II

*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DIRECTIVE

**of 18 July 1989**

**amending Directive 71/305/EEC concerning coordination of procedures for the award of public works contracts**

(89/440/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2), 66 and 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas measures aimed at progressively establishing the internal market during the period up to 31 December 1992 need to be taken; whereas the internal market is an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Having regard to the conclusions drawn by successive meetings of the European Council on the need to establish such a market,

Having regard to the White Paper on completing the internal market and in particular to the timetable and programme laid down therein for the opening up of the market for public works contracts,

Having regard to the Commission's communication to the Council of 19 June 1986 on public procurement in the Community,

(1) OJ No C 167, 27. 6. 1988, p. 76 and OJ No C 69, 20. 3. 1989, p. 69.
(2) OJ No C 319, 30. 11. 1987, p. 55.

Whereas public works contracts are governed by Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedures for the award of public works contracts (3), as last amended by the Act of Accession of Spain and Portugal, and Council Directive 72/277/EEC of 26 July 1972 concerning the details of publication of notices of public works contracts and concessions in the *Official Journal of the European Communities* (4), by the declaration of 26 July 1971 of the representatives of the Governments of the Member States, meeting within the Council, concerning procedures to be followed in the field of public works contracts (5), and by Council Decision 71/306/EEC of 26 July 1971 setting up an Advisory Committee for Public Contracts (6), as amended by Decision 77/63/EEC (7);

Whereas, in order to guarantee real freedom of establishment and freedom to provide services in the market for public works contracts, it is necessary to improve and extend the safeguards in the directives that are designed to introduce transparency into the procedures and practices for the award of such contracts, in order to be able to monitor compliance with the prohibition of restrictions more closely and at the same time to reduce disparities in the competitive conditions faced by nationals of different Member States;

Whereas this Directive does not prevent the application of, in particular, Article 36 of the Treaty;

Whereas it is to define more precisely what is meant by public works contracts in order to take account, in particular, of

(3) OJ No L 185, 16. 8. 1971, p. 5.
(4) OJ No L 176, 3. 8. 1972, p. 12.
(5) OJ No C 82, 16. 8. 1971, p. 13.
(6) OJ No L 185, 16. 8. 1971, p. 15.
(7) OJ No L 13, 15. 1. 1977, p. 15.

new forms of such contracts, and to lay down criteria for identifying all the entities which are subject to Directive 71/305/EEC;

Whereas the list of bodies and categories of bodies in Annex I should be as exhaustive as possible;

Whereas it is also necessary to extend the provisions of Directive 71/305/EEC to works that are subsidized by the State but do not come within the terms of Article 1;

Whereas, in view of the increasing importance of concession contracts in the public works area and of their specific nature, the rules concerning advertising should be brought within Directive 71/305/EEC;

Whereas it is necessary to clarify the scope of the exemptions for certain sectors in order that divergences in the application of Directive 71/305/EEC due to divergent interpretations of the exemptions in different Member States do not increase;

Whereas the threshold value from which contracts are subject to Directive 71/305/EEC was set in 1971 at ECU 1 million and whereas, in view of the rise in the cost of construction work and the interest of small and medium-sized firms in bidding for medium-sized contracts, this threshold should now be set at ECU 5 million;

Whereas, to eliminate practices that restrict competition in general and participation in contracts by other Member States' nationals in particular, it is necessary to improve the access of contractors to procedures for the award of contracts;

Whereas it is desirable to introduce provision for a negotiated procedure such as already exists in the practice of some Member States, in order to curtail the use of the exceptional procedure provided for in Article 9 of Directive 71/305/EEC;

Whereas the negotiated procedure should be considered to be exceptional and therefore only applicable in certain limited cases;

Whereas contracting authorities should be required to inform rejected candidates and tenderers of the reasons for rejection in their application or bid and to draw up a report on the conduct of the proceedings leading up to each award;

Whereas it is necessary to adapt the common rules in the technical field to the new Community policy on standards;

Whereas, to create the necessary conditions for efficient Community-wide competition for contracts so that firms from other Member States can bid on comparable terms to domestic firms and a greater level of interest and participation in contracts is aroused from a larger number of contractors, all the operations and procedures involved in the competitive tendering for contracts should be made more transparent; whereas contracting authorities should also be required, to announce forthcoming public works projects throughout the Community, and to publish, in the same way, all relevant details of how contracts have been awarded;

Whereas, in order to improve access to contracts and allow a larger number of contractors to complete and to prepare their bids in reasonable time, especially for large projects which are generally of considerable technical and organizational complexity, the time limits for the receipt of applications to bid and tenders should be lengthened;

Whereas it is in the general interest to encourage technical advances in the construction and public works sector so that transfer of technology and know-how from one Member State to another benefits not only the general public but also the construction industry;

Whereas work is under way in the Community on methods of framing specifications in terms of performance requirements instead of as detailed technical prescriptions and contractors in the Community should immediately be given the opportunity to submit variants under certain conditions;

Whereas, to ensure transparency as to how contractors propose to carry out a contract, it must be made possible for contracting authorities to be informed of any part of the contract the tenderer intends to subcontract to third parties;

Whereas it could prove useful to provide for greater transparency as to the requirements regarding the protection and conditions of employment applicable in the Member State in which the works are to be carried out;

Whereas it is appropriate that national provisions for regional development requirements to be taken into consideration in the award of public works contracts should be made to conform to the objectives of the Community and be in keeping with the principles of the Treaty;

Whereas adequate statistical provision should be included in Directive 71/305/EEC in order to improve, and to put on a more systematic basis, information on the way in which contracting authorities award their contracts;

Whereas the Kingdom of Spain has recently adopted legislation to implement Directive 71/305/EEC; whereas, given the fact that the introduction of other amendments at this stage would adversely effect the adaptation of the private sector in that Member State, it is appropriate to grant the Kingdom of Spain an additional period to implement this Directive;

Whereas the Portuguese Republic is in need of a transitional period for similar reasons;

Whereas the Hellenic Republic will be adapting its legislation to Directive 71/305/EEC and whereas incorporation, at this stage, of other Community rules would have an adverse effect upon the public works contracts sector and in particular upon certain economically important factors such as the stability, transparency and maintenance, in the medium term, of commercial conditions;

Whereas in accordance with the conclusions of the said meetings of the European Council, of the White Paper and of the said Commission communication to the Council, Directive 77/305/EEC should be amended and Directive 72/277/EEC repealed,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 71/305/EEC is hereby amended as follows:

1. Article 1 is replaced by the following:

'*Article 1*

For the purpose of this Directive:

(a) "public works contracts" are contracts for pecuniary interest concluded in writing between a contractor and a contracting authority as defined in (b), which have as their object either the execution, or both the execution and design, of works related to one of the activities referred to in Annex II or a work defined in (c) below, or the execution by whatever means of a work corresponding to the requirements specified by the contracting authority;

(b) "contracting authorities" shall be the State, regional or local authorities, bodies governed by public law, associations formed by one or several of such authorities or bodies governed by public law.

A body governed by public law means any body:

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

— having legal personality, and

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

The lists of bodies or of categories of such bodies governed by public law which fulfil the criteria referred to in the second subparagraph are set out in Annex I. These lists shall be as exhaustive as possible and may be reviewed in accordance with the procedure laid down in Article 30b. To this end, Member States shall periodically notify the Commission of any changes to their lists of bodies and categories of bodies;

(c) a "work" means the outcome of building or civil engineering works taken as a whole that is sufficient of itself to fulfil an economic and technical function;

(d) "public works concession" is a contract of the same type as that indicated in (a) except for the fact that the consideration for the works to be carried out consists either solely in the right to exploit the construction or in this right together with payment;

(e) "open procedures" are those national procedures whereby all interested contractors may submit tenders;

(f) "restricted procedures" are those national procedures whereby only those contractors invited by the contracting authority may submit tenders;

(g) "negotiated procedures" are those national procedures whereby contracting authorities consult contractors of their choice and negotiate the terms of the contract with one or more of them;

(h) a contractor who submits a tender shall be designated by the term "tenderer" and one who has sought an invitation to take part in a restricted and negotiated procedure by the term "candidate".'

2. The following Articles are inserted:

'*Article 1a*

1. Member States shall take the necessary measures to ensure that the contracting authorities comply or ensure compliance with this Directive where they subsidize directly by more than 50 % a works contract awarded by an entity other than themselves.

2. Paragraph 1 shall concern only contracts covered by Class 50, Group 502, of the NACE nomenclature

and to contracts relating to building work for hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes.

*Article 1b*

1. Should contracting authorities conclude a public works concession contract as defined in Article 1 (d), the advertising rules as described in Article 12 (3), (6), (7) and (9) to (13), and in Article 15a, shall apply to that contract when its value is not less than ECU 5 000 000.

2. The contracting authority may:

— either require the concessionaire to award contracts representing a minimum of 30 % of the total value of the work for which the concession contract is to be awarded, to third parties, at the same time providing the option for candidates to increase this percentage. This minimum percentage shall be specified in the concession contract,

— or request the candidates for concession contracts to specify in their tenders the percentage, if any, of the total value of the work for which the concession contract is to be awarded which they intend to assign to third parties.

3. When the concessionaire is himself one of the authorities awarding contracts within the meaning of Article 1 (b), he shall comply with the provisions of this Directive in the case of works to be carried out by third parties.

4. Member States shall take the necessary steps to ensure that a concessionaire other than an authority awarding contracts shall apply the advertising rules listed in Article 12 (4), (6), (7), and (9) to (13), and in Article 15b, in respect of the contracts which it awards to third parties when the value of the contracts is not less than ECU 5 000 000. Advertising rules shall not be applied where works contracts meet the conditions laid down in Article 5 (3).

Undertakings which have formed a group in order to obtain the concession contract, or undertakings affiliated to them, shall not be regarded as third parties.

An "affiliated undertaking" means any undertaking over which the concessionaire may exercise, directly or indirectly, a dominant influence or which may exercise a dominant influence over the concessionaire or which, in common with the concessionaire, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation or the rules which govern it. A dominant influence on the part of an undertaking shall be presumed when, directly or indirectly in relation to another undertaking, it:

— holds the major part of the undertaking's subscribed capital, or

— controls the majority of the votes attaching to shares issued by the undertakings, or

— can appoint more than half of the members of the undertaking's administrative, managerial or supervisory body.

A comprehensive list of these undertakings shall be enclosed with the candidature for the concession. This list shall be brought up to date following any subsequent changes in the relationship between the undertaking.'

3. Article 2 is hereby repealed.

4. Article 3 (1), (2) and (3) is hereby repealed and paragraphs 4 and 5 thereof are replaced by the following:

'4. This Directive shall not apply to:

(a) works contracts awarded by carriers by land, air, sea or inland waterway;

(b) works contracts awarded by contracting authorities, in so far as those contracts concern the production, transport and distribution of drinking water, or those contracting authorities whose principal activity lies in the production and distribution of energy;

(c) works contracts which are declared secret or the execution of which must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in the Member State concerned or when the protection of the basic interests of that State's security so requires.'

5. Article 4 is replaced by the following:

*'Article 4*

This Directive shall not apply to public contracts governed by different procedural rules and awarded:

(a) in pursuance of an international agreement, concluded in conformity with the EEC Treaty, between a Member State and one or more non-member countries and covering works intended for the joint implementation or exploitation of a project by the signatory States; all agreements shall be communicated to the Commission which may consult the Advisory Committee for Public Contracts set up by Decision 71/306/EEC (1), as amended by Decision 77/63/EEC (2);

(b) to undertakings in a Member State or a non-member country in pursuance of an international agreement relating to the stationing of troops;

(c) pursuant to the particular procedure of an international organization.

(1) OJ No L 185, 16. 8. 1971, p. 15.
(2) OJ No L 13, 15. 1. 1977, p. 15.'

6. The following Article is inserted:

*'Article 4a*

1. The provisions of this Directive shall apply to public works contracts whose estimated value net of VAT is not less than ECU 5 000 000.

2. The value of the threshold in national currencies shall normally be revised every two years with effect from 1 January 1993. The calculation of this value shall be based on the average daily values of these currencies in terms of the ecu over the 24 months terminating on the last day of October immediately preceding the 1 January revision. The values shall be published in the *Official Journal of the European Communities* at the beginning of November.

3. Where a work is subdivided into several lots, each one the subject of a contract, the value of each lot must be taken into account for the purpose of calculating the amounts referred to in paragraph 1. Where the aggregate value of the lots is not less than the amount referred to in paragraph 1, the provisions of that paragraph shall apply to all lots. Contracting authorities shall be permitted to depart from this provision for lots whose estimated value net of VAT is less than ECU 1 000 000, provided that the total estimated value of all the lots exempted does not, in consequence, exceed 20 % of the total estimated value of all lots.

4. No work or contract may be split up with the intention of avoiding the application of the preceding paragraphs.

5. When calculating the amounts referred to in paragraph 1 and in Article 5, account shall be taken not only of the amount of the public works contracts but also of the estimated value of the supplies needed to carry out the works which are made available to the contractor by the contracting authorities.'

7. Article 5 is replaced by the following:

*'Article 5*

1. In awarding public works contracts the contracting authorities shall apply the procedures defined in Article 1 (e), (f) and (g), adapted to this Directive.

2. The contracting authorities may award their public works contracts by negotiated procedure, with prior publication of a tender notice and after having selected the candidates according to qualitative public criteria, in the following cases:

(a) in the event of irregular tenders in response to an open or restricted procedure or in the event of tenders which are unacceptable under national provisions that are in accordance with the provisions of Title IV, in so far as the original terms of the contract are not substantially altered. The contracting authorities shall not, in these cases, publish a tender notice where they include in such negotiated procedure all the enterprises satisfying the criteria of Articles 23 to 28 which, during the prior open or restricted procedure, have submitted offers in accordance with the formal requirements of the tendering procedure;

(b) when the works involved are carried out purely for the purpose of research, experiment or development, and not to establish commercial viability or to recover research and development costs;

(c) in exceptional cases, when the nature of the works or the risks attaching thereto do not permit prior overall pricing.

3. The contracting authorities may award their public works contracts by negotiated procedure without prior publication of a tender notice, in the following cases:

(a) in the absence of tenders or of appropriate tenders in response to an open or restricted procedure in so far as the original terms of the contract are not substantially altered and provided that a report is communicated to the Commission at its request;

(b) when, for technical or artistic reasons or for reasons connected with the protection of exclusive rights, the works may only be carried out by a particular contractor;

(c) in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseen by the contracting authorities in question, the time limit laid down for the open, restricted or negotiated procedures referred to in paragraph 2 above cannot be kept. The circumstances invoked to justify extreme urgency must not in any event be attributable for the contracting authorities;

(d) for additional works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the carrying

out of the work described therein, on condition that the award is made to the contractor carrying out such work:

— when such works cannot be technically or economically separated from the main contract without great inconvenience to the contracting authorities, or

— when such works, although separable from the execution of the original contract, are strictly necessary to its later stages,

however, the aggregate value of contracts awarded for additional works may not exceed 50 % of the amount of the main contract;

(e) for new works consisting of the repetition of similar works entrusted to the undertaking to which the same contracting authorities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was awarded according to the procedures referred to in paragraph 4.

As soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent works shall be taken into consideration by the contracting authorities when they apply the provisions of Article 4a. This procedure may only be applied during the three years following the conclusion of the original contract.

4. In all other cases, the contracting authorities shall award their public works contracts by the open procedure or by the restricted procedure.'

8. The following Article is inserted:

*'Article 5a*

1. The contracting authority shall, within 15 days of the date on which the request is received, inform any eliminated candidate or tenderer who so requests of the reasons for rejection of his application or his tender, and, in the case of a tender, the name of the sucessful tenderer.

2. The contracting authority shall inform candidates or tenderers who so request of the grounds on which it decided not to award a contract in respect of which a prior call for competition was made, or to recommence the procedure. It shall also inform the Office for Official Publications of the European Communities of that decision.

3. For each contract awarded the contracting authorities shall draw up a written report which shall include at least the following:

— the name and address of the contracting authority, the subject and value of the contract,

— the names of the candidates or tenderers admitted and the reasons for their selection,

— the names of the candidates or tenderers rejected and the reasons for their rejection,

— the name of the successful tenderer and the reasons for his tender having been selected and, if known, any share of the contract the successful tenderer may intend to subcontract to a third party,

— for negotiated procedures, the circumstances referred to in Article 5 which justify the use of these procedures.

This report, or the main features of it, shall be communicated to the Community at its request.'

9. Article 7, 8 and 9 are hereby repealed.

10. Article 10 is replaced by the following:

*'Article 10*

1. The technical specifications defined in Annex III shall be given in the general or contractual documents relating to each contract.

2. Without prejudice to the legally binding national technical rules and in so far as these are compatible with Community law, such technical specifications shall be defined by the contracting authorities by reference to national standards implementing European standards, or by reference to European technical approvals or by reference to common technical specifications.

3. A contracting authority may depart from paragraph 2 if:

(a) the standards, European technical approvals or common technical specifications do not include any provision for establishing conformity, or technical means do not exist for establishing satisfactorily the conformity of a product to these standards, European technical approvals or common technical specifications;

(b) use of these standards, European technical approvals or common technical specifications would oblige the contracting authority to acquire products or materials incompatible with equipment already in use or would entail disproportionate costs or disproportionate technical difficulties, but only as part of a clearly defined and recorded strategy with a view to change-over, within a given period, to European standards, European technical approvals or common technical specifications;

(c) the project concerned is of a genuinely innovative nature for which use of existing European standards, European technical approvals or common technical specifications would not be appropriate.

4. Contracting authorities invoking paragraph 3 shall record, wherever possible, the reasons for doing so in the tender notice published in the *Official Journal of the European Communities* or in the contract documents and in all cases shall record these reasons in their internal documentation and shall supply such information on request to Member States and to the Commission.

5. In the absence of European standards or European technical approvals or common technical specifications, the technical specifications:

(a) shall be defined by reference to the national technical specifications recognized as complying with the basic requirements listed in the Community directives on technical harmonization, 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 of 21 December 1988 on construction products (1);

(b) may be defined by reference to national technical specifications relating to design and method of calculation and execution of works and use of materials;

(c) may be defined by reference to other documents.

In this case, it is appropriate to make reference in order of preference to:

(i) national standards implementing international standards accepted by the country of the contracting authority;

(ii) other national standards and national technical approvals of the country of the contracting authority;

(iii) any other standard.

6. Unless such specifications are justified by the subject of the contract, Member States shall prohibit the introduction into the contractual clauses relating to a given contract of technical specifications which mention products of a specific make or source or of a particular process and which therefore favour or eliminate certain undertakings. In particular, the indication of trade marks, patents, types, or of a specific origin or production shall be prohibited. However, if such indication is accompanied by the words "or equivalent", it shall be authorized in cases where the authorities awarding contracts are unable to give a description of the subject of the contract using specifications which are sufficiently precise and intelligible to all parties concerned.

(1) OJ No L 40, 11. 2. 1989, p. 12.'

11. Article 11 is hereby repealed.

12. Articles 12 to 15 are replaced by the following:

*'Article 12*

1. Contracting authorities shall make known, by means of an indicative notice, the essential characteristics of the works contracts which they intend to award and the estimated value of which is not less than the threshold laid down in Article 4a (1).

2. Contracting authorities who wish to award a public works contract by open, restricted or negotiated procedure referred to in Article 5 (2), shall make known their intention by means of a notice.

3. Contracting authorities who wish to award a works concession contract shall make known their intention by means of a notice.

4. Works concessionaires, other than a contracting authority, who wish to award a work contract to be carried out by third parties as defined in Article 1b (4), shall make known their intention by means of a notice.

5. Contracting authorities who have awarded a contract shall make known the result by means of a notice. However, certain information on contract award may, in certain cases, not be published where release of such information would impede law enforcement or otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of particular enterprises, public or private, or might prejudice fair competition between contractors.

6. The contracting authorities shall send the notices referred to in the preceding paragraphs as rapidly as possible and by the most appropriate channels to the Office for Official Publications of the European Communities. In the case of the accelerated procedure referred to in Article 15, the notice shall be sent by telex, telegram or telefax.

(a) The notice referred to in paragraph 1 shall be sent as soon as possible after the decision approving the planning of the works contracts that the contracting authorities intend to award;

(b) the notice referred to in paragraph 5 shall be sent at the latest 48 days after the award of the contract in question.

7. The notices referred to in paragraphs 1, 2, 3, 4 and 5 shall be drawn up in accordance with the models

given in Annexes IV, V and VI, and shall specify the information requested in those Annexes.

In open, restricted and negotiated procedures, the contracting authorities may not require any conditions but those specified in Articles 25 and 26 when requesting information concerning the economic and technical standards which they require of contractors for their selection (point 11 of Annex IV B, point 10 of Annex IV C and point 9 of Annex IV D).

8. The notices referred to in paragraphs 1 and 5 above shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in the official languages of the Communities, the original text alone being authentic.

9. The notices referred to in paragraphs 2, 3 and 4 shall be published in full in the *Official Journal of the European Communities* and in the TED data bank in their original language. A summary of the important elements of each notice shall be published in the other official languages of the Community, the original text alone being authentic.

10. The Office for Official Publications of the European Communities shall publish the notices not later than 12 days after their dispatch. In the case of the accelerated procedure referred to in Article 15, this period shall be reduced to five days.

11. The notice shall not be published in the official journals or in the press of the country of the contracting authority before the abovementioned date of dispatch, and it shall mention this date. It shall not contain information other than that published in the *Official Journal of the European Communities*.

12. The contracting authorities must be able to supply proof of the date of dispatch.

13. The cost of publication of the notices in the *Official Journal of the European Communities* shall be borne by the Communities. The length of the notice shall not be greater than one page of the Journal, or approximately 650 words. Each edition of the Journal containing one or more notices shall reproduce the model notice or notices on which the published notice or notices are based.

*Article 13*

1. In open procedures the time limit for the receipt of tenders shall be fixed by the contracting authorities at not less than 52 days from the date of sending the notice.

2. The time limit for the receipt of tenders provided for in paragraph 1 may be reduced to 36 days where the contracting authorities have published a tender notice, drafted in accordance with the specimen in Annex IV A provided for in Article 12 (1), in the *Official Journal of the European Communities*.

3. Provided they have been requested in good time, the contract documents and supporting documents must be sent to the contractors by the contracting authorities or competent departments within six days of receiving their application.

4. Provided it has been requested in good time, additional information relating to the contract documents shall be supplied by the contracting authorities not later than six days before the final date fixed for receipt of tenders.

5. Where the contract documents, supporting documents or additional information are too bulky to be supplied within the time limits laid down in paragraph 3 or 4 or where tenders can only be made after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limits laid down in paragraphs 1 and 2 shall be extended accordingly.

*Article 14*

1. In restricted procedures and negotiated procedures as described in Article 5 (2), the time limit for receipt of requests to participate fixed by the contracting authorities shall be not less than 37 days from the date of dispatch of the notice.

2. The contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders. The letter of invitation shall be accompanied by the contract documents and supporting documents. It shall include at least the following information:

(a) where appropriate, the address of the service from which the contract documents and supporting documents can be requested and the final date for making such a request; also the amount and terms of payment of any sum to be paid for such documents;

(b) the final date for receipt of tenders, the address to which they must be sent and the language or languages in which they must be drawn up:

(c) a reference to the contract notice published;

(d) an indication of any documents to be annexed, either to support the verifiable statements

furnished by the candidate in accordance with Article 12 (7), or to supplement the information provided for in that Article under the same conditions as those laid down in Article 25 and 26;

(e) the criteria for the award of the contract if these are not given in the notice.

3. In restricted procedures, the time limit for receipt of tenders fixed by the contracting authorities may not be less than 40 days from the date of dispatch of the written invitation.

4. The time limit for receipt of tenders laid down in paragraph 3 may be reduced to 26 days where the contracting authorities have published the tender notice, drafted according to the specimen in Annex IV A provided for in Article 12 (1), in the *Official Journal of the European Communities*.

5. Requests to participate in procedures for the award of contracts may be made by letter, by telegram, telex, telefax or by telephone. If by one of the last four, they must be confirmed by letter dispatched before the end of the period laid down in paragraph 1.

6. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not later than six days before the final date fixed for the receipt of tenders.

7. Where tenders can only be made after a visit to the site or after on-the-spot inspection of the documents supporting the contract documents, the time limit laid down in paragraphs 3 and 4 shall be extended accordingly.

*Article 15*

1. In cases where urgency renders impracticable the time limits laid down in Article 14, the contracting authorities may fix the following time limits:

(a) a time limit for receipt of requests to participate which shall be not less than 15 days from the date of dispatch of the notice;

(b) a time limit for the receipt of tenders which shall be not less than 10 days from the date of the invitation to tender.

2. Provided it has been requested in good time, additional information relating to the contract documents must be supplied by the contracting authorities not later than four days before the final date fixed for the receipt of tenders.

3. Requests for participation in contracts and invitations to tender must be made by the most rapid means of communication possible. When requests to participate are made by telegram, telex, telefax or telephone, they must be confirmed by letter dispatched before the expiry of the time limit referred to in paragraph 1.'

13. The following Articles are inserted:

*'Article 15a*

Contracting authorities who wish to award a works concession contract as defined in Article 1 (d) shall fix a time limit for receipt of candidatures for the concession, which shall not be less than 52 days from the date of dispatch of the notice.

*Article 15b*

In works contracts awarded by a concessionaire of works other than an authority awarding contracts, the time limit for the receipt of requests to participate shall be fixed by the concessionaire at not less than 37 days from the date of dispatch of the notice, and the time limit for the receipt of tenders at not less than 40 days from the date of dispatch of the notice or the invitation to tender.'

14. Articles 16, 17 and 18 are hereby repealed.

15. Articles 19 and 20 are replaced by the following:

*'Article 19*

Contracting authorities may arrange for the publication in the *Official Journal of the European Communities* of notices announcing public works contracts which are not subject to the publication requirement laid down in this Directive.

*Article 20*

Contracts shall be awarded on the basis of the criteria laid down in Chapter 2 of this Title, taking into account Article 20a, after the suitability of the contractors not excluded under Article 23 has been checked by the contracting authorities in accordance with the criteria of economic and financial standing and of technical knowledge or ability referred to in Articles 25 to 28.'

16. The follwing Articles are inserted:

*'Article 20a*

Where the criterion for the award of the contract is that of the most economically advantageous tender, contracting authorities may take account of variants which are submitted by a tenderer and meet the minimum specifications required by the contracting authorities.

The contracting authorities shall state in the contract documents the minimum specifications to be respected

by the variants and any specific requirements for their presentation. They shall indicate in the tender notice whether variants will be considered.

Contracting authorities may not reject the submission of a variant on the sole grounds that it has been drawn up with technical specifications defined by reference to national standards transposing European standards, to European technical approvals or to common technical specifications referred to in Article 10 (2) or again by reference to national technical specifications referred to in Article 10 (5) (a) and (b).

*Article 20b*

In the contract documents, the contracting authority may ask the tenderer to indicate in his tender any share of the contract he may intend to subcontract to third parties.

This indication shall be without prejudice to the question of the principal contractor's responsibility.'

17. Article 22 is replaced by the following:

*'Article 22*

1. In restricted and negotiated procedures the contracting authorities shall, on the basis of information given relating to the contractor's personal position as well as to the information and formalities necessary for the evaluation of the minimum conditions of an economic and technical nature to be fulfilled by him, select from among the candidates with the qualifications required by Articles 23 and 28 those whom they will invite to submit a tender or to negotiate.

2. Where the contracting authorities award a contract by restricted procedure, they may prescribe the range within which the number of undertakings which they intend to invite will fall. In this case the range shall be indicated in the contract notice. The range shall be determined in the light of the nature of the work to be carried out. The range must number at least 5 undertakings and may be up to 20.

In any event, the number of candidates invited to tender shall be sufficient to ensure genuine competition.

3. Where the contracting authorities award a contract by negotiated procedure as referred to in Article 5 (2), the number of candidates admitted to negotiate may not be less than three provided that there is a sufficient number of suitable candidates.

4. Each Member State shall ensure that contracting authorities issue invitations without discrimination to those nationals of other Member States who satisfy the necessary requirements and under the same conditions as to its own nationals.'

18. The following Article is added:

*'Article 22a*

1. The contracting authority may state in the contract documents, or be obliged by a Member State so to do, the authority or authorities from which a tenderer may obtain the appropriate information on the obligations relating to the employment protection provisions and the working conditions which are in force in the Member State, region or locality in which the works are to be executed and which shall be applicable to the works carried out on site during the performance of the contract.

2. The contracting authority which supplies the information referred to in paragraph 1 shall request the tenderers or those participating in the contract procedure to indicate that they have taken account, when drawing up their tender, of the obligations relating to employment protection provisions and the working conditions which are in force in the place where the work is to be carried out. This shall be without prejudice to the application of the provisions of Article 29 (5) concerning the examination of abnormally low tenders.'

19. Article 24 is hereby replaced by the following:

*'Article 24*

Any contractor wishing to take part in a public works contract may be requested to prove his enrolment in the professional or trade register under the conditions laid down by the laws of the Member State in which he is established:

— in Belgium, the registre du commerce — Handelsregister,

— in Denmark, the Erhvervs- og Selskabsstyrelsen,

— in Germany, the Handelsregister and the Handwerksrolle,

— in Greece, a declaration on the exercise of the profession of public works contractor made on oath before a notary may be required,

— in Spain, the Registro Oficial de Contratistas del Ministerio de Industria y Energia,

— in France, the registre du commerce and the répertoir des métiers,

— in Italy, the Registro della Camera di commercio, industria, agricoltura e artigianato,

— in Luxembourg, the registre aux firmes and the rôle de la Chambre des métiers,

— in the Netherlands, the Handelsregister,

— in Portugal, the Commissão de Alvarás de Empresas de Obras Públicas e Particulares (CAEOPP),

— in the United Kingdom and Ireland, the contractor may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies or, if this is not the case, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place and under a given business name.'

20. Article 29 (3) is hereby repealed and Article 29 (4) and (5) replaced by the following:

'4. Paragraph 1 shall not apply when a Member State bases the award of contracts on other criteria, within the framework of rules in force at the time of the adoption of this Directive whose aim is to give preference to certain tenderers, on condition that the rules invoked are compatible with the Treaty.

5. If, for a given contract, tenders appear to be abnormally low in relation to the transaction, before it may reject those tenders the contracting authority shall request, in writing, details of the constituent elements of the tender which it considers relevant and shall verify those constituent elements taking account of the explanations received.

The contracting authority may take into consideration explanations which are justified on objective grounds including the economy of the construction method, or the technical solutions chosen, or the exceptionally favourable conditions available to the tenderer for the execution of the work, or the originality of the work proposed by the tenderer.

If the documents relating to the contract provide for its award at the lowest price tendered, the contracting authority must communicate to the Commission the rejection of tenders which it considers to be too low.

However, until the end of 1992, if current national law so permits, the contracting authority may exceptionally, without any discrimination on grounds of nationality, reject tenders which are abnormally low in relation to the transaction, without being obliged to comply with the procedure provided for in the first subparagraph if the number of such tenders for a particular contract is so high that implementation of this procedure would lead to a considerable delay and jeopardize the public interest attaching to the execution of the contract in question. Recourse to this exceptional procedure shall be mentioned in the notice referred to in Article 12 (5).'

21. The following Articles are inserted in Title V:

*'Article 29a*

1. Until 31 December 1992, this Directive shall not prevent the application of existing national provisions on the award of public works contracts which have as their objective the reduction of regional disparities and the promotion of job creation in regions whose development is lagging behind and in declining industrial regions, on condition that the provisions concerned are compatible with the Treaty, in particular with the principles of non-discrimination on grounds of nationality, freedom of establishment and freedom to provide services, and with the Community's international obligations.

2. Paragraph 1 shall be without prejudice to Article 29 (4).

*Article 29b*

1. Member States shall inform the Commission of national provisions covered by Article 29 (4) and Article 29a and of the rules for applying them.

2. Member States concerned shall forward to the Commission, every year, a report describing the implementation of these provisions. The reports shall be submitted to the Advisory Committee for Public Works Contracts.'

22. The following Articles are inserted:

*'Article 30a*

1. In order to permit assessment of the results of applying the Directive, Member States shall forward to the Commission a statistical report on the contracts awarded by contracting authorities by 31 October 1993 at the latest for the preceding year and thereafter by 31 October of every second year.

Nevertheless, for the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic, the date of 31 October 1993 shall be replaced by 31 October 1995.

2. This report shall detail at least the number and value of contracts awarded by each contracting authority or category of contracting authority above the threshold, subdivided as far as possible by procedure, category of work and the nationality of the contractor to whom the contract has been awarded, and in the case of negotiated procedures, subdivided in

accordance with Article 5, listing the number and value of the contracts awarded to each Member State and to third countries.

3. The Commission shall determine the nature of any additional statistical information, which is requested in accordance with the Directive, in consultation with the Advisory Committee for Public Works Contracts.

*Article 30b*

1. Annex I to this Directive shall be amended by the Commission when, in particular on the basis of the notifications from the Member States, it is necessary:

(a) to remove from Annex I bodies governed by public law which no longer fulfil the criteria laid down in Article 1(b);

(b) to include in that Annex bodies governed by public law which meet those criteria.

2. Amendments to Annex I shall be made by the Commission after consulting the Advisory Committee for Public Works Contracts.

The chairman of the committee shall submit to the committee a draft of any measures to be taken. The committee shall deliver its opinion on the draft, if necessary by taking a vote, within a time limit to be fixed by the chairman in the light of the urgency of the matter.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to request that its position be recorded in the minutes.

The Commission shall take the fullest account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

3. Amended versions of Annex I shall be published in the *Official Journal of the European Communities.'*

23. Article 31 is hereby repealed.

24. Annexes I and II of Directive 71/305/EEC are replaced by Annexes I to VI of this Directive.

*Article 2*

Directive 77/277/EEC of 26 July 1972 is hereby repealed.

*Article 3*

Member States shall bring into force the measures necessary to comply with this Directive not later than one year after the date of its notification (1). They shall forthwith inform the Commission thereof.

Nevertheless, the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic shall bring into force the necessary measures so as to comply with this Directive by not later than 1 March 1992.

*Article 4*

Member States shall ensure that the texts of the basic provisions of domestic law, whether laws, regulations or administrative provisons, which they adopt to implement with this Directive, are communicated to the Commission.

*Article 5*

This Directive is addressed to the Member States.

Done at Brussels, 18 July 1989.

*For the Council*
*The President*
R. DUMAS

(1) This Directive was notified to the Member States on 19 July 1989.

*ANNEX I*

## LISTS OF BODIES AND CATEGORIES OF BODIES GOVERNED BY PUBLIC LAW REFERRED TO IN ARTICLE 1 (b)

I. In BELGIUM:

— le Fonds des Routes 1955-1969 — het Wegenfonds,

— la Régie des Voies Aériennes — de Regie der luchtwegen,

— public social assistance centres,

— church councils,

— l'Office Régulateur de la Navigation Intérieure — die Dienst voor regeling van de binnenvaart,

— la Régie des services frigorifiques de l'État belge — de Regie der Belgische Rijkskoel- en Vriesdiensten.

II. In DENMARK:

andre forvaltningssubjekter.

III. In GERMANY:

The bundesunmittelbaren Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts; the landesunmittelbaren Körperschaften, Anstalten und Stiftungen des öffentlichen Rechts subject to State budgetary supervision.

IV. In GREECE

other legal persons governed by public law whose public works contracts are subject to State control.

V. In SPAIN:

other legal persons subject to public rules for the award of contracts.

VI. In FRANCE:

— administrative public bodies at national, departmental and local levels,

— universities, public scientific and cultural bodies and other establishments as defined by the law setting out guidelines for Higher Education No 68-978 of 12 November 1968.

VII. In IRELAND:

other public authorities whose public works contracts are subject to control by the State.

VIII. In ITALY:

— State universities, State university institutes, consortia for university development works,

— higher scientific and cultural institutes, astronomical, astrophysical, geophysical or vulcanological observatories,

— the Enti di riforma fondiaria,

— welfare and benevolent institutes of all kinds.

IX. In LUXEMBOURG:

public bodies subject to control by the Government, by an association of municipal corporations or by a municipal corporation.

X. In THE NETHERLANDS:

— the Waterschappen,

— the instellingen van wetenschappelijk onderwijs vermeld in Artikel 15 van de Wet op het Wetenschappelijk Onderwijs (1960), the academische ziekenhuizen,

— the Nederlandse Centrale Organisatie voor toegepast natuurwetenschappelijk Onderzoek (TNO) and its dependent organizations.

XI. In PORTUGAL:

legal persons governed by public law whose public works contracts are subject to State control.

XII. In THE UNITED KINGDOM:

— education authorities,
— fire authorities,
— National Health Service authorities,
— police authorities,
— Commission for the New Towns,
— new towns corporations,
— Scottish Special Housing Association,
— Northern Ireland Housing Executive.

*ANNEX II*

## LIST OF PROFESSIONAL ACTIVITIES

**as set out in the general industrial classification of economic activities within the European Communities**

| Classes | Groups | Subgroups and items | Description |
|---|---|---|---|
| 50 | | | BUILDING AND CIVIL ENGINEERING |
| | 500 | | **General building and civil engineering work (without any particular specialization) and demolition work** |
| | | 500.1 | General building and civil engineering work (without any particular specialization) |
| | | 500.2 | Demolition work |
| | 501 | | **Construction of flats, office blocks, hospitals and other buildings, both residential and non-residential** |
| | | 501.1 | General building contractors |
| | | 501.2 | Roofing |
| | | 501.3 | Construction of chimneys, kilns and furnaces |
| | | 501.4 | Waterproofing and damp-proofing |
| | | 501.5 | Restoration and maintenance of outside walls (repainting, cleaning, etc.) |
| | | 501.6 | Erection and dismantlement of scaffolding |
| | | 501.7 | Other specialized activities relating to construction work (including carpentry) |
| | 502 | | **Civil engineering: construction of roads, bridges, railways, etc.** |
| | | 502.1 | General civil engineering work |
| | | 502.2 | Earth-moving (navvying) |
| | | 502.3 | Construction of bridges, tunnels and shafts, drilling |
| | | 502.4 | Hydraulic engineering (rivers, canals, harbours, flows, locks and dams) |
| | | 502.5 | Road-building (including specialized construction of airports and runways) |
| | | 502.6 | Specialized construction work relating to water (i.e. to irrigation, land drainage, water supply, sewage disposal, sewerage, etc.) |
| | | 502.7 | Specialized activities in other areas of civil engineering |
| | 503 | | **Installation (fittings and fixtures)** |
| | | 503.1 | General installation work |
| | | 503.2 | Gas fitting and plumbing, and the installation of sanitary equipment |
| | | 503.3 | Installation of heating and ventilating apparatus (central heating, air conditioning, ventilation) |
| | | 503.4 | Sound and heat insulation, insulation against vibration |
| | | 503.5 | Electrical fittings |
| | | 503.6 | Installation of aerials, lightning conductors, telephones, etc. |
| | 504 | | **Building completion work** |
| | | 504.1 | General building completion work |
| | | 504.2 | Plastering |
| | | 504.3 | Joinery, primarily engaged in on the site assembly and/or installation (including the laying of parquet flooring) |
| | | 504.4 | Painting, glazing, paperhanging |
| | | 504.5 | Tiling and otherwise covering floors and walls |
| | | 504.6 | Other building completion work (putting in fireplaces, etc.) |

*ANNEX III*

## DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purposes of this Directive the following terms shall be defined as follows:

1. *Technical specifications:* the totality of the technical prescriptions contained in particular in the tender documents, defining the characteristics required of a work, material, product or supply, which permits a work, a material, a product or a supply to be described in a manner such that it fulfils the use for which it is intended by the contracting authority. These technical prescriptions shall include levels of quality, performance, safety or dimensions, including the requirements applicable to the material, the product or to the supply as regards quality assurance, terminology, symbols, testing and test methods, packaging, marking or labelling. They shall also include rules relating to design and costing, the test, inspection and acceptances for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve.

2. *Standard:* a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is in principle not compulsory.

3. *European standard:* a standard approved by the European Committee for Standardization (CEN) or by the European Committee for Electrotechnical Standardization (Cenelec) as 'European standards (EN)' or 'Harmonization documents (HD)' according to the common rules of these organizations.

4. *European technical approval:* a favourable technical assessment of the fitness for use of a product, based on fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. The European agreement shall be issue by an approval body designated for this purpose by the Member State.

5. *Common technical specification:* a technical specification laid down in accordance with a procedure recognized by the Member States to ensure uniform application in all Member States which has been published in the *Official Journal of the European Communities*.

6. *Essential requirements:* requirements regarding safety, health and certain other aspects in the general interest, that the construction works can meet.

*ANNEX IV*

## MODEL CONTRACT NOTICES

### A. Prior information

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

2. (a) The site:

   (b) The nature and extent of the services to be provided and, where relevant, the main characteristics of any lots by reference to the work:

   (c) If available: an estimate of the cost range of the proposed services:

3. (a) Estimated date for initiating the award procedures in respect of the contract or contracts:

   (b) If known: estimated date for the start of the work:

   (c) If known: estimated timetable for completion of the work:

4. If known: terms of financing of the work and of price revision and/or references to the provisions in which these are contained:

5. Other information:

6. Date of dispatch of the notice:

7. Date of receipt of the notice by the Office for Official Publications of the European Communities:

### B. Open procedures

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

2. (a) The award procedure chosen:

   (b) Nature of the contract for which tenders are being requested:

3. (a) The site:

   (b) The nature and extent of the services to be provided and general nature of the work:

   (c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots:

   (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects:

4. Any time limit for completion:

5. (a) Name and address of the service from which the contract documents and additional documents may be requested:

   (b) 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) The address to which they must be sent:

   (c) The language or languages in which they must be drawn up:

7. (a) Where applicable, the persons authorized to be present at the opening of tenders:

   (b) The date, hour and place of such opening:

8. Any deposit and guarantees required:

9. Main terms concerning financing and payment and/or references to the provisions in which these are contained:

10. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded:

11. Minimum economic and technical standards required of the contractor to whom the contract is awarded:

12. Period during which the tenderer is bound to keep open his tender:

13. The criteria for the award of the contract. Criteria other than that of the lowest price shall be mentioned where 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 of the European Communities* or references to its non-publication:

17. Date of dispatch of the notice:

18. Date of receipt of the notice by the Office for Official Publications of the European Communities:

### C. Restricted procedures

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

2. (a) The award procedure chosen:

   (b) Where applicable, justification for the use of the accelerated procedure:

   (c) Nature of the contract which tenders are being requested:

3. (a) The site:

   (b) The nature and extent of the services to be provided and general nature of the work:

   (c) If the work of the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots:

   (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects:

4. Any time limit for completion:

5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded:

6. (a) The final date for receipt of requests to participate:

   (b) The address to which they must be sent:

   (c) The language or languages in which they must be drawn up:

7. The final date for dispatch of invitations to tender:

8. Any deposit and guaranteees required:

9. Main terms concerning financing and payment and/or the provisions in which these are contained:

10. Information concerning the contractor's personal position and minimum economic and technical standards required of the contractor to whom the contract is awarded:

11. The criteria for the award of the contract where they are not mentioned in the invitation to tender:

12. Where applicable, prohibition on variants:

13. Other information:

14. Date of publication of the prior information notice in the *Official Journal of the European Communities* or reference to its non-publication:

15. Date of dispatch of the notice:

16. Date of receipt of the notice by the Office for Official Publications of the European Communities:

## D. Negotiated procedures

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

2. (a) The award procedure chosen:

   (b) Where applicable, justification for the use of the accelerated procedure:

   (c) Nature of the contract for which tenders are being requested:

3. (a) The site:

   (b) The nature and extent of the services to be provided and general nature of the work:

   (c) If the work or the contract is subdivided into several lots, the size of the different lots and the possibility of tendering for one, for several or for all of the lots:

   (d) Information concerning the purpose of the work or the contract where the latter also involves the drawing up of projects:

4. Any time limit:

5. Where applicable, the legal form to be taken by the grouping of contractors to whom the contract is awarded:

6. (a) final date for receipt of tenders:

   (b) The address to which they must be sent:

   (c) The language or languages in which they must be drawn up:

7. Any deposit and guarantees required:

8. Main terms concerning financing and payment and/or the provisions in which these are contained:

9. Information concerning the contractor's personal position and information and formalities necessary in order to evaluate the minimum economic and technical standards required of the contractor to whom the contract is awarded:

10. Where applicable, prohibition on variants:

11. Where applicable, the names and addresses of suppliers already selected by the awarding authority:

12. Where applicable, date(s) of previous publications in the *Official Journal of the European Communities:*

13. Other information:

14. Date of publication of the prior information notice in the *Official Journal of the European Communities:*

15. Date of dispatch of the notice:

16. Date of receipt of the notice by the Office for Official Publications of the European Communities.

E. Contract awards

1. Name and address of awarding authority:
2. Award procedure chosen:
3. Date of award of contract:
4. Criteria for award of contract:
5. Number of offers received:
6. Name and address of successful contractor(s):
7. Nature and extent of the services provided, general characteristics of the finished structure:
8. Price or range of prices (minimum/maximum) paid:
9. Where appropriate, value and proportion of contract likely to be subcontracted to third parties:
10. Other information:
11. Date of publication of the tender notice in the *Official Journal of the European Communities:*
12. Date of dispatch of the notice:
13. Date of receipt of the notice by the Office for Official Publications of the European Communities:

*ANNEX V*

## MODEL NOTICE OF PUBLIC WORKS CONCESSION

1. The name, address, telegraphic address, telephone, telex and facsimile numbers of the contracting authority:
2. (a) The site:
   (b) The subject of the concession, nature and extent of the services to be provided:
3. (a) Final date for receipt of candidatures:
   (b) The address to which they must be sent:
   (c) The language or languages in which they must be drawn up:
4. Personal, technical and financial conditions to be fulfilled by the candidates:
5. The criteria for the award of the contract:
6. Where applicable, the minimum percentage of the works contracts awarded to third parties:
7. Other information:
8. Date of dispatch of the notice:
9. Date of receipt of the notice by the Office for Official Publications of the European Communities:

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*ANNEX VI*

## MODEL NOTICE OF WORKS CONTRACTS AWARDED BY THE CONCESSIONNAIRE

1. (a) The site:
   (b) The nature and extent of the service to be provided and the general nature of the work:
2. Any time limit for the completion of the works:
3. Name and address of the service from which the contract documents and additional documents may be requested:
4. (a) The final date for receipt of requests to participate and/or for receipt of tenders:
   (b) The address to which they must be sent:
   (c) The language or languages in which they must be drawn up:
5. Any deposit and guarantees required:
6. The economic and technical standards required of the contract:
7. The criteria for the award of the contract:
8. Other information:
9. Date of dispatch of the notice:
10. Date of receipt of the notice by the Office for Official Publications of the European Communities:

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