

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (Text with EEA relevance)

TITLE III

PARTICULAR PROCUREMENT REGIMES

CHAPTER I

Social and other specific services

Article 74

Award of contracts for social and other specific services

Public contracts for social and other specific services listed in Annex XIV shall be awarded in accordance with this Chapter, where the value of the contracts is equal to or greater than the threshold indicated in point (d) of Article 4.

Article 75

Publication of notices

1 Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by any of the following means:

- a by means of a contract notice, which shall contain the information referred to in Annex V Part H, in accordance with the standard forms referred to in Article 51; or
- b by means of a prior information notice, which shall be published continuously and contain the information set out in Annex V Part I. The prior information notice shall refer specifically to the types of services that will be the subject of the contracts to be awarded. It shall indicate that the contracts will be awarded without further publication and invite interested economic operators to express their interest in writing.

The first subparagraph shall, however, not apply where a negotiated procedure without prior publication could have been used in conformity with Article 32 for the award of a public service contract.

2 Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice, which shall contain the information referred to in Annex V Part J, in accordance with the standard forms referred to in Article 51. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 30 days of the end of each quarter.

3 The Commission shall establish the standard forms referred to in paragraphs 1 and 2 of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 89(2).

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4 The notices referred to in this Article shall be published in accordance with Article 51.

Article 76

Principles of awarding contracts

1 Member States shall put in place national rules for the award of contracts subject to this Chapter in order to ensure contracting authorities comply with the principles of transparency and equal treatment of economic operators. Member States are free to determine the procedural rules applicable as long as such rules allow contracting authorities to take into account the specificities of the services in question.

2 Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, the specific needs of different categories of users, including disadvantaged and vulnerable groups, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider shall be made on the basis of the tender presenting the best price-quality ratio, taking into account quality and sustainability criteria for social services.

Article 77

Reserved contracts for certain services

1 Member States may provide that contracting authorities may reserve the right for organisations to participate in procedures for the award of public contracts exclusively for those health, social and cultural services referred to in Article 74, which are covered by CPV codes 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8.

2 An organisation referred to in paragraph 1 shall fulfil all of the following conditions:

- a its objective is the pursuit of a public service mission linked to the delivery of the services referred to in paragraph 1;
- b profits are reinvested with a view to achieving the organisation's objective. Where profits are distributed or redistributed, this should be based on participatory considerations;
- c the structures of management or ownership of the organisation performing the contract are based on employee ownership or participatory principles, or require the active participation of employees, users or stakeholders; and
- d the organisation has not been awarded a contract for the services concerned by the contracting authority concerned pursuant to this Article within the past three years.

3 The maximum duration of the contract shall not be longer than three years.

4 The call for competition shall make reference to this Article.

5 Notwithstanding Article 92, the Commission shall assess the effects of this Article and report to the European Parliament and the Council by 18 April 2019.

CHAPTER II

Rules governing design contests

Article 78

Scope

This Chapter shall apply to:

- (a) design contests organised as part of a procedure leading to the award of a public service contract;
- (b) design contests with prizes or payments to participants.

In the cases referred to in point (a) of the first paragraph of this Article, the threshold referred to in Article 4 is calculated on the basis of the estimated value net of VAT of the public service contract, including any possible prizes or payments to participants.

In the cases referred to in point (b) of the first paragraph of this Article, the threshold refers to the total amount of the prizes and payments, including the estimated value net of VAT of the public services contract which might subsequently be concluded under Article 32(4) if the contracting authority has announced its intention to award such contract in the contest notice.

Article 79

Notices

1 Contracting authorities that intend to carry out a design contest shall make known their intention by means of a contest notice.

Where they intend to award a subsequent service contract pursuant to Article 32(4), this shall be indicated in the contest notice.

2 Contracting authorities that have held a design contest shall send a notice of the results of the contest in accordance with Article 51 and shall be able to prove the date of dispatch.

Where the release of information on the outcome of the contest would impede law enforcement, would be contrary to the public interest or would prejudice the legitimate commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information may be withheld from publication.

3 The notices referred to in paragraphs 1 and 2 of this Article shall be published in accordance with Article 51(2) to (6) and Article 52. They shall include the information set out respectively in Annex V parts E and F in the format of the standard forms.

The Commission shall establish the standard forms by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 89(2).

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Article 80

Rules on the organisation of design contests and the selection of participants

- 1 When organising design contests, contracting authorities shall apply procedures which are adapted to the provisions of Title I and this Chapter.
- 2 The admission of participants to design contests shall not be limited:
 - a by reference to the territory or part of the territory of a Member State;
 - b on the grounds that, under the law of the Member State in which the contest is organised, they would be required to be either natural or legal persons.
- 3 Where design contests are restricted to a limited number of participants, the contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.

Article 81

Composition of the jury

The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification or an equivalent qualification.

Article 82

Decisions of the jury

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