to third parties.

11) If necessary, information on non-award of the contract.

(1) No bid or application was submitted;

(2) All bids are unacceptable;

(3) Other reason for suspension or annulment of the procedure.

12) If applicable, the reasons for the duration of the framework agreement for more than seven years.

13) Explanation of the decision of the contracting authority to award the public procurement contract without publishing a public invitation.

(1) In the case of a negotiated procedure without a public invitation, an indication of the legal basis referred to in this Decree and an explanation of the special cases and circumstances justifying its application.

(2) In the case of procurement of services referred to in Annex 1.B - LIST OF SERVICES of this Decree, an indication of the legal basis referred to in this Decree and an explanation of the conclusion of such a contract.

(3) If applicable, an indication of the legal basis from the Law and an explanation of the conclusion of the contract based on the exemption from the application of the Law.

14) Name and address of the body responsible for protection of rights. Precise information on deadlines for protection or, if necessary, name, address, telephone number, fax number, e-mail address of the service from which this information can be obtained.

15) Date of publication of the public invitation to which this notice refers.

16) Date of dispatch of the notice.