

EU-projekt: Podrška Pravosudnoj akademiji: Razvoj sustava obuke za buduće suce i državne odvjetnike

EU-project: Support to the Judicial Academy: Developing a training system for future judges and prosecutors

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PUBLIC PROCUREMENT ACT

ZAKON O JAVNOJ NABAVI

PART ONE
GENERAL PROVISIONS

Subject-matter of the Act

Article 1

(1) This Act regulates the following:
1. public procurement procedures of all values, whereby contracting authorities and tenderers conclude public works contracts, public supply contracts and public service contracts,
2. the competences of the Public Procurement Office of the Government of the Republic of Croatia and the State Commission for the Supervision of Public Procurement Procedure,
3. legal protection concerning public procurement procedures.
(2) The Annexes listed below shall form part of this Act:
– Annex I - List of activities in construction (public works) ("Annex I"),
– Annex II - List of services II A and II B ("Annex II A or Annex II B),
– Annex III - List of products for the purposes of defence of the Republic of Croatia ("Annex

III"),
– Annex IV – Technical specifications ("Annex IV"),
– Annex V - Information to be included in notices ("Annex V"),
– Annex VI - Features concerning publication ("Annex VI"),
– Annex VII - Requirements relating to devices for the electronic receipt of tenders, requests to participate, applications for qualification and plans and projects in contests ("Annex VII").

Basic terms

Article 2

For the purpose of this Act these terms shall have the following meanings:
1. *Public contracts* are contracts for pecuniary interest concluded in writing between one or more tenderers and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services.
2. *Public works contracts* are public contracts having as their object either:
1. the execution, or both the design and execution, of works related to one or more of the activities within the meaning of Annex I to this Act, or
2. a work, or the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority. A "work" means the outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function.
3. *Public supply contracts* are public contracts having as their object the purchase, lease, rental or hire purchase, with or without option to buy, of products. A contract having as its object the supply of products and which covers siting and installation operations shall be considered to be a public supply contract.
4. *Public service contracts* are public contracts having as their object services within the meaning of Annex II A or services within the meaning of Annex II B to this Act.
A public contract having as its object both products and services within the meaning of Annex II shall be considered to be a "public service contract" if the value of the services in question exceeds that of the products covered by the contract.
A public contract having as its object services within the meaning of Annex II and including activities within the meaning of Annex I that are only incidental to the principal object of the contract shall be considered to be a public service contract.
A contract having as its object services within the meaning of Annex II B to this Act shall be subject solely to those provisions of this Act that regulate the technical description of the object of procurement (technical specifications) and notices.
5. A *framework agreement* is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
6. A *dynamic purchasing system* is a completely electronic method of implementing public procurement procedures. It is used for commonly used purchases, the characteristics of which, as generally available on the market, meet the requirements of the contracting authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification.

7. An *electronic auction* is a repetitive process involving an electronic device for the presentation of new prices, revised downwards, and/or new values concerning certain elements of tenders, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods. Certain public service contracts and certain public works contracts having as their subject-matter intellectual performances, such as the design of works, may not be the object of electronic auctions.
8. The term *electronic means* means using electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.
9. An *economic operator* is any natural or legal person which offers on the market the execution of works, supply of products or provision of services.
10. A *tenderer* is an economic operator, or a group of such economic operators, who has submitted a tender.
11. A *candidate* is an economic operator, or a group of such economic operators, who is willing to take part in a public procurement procedure and who has expressed its willingness by a request to participate.
12. A *contracting authority*, which is bound by this Act, is a contracting authority and contracting entity operating in the water, energy, transport and postal services sectors which intends to award or awards by contract a procurement order to an economic operator.
13. A *central purchasing body* is a contracting authority which on the basis of the powers of contracting authorities under this Act:
a) acquires supplies or services intended for those contracting authorities, or
b) awards public contracts or concludes framework agreements for works, supplies or services intended for those contracting authorities.
14. The *Common Procurement Vocabulary (CPV)* shall designate the reference nomenclature applicable to public contracts, while ensuring equivalence with the other existing nomenclatures.
15. (a) *Open procedures* means those procedures whereby any interested economic operator may submit a tender.
(b) *Restricted procedures* means those procedures in which any economic operator may request to participate and whereby only those economic operators invited by the contracting authority may submit a tender.
(c) *Competitive dialogue* is a procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.
(d) *Negotiated procedures* means those procedures whereby the contracting authorities consult the economic operators of their choice and negotiate the terms of contract with one or more of these.
(e) *Design contests* means those procedures which enable the acquisition, mainly in the fields of town and country planning, architecture and construction, engineering or data processing, of a plan or design selected by a jury after being put out to competition with or without the award of prizes.
16. *Written* or *in writing* means any expression consisting of words or figures which can be read, reproduced and subsequently communicated. It may include information which is transmitted and stored by electronic means.
17. *Related undertaking* shall mean any undertaking the annual reports of which are subject to consolidation with the annual reports of the contracting authority pursuant to the provisions of

the Companies Act, or any undertaking to which the Companies Act does not apply, but over which the contracting authority can exert a dominant influence, whether directly or indirectly, or any undertaking which can exert a dominant influence on the contracting authority or which, together with the contracting authority, is subject to the dominant influence of another undertaking as a result of ownership, financial participation or the rules which govern it.
18. A *special or exclusive right* means the right granted by a competent authority by way of any legislative, regulatory or administrative provision the effect of which is to limit the exercise of a particular activity to one or more economic operators, thus limiting the ability of other economic operators to perform such an activity.
19. An *unacceptable tender* is a tender that meets the exclusion criteria laid down in this Act.
20. An *unsuitable tender* is a tender that contains prices which exceed the contracting authority's budget.
21. An *irregular tender* is a tender which does not meet the conditions relating to the characteristics of the subject-matter of procurement and therefore does not completely fulfil the conditions laid down in the tender documents by the contracting authority.

Contracting authorities

Article 3

(1) Contracting authorities who are bound by this Act are the following:
1. the government bodies of the Republic of Croatia,
2. local and regional self-government units,
3. legal persons established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character and which meet one of the following conditions:
– they are financed in more than 50% from the State Budget of the Republic of Croatia or from the funds of regional or local self-government or other legal persons referred to in item 3 of this paragraph, or
– they are subject to management supervision by government bodies of the Republic of Croatia, local and regional self-government units or other legal persons referred to in item 3 of this paragraph, or
– they have an assembly, supervisory or managerial board, more than half of whose members are appointed by the government bodies of the Republic of Croatia, local and regional self-government units or other legal persons referred to in item 3 of this paragraph,
4. associations established by one or more of the bodies referred to in items 1 and 2 of this paragraph or one or more of the legal persons referred to in item 3 of this paragraph.
(2) Operators who are not contracting authorities referred to in paragraph 1 of this Article shall apply this Act:
1. to contracts for works which are subsidised directly by contracting authorities by more than 50 %:
- where those contracts involve activities within the meaning of Annex I to this Act,
- where those contracts involve building work for hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes,
2. to contracts for services which are subsidised directly by contracting authorities by more than 50% and which are connected with a works contract within the meaning of item 1 of this paragraph.
(3) A non-exhaustive list of entities bound by this Act referred to in paragraph 1 of this

Article shall be prescribed by a regulation of the Government of the Republic of Croatia, upon the proposal of the Public Procurement Office and subject to a prior opinion of the competent ministry. State authorities and other bodies, and legal persons bound by this Act shall apply this Act even when they are not included in the List of Entities Bound by the Public Procurement Act.

Contracting entities operating in the water, energy, transport and postal services sectors

Article 4

(1) Entities bound by this Act operating in the water, energy, transport and postal services sectors are the following:
1. contracting authorities referred to in Article 3 of this Act when procuring products, works or services for the purpose of performing the activities referred to in Articles 106 through 111 of this Act,
2. an undertaking in which one or more contracting authorities exercise or may exercise directly or indirectly a dominant influence by virtue of ownership of it, their financial participation therein or the rules which govern it, and which performs one or more of the activities referred to in Articles 106 through 111 of this Act.
A dominant influence on the part of the contracting authorities shall be presumed when, these authorities, directly or indirectly, in relation to an undertaking:
– hold the majority of the undertaking's subscribed capital, or
– control the majority of the votes attaching to shares issued by the undertaking, or
– can appoint more than half of the undertaking's management or supervisory body,
3. any contracting entity performing one or more of the activities referred to in Articles 106 through 111 of this Act, by virtue of a special or exclusive right, and which is not a contracting authority or undertaking within the meaning of item 2 of this Article.
(2) A non-exhaustive list of entities bound by this Act referred to in paragraph 1 of this Article shall be prescribed by a regulation of the Government of the Republic of Croatia, upon the proposal of the Public Procurement Office and subject to a prior opinion of the competent ministry. State authorities and other bodies, and legal persons bound by this Act shall apply this Act even when they are not included in the List of Entities Bound by the Public Procurement Act.

Exclusions from the application of the Act

Article 5

(1) This Act shall not apply to:
1. the procedures of awarding public contracts when they are declared to be confidential in accordance with the regulations of the Republic of Croatia or when their performance must be accompanied by special security measures in accordance with the laws or other regulations of the Republic of Croatia, or when the protection of the essential or security interests of the Republic of Croatia so requires in accordance with special regulations,
2. the procedures of awarding public contracts which are implemented pursuant to the particular procedure of an international organisation,
3. the procedures of awarding public contracts governed by different procedural rules and awarded pursuant to an agreement between the Republic of Croatia and one or more countries intended for the joint implementation or exploitation of a project by the contracting parties,

where all agreements shall be communicated to the European Commission,
4. the procedures of awarding public contracts governed by different procedural rules and awarded pursuant to an international agreement relating to the stationing of troops of the Republic of Croatia, of a Member State or a third country,
5. the procurement of public services from a contracting authority who is providing the service on the basis of a special or exclusive right which it enjoys pursuant to a special law or subordinate regulation, in line with European Community law,
6. contracts for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon. Financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Act,
7. contracts for the acquisition, development, production and co-production of programme material intended for broadcasting by radio and television broadcasters and contracts for radio and television broadcasting time,
8. contracts for arbitration and conciliation services,
9. contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, in particular transactions by the contracting authorities to raise money or capital, and the services of the Croatian National Bank, and contracts on public credit policy instruments,
10. employment contracts,
11. contracts for research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by the contracting authority,
12. contracts for works, products and/or services procured by a contracting authority from or through the central purchasing body, provided that in the public procurement of such works, products or services the central purchasing body complied with the provisions of this Act,
13. public contracts for the principal purpose of permitting the contracting authorities to provide or exploit public telecommunications networks or to provide to the public one or more telecommunications services,
14. procurement for purposes of resale or lease, provision of services or performance of works to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or lease the subject of such contracts, provide services or perform works, and other entities are free to perform them under the same conditions as the contracting entity, if the value of the procurement is no greater than the estimated value which is subject to the obligation of being published in the Official Journal of the European Union in accordance with the Regulation on public procurement notices and records,
15. procurement the aim of which is to secure emergency prevention of damage or rectification of the consequences of damage resulting from force majeure, or other threats, if the value of procurement is no greater than the estimated value which is subject to the obligation of being published in the Official Journal of the European Union in accordance with the Regulation on public procurement notices and records,
16. procurement conducted by diplomatic and other posts of the Republic of Croatia abroad from within their scope of work if the value of procurement is no greater than the estimated value which is subject to the obligation of being published in the Official Journal of the European Union in accordance with the Regulation on public procurement notices and records
(2) Contracting entities operating in the water, energy, transport and postal services sectors shall not apply this Act in the events referred to in paragraph 1, items 1 through 4 and items 6 through 15 of this Article, and in the following cases:
1. for the procedures of awarding public contracts for purposes of resale or lease to third parties, provided that the contracting entity enjoys no special or exclusive right to sell or lease

the subject of such contracts, and other entities are free to sell or lease it under the same conditions as the contracting entity. The contracting entity shall notify the European Commission at its request of all the categories of products or activities which it regards as excluded,
2. for the procedures of awarding public contracts for purposes other than the pursuit of their activities in the water, energy, transport and postal services sectors or for the pursuit of such activities in a third country, in conditions not involving the physical use of a network or geographical area within the Republic of Croatia. The contracting entity shall notify the European Commission at its request of any activities which it regards as excluded,
3. for the purchase of water which the contracting entity is procuring for the performance of one or both of the activities referred to in Article 106, paragraph 1 of this Act,
4. for the supply with energy or of fuels for the generation of energy which the contracting entity is procuring for the performance of one or more of the activities referred to in Article 107, paragraph 1 or paragraph 3 or in Article 108 of this Act.
(3) Contracting authorities or contracting entities operating in the water, energy, transport and postal services sectors shall publish, before awarding a contract based on an exclusion under this Article, in the Electronic Public Procurement Classifieds in the Official Gazette, a notification of the commencement of the public procurement procedure which must include the data referred to in Article 13, paragraph 5 of this Act.

Principles of public procurement

Article 6

(1) In the implementation of public procurement procedures under this Act, in relations to all economic operators, contracting authorities shall be subject to the respect of the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and to the principles deriving therefrom, such as the principle of competition, the principle of efficiency, the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency.
(2) These principles shall apply to all procedures and all values of procurement.

Provisions on delimitation of public contracts

Article 7

(1) A public contract having as its object both products and services shall be considered to be a public service contract if the value of the services in question exceeds that of the products covered by the contract.
(2) A public contract having as its object both services and activities within the meaning of Annex I to this Act that are only incidental to the services concerned shall be considered to be a public service contract.
(3) A public contract which includes services listed in Annex II A and services listed in Annex II B to this Act shall be considered to be a public service contract within the meaning of Annex II A to this Act if the value of the services listed in Annex II A to this Act is greater than the value of the services listed in Annex II B to this Act. If the value of the services listed in Annex II B to this Act is greater than the value of the services listed in Annex II A to this

Act, the contract shall be considered to be a public service contract within the meaning of Annex II B to this Act.

Confidentiality of documents in public procurement procedures

Article 8

(1) The contracting authority, the candidate and the tenderer shall not disclose information relating to the contracting authority, the candidate and the tenderer and to their documentation, which is designated as confidential by a special regulation and which is not contrary to the provisions of Article 37 of this Act.
(2) The contracting authority shall not provide access to and forward information forwarded to it by economic operators which they have designated as confidential, where such information includes, in particular, technical or trade secrets and the confidential aspects of tenders.
(3) The contracting authority, the candidate or the tenderer may use works by other persons (such as documents, plans, drawings, designs, models, samples, computer programmes, etc.) made available to them for their own needs or forward them to third parties only with prior express consent of the owner of the work.

Estimated value of procurement

Article 9

(1) The calculation of the estimated value of procurement shall be based on the total amount payable, net of VAT. In calculating the estimated value, the contracting authority shall take account of the total amount, including any form of option and any renewals of the contract.
(2) The estimated value of procurement must be valid at the moment at which the contract notice is sent by the contracting authority.
(3) The contracting authority shall comply with the terms and conditions of public procurement based on its estimated value and shall not subdivide the value of procurement to prevent its coming within the scope of the prescribed procurement procedure.
(4) The method of calculating the estimated value of procurement shall be prescribed by the Government of the Republic of Croatia in the Regulation on public procurement notices and records.
(5) For capital investments, the contracting authority shall first prepare and adopt an investment project pursuant to the Regulation on the methodology of preparation, appraisal and implementation of investment projects.
(6) The methodology for preparation, evaluation and implementation of investment projects shall be prescribed by the Government of the Republic of Croatia in the Regulation on the methodology of preparation, appraisal and implementation of investment projects.

Defence procurement

Article 10

(1) This Act shall apply to public contracts awarded by contracting authorities in the field of defence.
(2) The estimated value of contracts which is subject to the obligation of publication in the

Official Journal of the European Union in connection with the public procurement of products listed in Annex III to this Act, awarded by contracting authorities in the field of defence, shall be prescribed by the Government of the Republic of Croatia in the Regulation on public procurement notices and records.
(3) The contracting authority is not obliged to issue a contract notice if that would be contrary to the interest of security and if it considers that to be necessary to protect the essential interests of security relating to the production or trade in weapons, ammunition and war materials. Such actions shall not result in any distortion of competition on the common market for products with no particular military purpose.

Candidates and tenderers

Article 11

(1) A group of tenderers means an association of several economic operators for the purpose of submitting a joint tender, regardless of the way in which their mutual relationship is structured, which assume the obligation to perform the procurement in question for the contracting authority under joint and several liability, in accordance with the contract in the area of the same or different vocation.
(2) A contracting authority shall not require from the group of tenderers to assume a specific legal form before the submission of their tender; however, after the selection, the group may be required to assume a specific legal form to the extent necessary for the satisfactory performance of the contract, if so stated in the tender documents. The contracting authority shall require that the economic operators who form part of the group of tenderers demonstrate in the tender or in the request to participate their individual capacity and, pro rata to their individual contributions to the performance of the contract, their joint capacity. The tender submitted by a group of tenderers shall include the name and place of establishment of all economic operators participating in the joint tender, the name and place of establishment of the principal tenderer, the names and the required qualifications of persons responsible for the performance of procurement which is the subject-matter of the joint tender. The joint tenderers shall be jointly and severally liable.
(3) An economic operator who is entitled to provide the relevant service under the law of the state in which it is established, shall not be excluded from the public procurement procedure solely on the grounds that under the regulations of the Republic of Croatia it would be required to be either a natural or a legal person.
(4) In a public procurement procedure having as its object the supply of products, covering in addition siting and installation operations, and in a procurement procedure for public services and works, the contracting authority may require that the tender or the request to participate indicate the names and the relevant professional education or qualifications of the staff responsible for the performance of the contract.
(5) Economic operators taking part, directly or indirectly, in the preparation of a public procurement procedure may participate in the tendering as tenderers or candidates, provided that this does not cause any distortion to the principle of competition, and that the economic operators demonstrate, where appropriate, that they did not gain any advantage in drawing up their tenders over other economic operators through the experience gained during their participation in the preparation of the public procurement procedure.

Reserved contracts

Article 12

(1) In public procurement procedures, contracting authorities may reserve the right to participate to candidates or tenderers in accordance with a sheltered employment programme or only to candidates or tenderers where more than 50% of the total number of employees are handicapped persons.
(2) In the contract notice, the contracting authority shall make reference to the fact that the public procurement procedure is reserved exclusively for the economic operators referred to in paragraph 1 of this Article.

PART TWO
THE PROCEDURE OF PUBLIC PROCUREMENT FOR CONTRACTING AUTHORITIES

Title One
PUBLIC PROCUREMENT PROCEDURES

Section 1
SELECTING THE PROCEDURE AND METHOD OF PUBLIC PROCUREMENT

Commencement and selection of a public procurement procedure

Article 13

(1) Contracting authorities may initiate a public procurement procedure when a plan for the funds for procurement is in place, and the public procurement procedure shall begin upon the adoption of a decision on the commencement of the public procurement procedure.
(2) Contracting authorities may freely choose between the open and restricted procedure.
(3) In the specific circumstances expressly provided for in Article 20 of this Act, contracting authorities may use the competitive dialogue.
(4) In the specific cases and circumstances referred to expressly in Articles 14, 15 and 16 of this Act, contracting authorities may apply a negotiated procedure, with or without prior publication of the contract notice.
(5) The decision on the commencement of a public procurement procedure shall include the information concerning:
– the contracting authority,
– the subject-matter of procurement,
– the estimated value of procurement,
– the source – the method of dedicated funds,
– the legal basis for conducting the public procurement procedure, for the exclusion from the application of this Act or for the conclusion of a public service contract listed in Annex II B, and the information stipulated in Article 25, paragraph 2 and in Article 96, paragraph 3 of this Act,
– the selected public procurement procedure,
– the contracting authority's authorised representatives in the public procurement procedure,
– the contracting authority's responsible person (name and surname).

Conditions for selecting the negotiated procedure for public works contracts

Article 14

(1) Public works contracts may be awarded by negotiated procedure with prior publication of a contract notice, in the following cases:
1. if in response to an open or restricted procedure or a competitive dialogue all submitted tenders have been unsuitable or unacceptable, insofar as the original terms of the contract are not substantially altered, where the contracting authority need not publish a contract notice if it includes in the negotiated procedure only the economic operators whose tenders have not been excluded during the prior open or restricted procedure or competitive dialogue on the grounds of non-fulfilment of the relevant criteria and proof of their ability, and who have submitted tenders in accordance with the formal requirements contained in the tender documents, or
2. if the subject-matter of procurement are works which are performed solely for purposes of research, testing or development and not with the aim of ensuring profitability or recovering research and development costs, or
3. in exceptional cases, when the nature of the works or the risks attaching to the performance of the procurement do not permit prior overall pricing.
(2) Public works contracts may be awarded by negotiated procedure without prior publication of a contract notice, in the following cases:
1. if in response to an open procedure or a restricted procedure, no tenders or no suitable tenders or no requests to participate have been submitted, provided that the initial conditions of public works contract are not substantially altered and on condition that a report is sent to the European Commission if it so requests, or
2. if, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public works contract may be awarded only to a particular economic operator, or
3. insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for a public procurement procedure with prior publication of a contract notice cannot be complied with. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority, or
4. if additional public works are not included in the project on the basis of which the original contract is concluded or in the original public works contract, but which have, through unforeseen circumstances, become necessary for the performance of the public works described therein, on condition that the award is made to the economic operator stipulated in the original contract, and on condition that the aggregate value of such additional works does not exceed 25 % of the amount of the original public works contract, and:
a) when such additional works cannot be technically or economically separated from the original contract without major inconvenience to the contracting authority, or
b) when such works, although separable from the performance of the original contract, are strictly necessary for its completion, or
5. if new public works consist in the repetition of the same works, on fulfilment of all of the following conditions:
a) that the same contracting authority concludes the public works contract with the same economic operator to whom it awarded an original contract
b) that the original contract was awarded according to the open or restricted procedure,
c) that the works are in line with the project that was the subject-matter of the original contract,
d) that the possibility of using the negotiated procedure was foreseen in the first invitation to

tender (call for competition),
e) that the procurement takes place within the three years following the conclusion of the original contract,
f) that the total estimated value of such works which are to be repeated was taken into consideration in determining the estimated value of procurement.

Conditions for selecting the negotiated procedure for public supply contracts

Article 15

(1) Public supply contracts may be awarded by negotiated procedure with prior publication of a contract notice, in the following cases:
1. if in response to an open or restricted procedure or a competitive dialogue all submitted tenders have been unsuitable or unacceptable, insofar as the original terms of the contract are not substantially altered, where the contracting authority need not publish a contract notice if it includes in the negotiated procedure only the economic operators whose tenders have not been excluded during the prior open or restricted procedure or competitive dialogue on the grounds of non-fulfilment of the relevant criteria and proof of their ability, and who have submitted tenders in accordance with the formal requirements contained in the tender documents, or
2. in exceptional cases, when the nature of the products or the risks attaching to the performance of the procurement do not permit prior overall pricing.
(2) Public supply contracts may be awarded by negotiated procedure without prior publication of a contract notice, in the following cases:
1. if in response to an open procedure or a restricted procedure, no tenders or no suitable tenders or no requests to participate have been submitted, provided that the initial conditions of public supply contract are not substantially altered and on condition that a report is sent to the European Commission if it so requests, or
2. if, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public supply contract may be awarded only to a particular economic operator, or
3. insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for a public procurement procedure with prior publication of a contract notice cannot be complied with. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority, or
4. if the products involved are manufactured purely for the purpose of research, experimentation, study or development, and not with the aim of production to establish commercial viability or to recover research and development costs, or
5. for additional deliveries by the original economic operator which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance, on condition that the length of such contracts, as well as that of recurrent contracts may not exceed three years, or
6. if the subject-matter of procurement are supplies quoted and purchased on a commodity market, or
7. if the supplies are procured on particularly advantageous terms, from either an economic operator which is definitively winding up its business activities, in the event of liquidation, bankruptcy or other similar procedures under national laws of the country where the economic

operator is established, or from the bankruptcy receiver or liquidator, as part of an arrangement with creditors.

Conditions for selecting the negotiated procedure for public service contracts

Article 16

(1) Public service contracts may be awarded by negotiated procedure with prior publication of a contract notice, in the following cases:
1. if in response to an open or restricted procedure or a competitive dialogue all submitted tenders have been unsuitable or unacceptable, insofar as the original terms of the contract are not substantially altered, where the contracting authority need not publish a contract notice if it includes in the negotiated procedure only the economic operators whose tenders have not been excluded during the prior open or restricted procedure or competitive dialogue on the grounds of non-fulfilment of the relevant criteria and proof of their ability, and who have submitted tenders in accordance with the formal requirements of the tender documents, or
2. in exceptional cases, when the nature of the public services or the risks attaching to the performance of the procurement do not permit prior overall pricing, or
3. when the subject-matter of procurement are intellectual services, such as services involving the design of works, and services within category 6 of Annex II A of this Act, insofar as the nature of the services to be provided is such that contract specifications cannot be established with sufficient precision to permit the award of the contract by selection of the best tender according to the rules governing open or restricted procedures.
(2) Public service contracts may be awarded by negotiated procedure without prior publication of a contract notice, in the following cases:
1. if in response to an open procedure or a restricted procedure, no tenders or no suitable tenders or no requests to participate have been submitted, provided that the initial conditions of public service contract are not substantially altered and on condition that a report is sent to the European Commission if it so requests, or
2. if, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public service contract may be awarded only to a particular economic operator, or
3. insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for a public procurement procedure with prior publication of a contract notice cannot be complied with. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority, or
4. if additional services are not included in the project on the basis of which the original contract is concluded or in the original public service contract, but which have, through unforeseen circumstances, become necessary for the performance of the public services described therein, on condition that the award is made to the economic operator stipulated in the original contract, and on condition that the aggregate value of such additional services does not exceed 25 % of the amount of the original public service contract, and:
a) when such additional services cannot be technically or economically separated from the original contract without major inconvenience to the contracting authority, or
b) when such services, although separable from the performance of the original contract, are strictly necessary for its completion, or
5. if new public services consist in the repetition of the same services, on fulfilment of all of the following conditions:
a) that the same contracting authority concludes the public service contract with the same

economic operator to it awarded the original contract,
b) that the original contract was awarded according to the open or restricted procedure,
c) that the additional services are in line with the project that was the subject-matter of the original contract,
d) that the possibility of using the negotiated procedure was foreseen in the first invitation to tender (call for competition),
e) that the procurement takes place within the three years following the conclusion of the original contract,
f) that the total estimated value of such services which are to be repeated was taken into consideration in determining the estimated value of procurement, or
6. if the contract concerned follows a design contest and must, under the applicable rules, be awarded to the successful candidate or to one of the successful candidates, in the latter case, all successful candidates must be invited to participate in the negotiations.

Types of electronic auctions and the award of contracts by electronic auction

Article 17

(1) Electronic auctions are an additional stage in the open procedure, the restricted procedure or the negotiated procedure.
(2) In open procedures, restricted procedures or negotiated procedures with prior publication of a contract notice referred to in Article 14, paragraph 1, item 1, or Article 15, paragraph 1, item 1, or Article 16, paragraph 1, item 1, and in awarding public contracts under the dynamic purchasing system or awarding public contracts by a framework agreement in accordance with the provisions of Article 102, paragraph 4, item 2 and paragraphs 5 and 6 of this Act, it is possible to decide to award a public contract in a simple electronic auction or a complex electronic auction, provided that the subject-matter of procurement can be described clearly and comprehensively. The auction may refer only to parts of the tender, which can be clearly and objectively quantified so that they can be presented in figures or percentages.
(3) In a simple electronic auction, the contract shall be awarded to the tender quoting the lowest price.
(4) In a complex electronic auction, the contract shall be awarded to the most economically advantageous tender.
(5) The contracting authority may freely choose between the simple and the complex electronic auction.

Awarding contracts under the framework agreement

Article 18

Contracts may be awarded on the basis of a framework agreement if such framework agreement was awarded in an open procedure, a restricted procedure, a negotiated procedure or competitive dialogue, on condition that the parties to the framework agreement are chosen based on the criterion of the lowest price or the criterion of the most economically advantageous tender.

Setting up a dynamic purchasing system and awarding contracts under the dynamic purchasing system

Article 19

Contracts may be awarded under the dynamic purchasing system if such a dynamic purchasing system has been set up following the rules of the open procedure.

Conditions for selecting the competitive dialogue procedure

Article 20

(1) The selection of competitive dialogue shall be allowed in the case of particularly complex contracts, and if the award of the contract is not possible in the open or restricted procedure.
(1) The contract within the meaning of the provision of paragraph 1 of this Article is considered to be particularly complex where the contracting authorities are not objectively able to define:
1. the technical means (the technical description of the subject-matter of procurement) in accordance with Article 70, paragraph 2 of this Act, capable of satisfying their needs or objectives, and/or
2. the legal and/or financial make-up of a project.
(1) In awarding contracts under the competitive dialogue system, the decision shall be made on the sole basis of the award criterion for the most economically advantageous tender.

Section 2
COURSE OF PROCEDURES AND PARTICIPANTS IN PUBLIC PROCUREMENT PROCEDURES

Open procedures

Article 21

(1) The invitation to tender in an open procedure shall be published in accordance with the provisions of Articles 31 and 32 of this Act.
(2) The data on economic operators who have sought an invitation to take part in an open procedure shall be kept confidential until the opening of the tenders.
(3) In the open procedure, economic operators may submit their tenders within the time limit for the receipt of tenders.
(4) After the expiry of the time limit for the receipt of tenders, the tenders may not be altered.

Restricted procedures

Article 22

(1) The invitation to tender in a restricted procedure shall be published in accordance with the provisions of Articles 31 and 32 of this Act.
(2) Economic operators who have, further to the invitation, submitted their requests to participate in the restricted procedure in good time, and who have demonstrated their ability in accordance with this Act, shall be provided an opportunity to participate in the restricted procedure, subject to their compliance with the provisions of Article 24, paragraphs 1, 2 and 4 of this Act.

(3) The contracting authority shall not open requests to participate before the expiry of the time limit for the receipt thereof. Minutes shall be drawn up concerning the assessment of the suitability of each candidate, which shall include all relevant circumstances. If so requested, candidates shall be granted access to the part of the minutes relating to their request to participate, which must be taken into consideration when drawing up the minutes.
(4) The contracting authority shall forward the decision on the inadmissibility of their participation to all candidates who are not to be invited to submit a tender not later than seven days after the decision is adopted, and if the shortened time limits are applied under the provisions of Article 43 through 45 of this Act, not later than three days after the decision is adopted. The decision on inadmissibility of participation shall include reasons for such inadmissibility.
(5) The contracting authority shall simultaneously and in writing invite the selected candidates to submit their tenders. Attached to the written invitation shall be the tender documents and any supporting documents, or reference that the tender documents are made directly available by electronic means.
(6) The invitation to tender shall include:
1. the postal or electronic address from which the tender documents and any supporting documents may be requested,
2. the deadline for the receipt of the tenders, the postal or electronic address to which the tenders must be sent, and the language in which the tenders must be drawn up,
3. a reference to the contract notice based on which the invitation to tender is sent,
4. all the information that the tender must contain,
5. the Internet address at which the tender documents and any supporting documents are available, if available by electronic means,
6. the award criterion or criteria , which the contracting authority determined in relation to or exceptionally based on the order of their significance, and
7. all the information about the required supporting documents and all other relevant conditions.
(7) In the restricted procedure, candidates who receive an invitation to submit their tenders shall submit their tenders within the time limit for the receipt of tenders.
(8) After the expiry of the time limit for the receipt of tenders, the tenders may not be altered.

Negotiated procedures with prior publication of a contract notice

Article 23

(1) The invitation to tender in a negotiated procedure with prior publication of a contract notice shall be published in accordance with the provisions of Articles 31 and 32 of this Act.
(2) Economic operators who have, further to the invitation to tender, submitted their requests to participate in the negotiated procedure in good time, and who have demonstrated their suitability in accordance with this Act, shall be provided an opportunity to participate in the negotiated procedure with prior publication of a contract notice, subject to compliance with the provisions of Article 24, paragraphs 1, 3 and 4 of this Act.
(3) The contracting authority shall not open requests to participate before the expiry of the time limit for the receipt thereof. Minutes shall be drawn up concerning the assessment of the suitability of each candidate, which shall include all relevant circumstances. If so requested, candidates shall be granted access to the part of the minutes relating to their request to participate, which must be taken into consideration when drawing up the minutes.
(4) The contracting authority shall forward the decision on the inadmissibility of their

participation to all candidates who are not to be invited to submit a tender not later than seven days after the decision is adopted, and if the shortened time limits are applied under the provisions of Article 43 through 45 of this Act, not later than three days after the decision is adopted. The decision on inadmissibility of participation shall include reasons for such inadmissibility.
(5) The contracting authority shall simultaneously and in writing invite the selected candidates to negotiate. Attached to the written invitation shall be the tender documents and any supporting documents, or reference that the tender documents are made directly available by electronic means.
(6) The invitation to negotiate shall include:
1. the postal or electronic address from which the tender documents and any supporting documents can be requested,
2. the deadline for the receipt of initial tenders, the postal or electronic address to which the initial tenders must be sent, and the language in which the initial tenders must be drawn up,
3. a reference to the contract notice based on which the invitation to submit an initial tender is sent,
4. all the information that the initial tender must contain,
5. the Internet address at which the tender documents and any supporting documents are available, if available by electronic means,
6. the award criterion or criteria, which the contracting authority determined in relation to or exceptionally based on the order of their significance, and
7. all the information about the required supporting documents and all other relevant conditions.
(7) In the negotiated procedure with several tenderers, the contracting authority shall negotiate with each tenderer separately on any and all parts of the initial tender to establish which initial tender is the best based on the award criteria laid down in the contract notice.
(8) The award criteria laid down in the contract notice, unless provided otherwise in the tender documents, shall not be altered during the negotiated procedure.
(9) The contracting authority shall not provide information in a discriminating manner or favour certain tenderers during the negotiating process.
(10) The contracting authority may conduct the negotiated procedure with several tenderers in several successive stages in order to gradually reduce the number of initial tenders being negotiated. During the negotiations, the contracting authority shall reduce the number of tenders pursuant to the award criteria laid down in the in the contract notice and without any delay notify the tenderers whose initial tenders will not be further examined. If, on the basis of the reduction in the number of initial tenders, only one suitable tenderer remains, the contracting authority shall be allowed to negotiate with only one tenderer in the final phase of the negotiated procedure. The contracting authority must provide for such possibility in the contract notice or in the tender documents.
(11) The contracting authority shall previously inform the tenderer or tenderers participating in the negotiated procedure of the conclusion of negotiations. This can be done by proclaiming a round of negotiations to be the final phase or by inviting the remaining tenderer or tenderers to submit their final tenders within a reasonable time limit.

Participants in restricted procedures and
in negotiated procedures with prior publication of a contract notice

Article 24

(1) The number of candidates who will receive an invitation to tender or to negotiate shall be determined in accordance with the subject-matter of procurement and it shall be stated in the invitation by the contracting authority. The number of economic operators to be invited by the contracting authority shall be sufficient to ensure genuine competition. The criteria which the contracting authority intends to apply shall be objective and non-discriminating and they shall be included in the invitation.
(2) In the restricted procedure, if there is a sufficient number of suitable economic operators, the number of candidates to be invited by the contracting authority shall not be less than five.
(3) In the negotiated procedure with prior publication of a contract notice, if there is a sufficient number of suitable economic operators, the number of candidates to be invited by the contracting authority shall not be less than three.
(4) If the contracting authority determines that the number of suitable candidates is greater than the announced number of candidates to receive an invitation to tender or to negotiate, the contracting authority may invite all of them or select the best candidates amongst the suitable candidates in line with the number and the criteria it intends to apply. The reasons for the selection shall be noted in the minutes.
(5) If the contracting authority determines that the number of suitable candidates is smaller than the announced number of candidates to receive an invitation to tender or to negotiate, the contracting authority may continue the procedure by inviting one or more suitable candidates, and if there are no suitable candidates, the contracting authority shall cancel the procedure. The contracting authority shall not include other economic operators in the procedure of awarding the public contract or those candidates who failed to prove their ability.

Participants and the course of negotiated procedures without prior publication of a contract notice

Article 25

(1) If the conditions for selecting the negotiated procedure without prior publication of a contract notice stipulated in Articles 14, 15 and 16 of this Act allow it, the procedure shall be conducted with several economic operators in a procedure which shall respect the principles of equal treatment and non-discrimination.
(2) The contracting authority shall publish a notice on the commencement of the public procurement procedure in the Electronic Public Procurement Classifieds in the Official Gazette. The notice shall contain the information referred to in Article 13, paragraph 5 of this Act, and the information on the economic operator(s) with whom it intends to negotiate.
(3) In the negotiated procedure without prior publication of a contract notice, only candidates that meet the suitability criteria shall be invited to negotiate. The suitability criteria shall be determined in advance. Minutes shall be drawn up concerning the assessment of the suitability of each candidate, which shall include all relevant circumstances.
(4) The submission of initial tenders may serve as the basis for negotiations. The final tender may be submitted only by an invited economic operator. The contracting authority shall award the contract on the basis of the award criterion specified in the invitation to negotiate.

Course of the competitive dialogue – stages

Article 26

(1) Contracting authorities shall set out their needs and requirements concerning the procurement in question in the invitation to tender in the competitive dialogue and/or in the competitive dialogue descriptive document.
(2) Candidates who have submitted their requests to participate in good time based on the contract notice and who demonstrated their ability in accordance with this Act shall receive an invitation to participate in the competitive dialogue.
(3) Minutes shall be drawn up concerning the assessment of the suitability of the candidates, which shall contain all circumstances relevant to the evaluation of the request to participate. The minutes shall be drawn up in such a way to enable the candidate to review the part of the minutes which relates to its respective request to participate.
(4) The contracting authority shall forward the decision on the inadmissibility of their participation to all candidates who are not to be invited to participate in the competitive dialogue not later than seven days after the decision is adopted. The decision on inadmissibility of participation shall include reasons for such inadmissibility.
(5) The contracting authority shall simultaneously and in writing invite the selected candidates to participate in the competitive dialogue. Attached to the written invitation shall be the descriptive document and any supporting documents, or reference that the descriptive document is made directly available by electronic means.
(6) The invitation to participate in the competitive dialogue shall contain:
1. a reference to the contract notice based on which the invitation to participate in the competitive dialogue is sent,
2. the postal address or the electronic mail address from which the descriptive document and any supporting documents may be requested,
3. a reference to any possible adjoining documents to be submitted,
4. the relative weighting of criteria for the award of the contract or, where appropriate, the descending order of importance for such criteria, if they are not given in the contract notice,
5. the date and the address set for the start of consultation and the language or languages used.
(7) The contracting authority shall open a dialogue with the candidates, the aim of which shall be to identify one or more means best suited to satisfying the needs and requirements of the contracting authority. The contracting authority may discuss all aspects of the public contract with the chosen candidates during this dialogue.
(8) During the dialogue, the contracting authority shall not provide information in a discriminatory manner which may give some candidates an advantage over others.
(9) During the dialogue, the contracting authority shall discuss with each candidate only the solution(s) proposed by such candidate. The solution(s) proposed by other candidates may be discussed only if the condition stipulated in paragraph 10 of this Article is fulfilled.
(10) The contracting authority may reveal to the other candidates solutions or parts thereof or other confidential information communicated by a candidate participating in the dialogue only with his agreement.
(11) The contracting authority may provide for the procedure of competitive dialogue to take place in several successive stages in order to reduce the number of solutions to be discussed during the dialogue stage by applying the award criteria stated in the contract notice or the descriptive document. The contract notice or the descriptive document shall indicate that recourse may be had to this option. The contracting authority shall notify the candidate of its decision not to consider a solution in the dialogue stage, including the relevant reasons, by sending the decision by registered mail or another appropriate traceable means of communication, not later than seven days of the date of completion of the said stage.
(12) The contracting authority shall continue such dialogue until it can identify the solution or solutions which are most capable of meeting its needs and requirements. At the end of the dialogue stage, there must be a sufficient number of solutions to ensure competition.

(13) The contracting authority shall send without any delay, to all participants in the dialogue, the decision on the conclusion of the dialogue stage, in which the basic characteristics of the chosen solution or solutions are specified. The decision shall be sent by registered mail or another appropriate traceable means of communication.
(14) After the dialogue is concluded by an invitation to submit final tenders, the contracting authority shall ask the remaining candidate(s) to submit their final tenders on the basis of the basic characteristics of the solution or solutions identified during the dialogue stage. In the invitation, the contracting authority shall state the final deadline for the receipt of tenders, the address to which such tenders must be sent and the language(s) in which the tenders must be drawn up.
(15) These tenders shall contain all the elements required and necessary for the performance of the subject-matter of procurement of the contracting authority.
(16) These tenders may be clarified, specified and fine-tuned at the request of the contracting authority, on condition that such clarification, specification, fine-tuning or additional information does not involve changes to the basic features of the tender, but not in a way which is likely to distort competition or have a discriminatory effect.
(17) On the basis of the award criteria laid down in the invitation to tender or the descriptive document, and fine-tuned or specified during the invitation to participate in the competitive dialogue, the contracting authority shall choose the most economically advantageous tender.

Participants in the competitive dialogue

Article 27

(1) The contracting authority shall indicate in the contract notice the number of candidates who are to receive an invitation to participate in the competitive dialogue. The number shall be determined in accordance with the subject-matter of procurement and it shall not be less than three. The rules shall be objective and non-discriminating and must be published.
(2) If the contracting authority establishes that the number of suitable candidates is higher than the announced number of candidates to receive an invitation to participate in the competitive dialogue, the contracting authority may invite all of them or select the best candidates amongst the suitable select in accordance with the number and criteria stated in the notice. The reasons for the selection shall be noted in the minutes.
(3) The contracting authority may continue the procedure by inviting one or more suitable candidates if it establishes that the number of suitable candidates is smaller than the announced number of candidates to receive an invitation to participate in the competitive dialogue, and if there are no suitable candidates, the contracting authority shall cancel the procedure.
(4) The contracting authority may foresee fees for participants in the competitive dialogue.

Design contests

Article 28

(1) Design contests shall be conducted as either open or restricted contests.
(2) Design contests shall be conducted in accordance with the rules of the profession, and tender documents shall include information concerning:
1. the subject-matter of the contest/description of the project,
2. the procedure for the jury,

3. prizes or payments, if any,
4. the right to apply and utilize submitted plans and projects,
5. returning of the documents,
6. evaluation criteria listed in the order of importance in the notice for an open or restricted contest,
7. the fact whether one or more (and how many) contest winners are to be selected,
8. reasons for rejection,
9. deadlines.

(3) In an open contest, an unlimited number of economic operators and persons are publicly invited to submit their plans and projects.

(4) In a restricted contest, an unlimited number of economic operators and persons are publicly invited to submit their requests to participate and the selected candidates are then invited to submit their plans and projects. The restricted contest notice shall include the number of suitable candidates, which may not be smaller than three, who are to be invited to submit their plans and projects. The criteria on the basis of which the jury is to adopt the decision must be clear, non-discriminating and determined in advance in the order of their importance, and must take into account the special needs of the contest subject-matter.

(5) Only the candidates who have submitted their requests to participate in good time based on the contest notice and who have demonstrated their ability are entitled to participate in a restricted contest.

(6) Minutes shall be drawn up concerning the evaluation of the requests to participate, which shall include all relevant circumstances for the assessment of the suitability of the candidates. If so requested, candidates shall be granted access to the part of the minutes relating to their request to participate, which must be taken into consideration when drawing up the minutes.

(7) If in a restricted contest the number of suitable candidates who have applied is greater than the announced number of candidates to whom an invitation to submit their plans and projects is to be sent, the best candidates amongst those suitable shall be selected in accordance with the selection criteria and the number stated in the invitation. Reasons for the selection shall be noted in the minutes. The decision on the inadmissibility of their participation shall be sent to all candidates who will not be invited to submit their plans and projects not later than seven days after the decision is adopted. The decision on the inadmissibility of participation shall include reasons for such inadmissibility.

(8) If the number of suitable candidates who have applied is lower than the announced number of candidates to whom an invitation to submit their plans and projects is to be sent, the procedure may be continued by inviting one or more suitable candidates. Other economic operators or candidates who failed to prove their ability shall not be included in the restricted contest procedure.

Conducting a design contest

Article 29

(1) The procedure of selecting plans and projects shall be conducted by the jury.

(2) The jury shall not be composed of persons whose private interest influences or might influence the impartiality of the jury member in his work. Where a particular professional qualification is required from candidates, at least a third of the members of the jury shall have that qualification or an equivalent qualification.

(3) The content of plans and projects shall not be disclosed before the expiration of the time limit for the submission thereof.

(4) The jury shall be independent in its selection of one or more winners of the contest and shall adopt a decision on the winner(s) from among the projects which are submitted anonymously and on the basis of the evaluation criteria.
(5) The jury shall draw up minutes on the ranking of projects, in which it must assess the merits of each project. The minutes shall include the jury's remarks and any points which may need clarification concerning a particular project. The minutes shall be signed by all members of the jury.
(6) Candidates who have submitted their projects may be invited to provide clarifications concerning the projects they submitted, which the jury must record in the minutes. The jury shall examine the projects submitted by the candidates anonymously and solely on the basis of the criteria stated in the contest notice.
(7) The jury shall submit its decision on the selection of projects to the contracting authority for further procedure.
(8) Design contests may be held in one or several stages.
(9) The provisions of this Act regulating the electronic submission of tenders shall apply to the electronic submission of projects (plans, drawings and the like).
(10) If a design contest does not result in the negotiated procedure without prior publication of a contract notice to award a public service contract, and either prize or payment is to be awarded, the decision on the award of such prizes or payments shall be sent to all candidates who submitted their plans and projects not later than eight days after the decision is adopted. The decision shall include the information on the candidate who is to receive the prize or payment and the composition of the jury.
(11) If a design contest results in the negotiated procedure without prior publication of a contract notice to award a public service contract, the decision on the inadmissibility of their participation shall be sent to the candidates whose the participation in the further negotiated procedure is not permitted not later than eight days after the decision is adopted. The decision shall include the composition of the jury.
(12) The provisions of Articles 93 and 94 of this Act shall apply to the cancellation of contests, and the provisions of Article 95 of this Act shall apply to the publication of a decision to cancel the contest.

Title Two
PROVISIONS CONCERNING THE IMPLEMENTATION OF PUBLIC PROCUREMENT PROCEDURES

Section 1
INFORMATION SUBMISSION METHODS

Communication and information exchange between contracting authorities and economic operators

Article 30

(1) All communication and information exchange between contracting authorities and economic operators may be by post, by electronic means, by telephone, by fax or by a combination of those means, according to the choice of the contracting authority.
(2) All communication between contracting authorities and economic operators shall be made in a traceable way, regardless of the means of communication chosen.
(3) Where requests to participate are made by telephone, a written confirmation must be sent

before expiry of the time limit set for their receipt.
(4) The contracting authority may require that requests to participate made by fax must be confirmed by post or by electronic means before the expiration of the time limit for the submission of requests, where such requirement, together with the time limit for sending confirmation by post or electronic means, must be stated by the contracting authority in the contract notice.
(5) The means of communication chosen for submitting information must be generally available and may not lead to discrimination. The tools to be used for communicating by electronic means may not have discriminating technical characteristics and must be interoperable with the information and communication technology products in general use.
(6) The permissibility of the electronic submission of tenders shall be published in the tender documents at the latest.
(7) The electronic submission of tender documents, tenders and documents connected with the evaluation of the tender shall be accompanied by an advanced electronic signature or made in such a way as to ensure that the integrity and originality of the content of the submitted electronic document is preserved.
(8) Requirements laid down for the devices for the receipt of electronically submitted documents in connection with the public procurement procedure shall conform to the requirements of Annex VII to this Act.
(9) Contracting authorities and economic operators shall indicate the fax number or electronic address to which all documents and information can be duly submitted. If this Act stipulates mandatory communication of decisions to economic operators by electronic means, the submission by post is permitted only in justified exceptional cases, if such cases were laid down in the tender documents by the contracting authority. Consignments submitted electronically shall be regarded as delivered as soon as the data contained in the consignment reaches the electronic area used by the recipient.
(10) Minutes, requests for information from economic operators, information produced by contracting authorities, and all clarifications and documents used as the basis for making decisions, if produced or submitted exclusively by electronic means, shall be marked at the time of drawing-up or transmission, i.e. receipt by the contracting authority in such form and with such content so as to enable the identification of any subsequent changes to the content and the time when they were drawn up, transmitted, or received by the contracting authority.

Section 2
PROVISIONS ON PUBLICATION

Contract notices

Article 31

(1) Contract notices are the following:
1. the invitation to tender in an open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice and in the competitive dialogue procedure;
2. the invitation to an open or restricted contest;
3. a simplified contract notice for use in a dynamic purchasing system;
4. a prior information notice;
5. a contract award notice, a notice on the results of a contest and a notice on awarded framework agreements;
6. a notice on the commencement of a public procurement procedure in the event of a

negotiated procedure without prior publication of a contract notice and on the award of a public service contract referred to in Annex II B, and in the event of exclusions from the application of this Act.
(2) Contracting authorities shall indicate in the notice referred to in paragraph 1 of this Article which evidence the economic operators must submit to prove their ability, if the publication thereof is laid down in Annex V to this Act.
(3) If, following an open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice, or following a repeated invitation to tender within a framework agreement or following a special invitation to submit within a dynamic purchasing system, the tender is to be chosen in an electronic auction, the notice shall include a provision to that effect.
(4) If a framework agreement is to be concluded based on an open procedure, restricted procedure, negotiated procedure or competitive dialogue, the notice shall include a provision to that effect.
(5) If a dynamic purchasing system is to be set up following an open procedure, the notice shall include a provision to that effect.
(6) The content of the notices stipulated in paragraph 1 of this Article is laid down in Annexes V and VI to this Act.
(7) The form and content of the standard forms of public procurement notices and the conditions for the publication thereof shall be prescribed by the Government of the Republic of Croatia in the Regulation on public procurement notices and records.

Levels of publication

Article 32

(1) The contracting authorities shall publish:
in the Electronic Public Procurement Classifieds in the Official Gazette, contract notices for procurements with estimated value equal or greater than HRK 70,000.00,
in the Official Journal of the European Community, contract notices for procurements with the estimated value stipulated in the Regulation on public procurement notices and records.
(2) Contracting authorities may freely decide on further publication of the notices referred to in Article 31 of this Act in other publications, other media or in some other way.
(3) Contracting authorities may not publish the contract notices referred to in paragraph 1 of this Article in other publications and other media before the date the notice is sent to the Electronic Public Procurement Classifieds in the Official Gazette. Notices published in accordance with the provisions of paragraph 2 of this Article may contain only such data that is included in the notices referred to in paragraph 1 of this Article. The notice shall include the date the notice is sent to the Electronic Public Procurement Classifieds in the Official Gazette.
(4) Where notices are published by electronic means, the content thereof shall be available at least until the expiry of the time limit for submitting requests to participate or until the expiry of the time limit for the receipt of tenders.
(5) Contracting authorities shall deliver notices to the Electronic Public Procurement Classifieds in the Official Gazette without any delay and directly by using the appropriate standard notice forms.
(6) Delivery means the making of data on notices and announcements available online. Notices and publications shall be delivered by electronic means, by fax or by post.
(7) Contracting authorities must be able to supply proof of the dates on which notices and

announcements are dispatched. If the data is made available online, the entry of data in the online system is regarded as dispatching.

Notices corrections

Article 33

If it is necessary to correct the notice, the contracting authority shall publish any corrections of the notice in the same way as the original notice.

Information notice on a buyer profile

Article 34

(1) Contracting authorities may make known their profile, as described in Annex V to this Act, at their Internet address.
(2) The buyer profile may include information from prior information notices, information on ongoing invitations to tender, scheduled purchases, contracts concluded, procedures cancelled and any other information, such as a contact point, a telephone and a fax number, a postal address and an electronic address.

Using the Common Procurement Vocabulary (CPV) in notices

Article 35

(1) Contracting authorities shall use the codes and descriptions of the Common Procurement Vocabulary (CPV) in the contract notice and in the tender documents when describing the subject-matter of procurement.
(2) The conditions for applying the Common Procurement Vocabulary (CPV) shall be prescribed by the Government of the Republic of Croatia in the Regulation on the conditions for applying the Common Procurement Vocabulary (CPV).

Publication of a prior information notice

Article 36

(1) The contracting authority shall make known, by way of a prior information notice published in the Electronic Public Procurement Classifieds in the Official Gazette or on its buyer profile, as described in Annex V A:
1. where public supply contracts are concerned – information on the groups of supplies classified according to the codes and descriptions of the Common Procurement Vocabulary (CPV) and the estimated total value of all contracts or framework agreements which the contracting authority intends to award over the following twelve months, where the total estimated value is equal to or greater than EUR 750,000,
2. where public service contracts are concerned – information on public services in accordance with the categories and codes of Annex II A to this Act and the estimated total value of all contracts or framework agreements which the contracting authority intends to award over the following twelve months, where the total estimated value is equal to or greater than EUR 750,000,

3. where public works contracts are concerned – information on the essential characteristics of the contracts or the framework agreements which the contracting authority intends to award, where the total estimated value is equal to or greater than EUR 5,278,000.
(2) The contracting authority shall send the notice relating to public supply contracts and public service contracts listed in Annex II A to this Act referred to in items 1 and 2, paragraph 1 of this Article to the European Commission or publish it on the buyer profile as soon as possible after the beginning of the budgetary year. The contracting authority shall send the prior information notice relating to public works contracts referred to in item 3, paragraph 1 of this Article to the European Commission or publish it on the buyer profile as soon as possible after the decision approving the planning of the works contracts or the framework agreements that the contracting authorites intend to award.
(3) The contracting authority shall send the notice of the publication of the prior information notice to the European Commission in accordance with the format and detailed procedures for sending notices indicated in point 3 of Annex VI. The buyer profile shall include the date of dispatch of the notice to the European Commission.
(4) Publication of the prior information notice shall be compulsory only where the contracting authority takes the option of shortening the time limits for the receipt of tenders as laid down in Article 43 of this Act.
(5) This paragraph shall not apply to negotiated procedures without prior publication of a contract notice.

Contract award notices, notices on the results of a contest and notices on awarded framework agreements

Article 37

(1) The contracting authority shall publish in the Electronic Public Procurement Classifieds in the Official Gazette, using standard forms, a notice concerning each awarded public works contract, public supply contract or public service contract and concerning the results of each contest no later than 48 days after the contract award decision is adopted, or the contest is concluded.
(2) The contracting authority shall publish in the Electronic Public Procurement Classifieds in the Official Gazette, using standard forms, a notice on each concluded framework agreement not later than 48 days after the framework agreement is concluded. Contracting authorities are not obliged to publish notices on public works contracts, public supply contracts and public service contracts concluded pursuant to a framework agreement.
(3) The contracting authority shall publish in the Electronic Public Procurement Classifieds a notice concerning each awarded public works contract, public supply contract or public service contract concluded on the basis of a dynamic purchasing system. Such notices shall be submitted by using standard forms:
– not later than 48 days after each contract award decision is adopted, or
– in groups on a quarterly basis, not later than 48 days after the end of each quarter.
(4) In the case of public contracts for services listed in Annex II B to this Act, the contracting authority shall indicate in the notice whether it agrees to its publication.
(5) Certain information on the contract award, the results of the contest or the conclusion of the framework agreement may be withheld from publication where release of such information would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

Section 3
TIME LIMITS

Subsection 1
PROVISIONS ON TIME LIMITS

Calculating the time limits

Article 38

When calculating the time limits under this Act, the provisions of the law governing the administrative procedure shall apply.

The method of fixing and extending time limits

Article 39

(1) The contracting authority shall fix the time limits which are sufficiently long to allow economic operators concerned to take appropriate actions.
(2) The time limit for the receipt of tenders in the event of corrections or changes to the contract notice or tender documents shall be extended if the correction or change has a significant impact on the drawing up of the tenders. All candidates or tenderers shall be notified, with appropriate traceable means of communication, of each extension of the time limit for the receipt of tenders.
(3) The contracting authority shall extend the time limit for the receipt of requests to participate or the time limit for the receipt of tenders for electronically submitted tenders if the server to which the requests or tenders are submitted was not available online at all times prior to the expiry of the time limit. All candidates or tenderers shall be notified, with appropriate traceable means of communication, of each extension of the time limit.

Time limits for the submission of tender documents and additional information

Article 40

(1) In the case of open procedures:
1. the tender documents and any supporting documents shall be sent to the economic operators or made available in some other way not later than within six days of the date they were requested, provided that the request was made in good time before the final time limit for the submission of tenders, unless the contracting authority provides for unrestricted and complete direct access by electronic means,
2. the contracting authority shall send the additional information on the tender documents and the supporting documents, including any corrections or changes thereto, not less than six days before the final time limit for the submission of tenders, provided that it was the request was made in good time.
(2) In the case of restricted procedures, competitive dialogue procedures and negotiated procedures with prior publication of a contract notice:
1. the contracting authority shall invite, simultaneously and in writing, the selected candidates to submit their tenders, to negotiate or to participate in the dialogue,
2. the contracting authority shall submit the additional information on the specifications and

any supporting documents not less than four days before the final time limit for the receipt of tenders, provided that they were requested in good time.
(3) If a person, other than the contracting authority responsible for the award procedure has the tender documents or a part thereof, the notice shall state the address from which the documents may be requested, the final time limit for requesting such documents, the amount payable for obtaining the documents, if any, and the method of payment. The contracting authority or the competent person shall send the tender documents or make them available to the economic operator without delay upon the receipt of a request and payment of the price, if applicable.
(4) If, for whatever reason, the tender documents and the supporting documents or additional information, although requested in good time, are not supplied, or made available within the time limits, or where the tenders can be drawn up only after a visit to the construction site or after on-the-spot inspection of the documents supporting the tender documents, the time limits for the receipt of tenders shall be extended so that all economic operators concerned may be aware of all the information needed to draw up their tender.

Section 2
REGULAR TIME LIMITS FOR PUBLIC PROCUREMENT PROCEDURES

Time limits for the receipt of tenders

Article 41

(1) In the case of an open procedure, the minimum time limit set by the contracting authority for the receipt of tenders shall be 52 days from the date on which the contract notice was sent.
(2) In the case of a restricted procedure, the minimum time limit set by the contracting authority for the receipt of tenders shall be 40 days from the date on which the invitation to tender is sent.
(3) In the case of public procurement procedures with the estimated value of less than the amounts laid down in the Regulation on public procurement notices and records, which must be published at the level of the European Community, the minimum time limit for the receipt of tenders shall be:
– in the case of an open procedure, 26 days from the date on which the contract notice is sent,
– in the case of a restricted procedure, 20 days from the date on which the invitation to tender is sent.

Time limits for the receipt of requests to participate

Article 42

(1) In restricted procedures, in negotiated procedures with prior publication of a contract notice and in the competitive dialogue, the minimum time limit set by the contracting authority for the receipt of requests to participate shall be 37 days from the date on which the contract notice is sent.
(2) In the case of public procurement procedures with the estimated value of less than the amounts laid down in the Regulation on public procurement notices and records, which must be published at the level of the European Community, the minimum time limit for the receipt of requests to participate shall be 20 days from the date on which the contract notice is sent.

Section 3
SHORTENED TIME LIMITS FOR PUBLIC PROCUREMENT PROCEDURES

Shortened time limits for the receipt of tenders in procedures with a prior information notice

Article 43

(1) The time limit referred to in Article 41, paragraphs 1 and 2 of this Act may be shortened to 36 days, but under no circumstances to less than 22 days, provided that the contracting authority, in accordance with the provisions of Article 36 of this Act, sent the prior information notice for publication to Narodne novine no less than 52 days and not more than 12 months before the date on which the contract notice was sent.
(2) The prior information notice shall include all the information stated in Annex V A to this Act for the publication of a prior information notice, insofar as that information is available at the time the prior information notice is published.

Shortened time limits for the receipt of tenders and requests to participate when using electronic means

Article 44

(1) Where notices are drawn up and transmitted by electronic means in accordance with the format and procedures for transmission indicated in point 3 of Annex VI, the following time limits may be shortened by seven days:
1. the regular time limit or the shortened time limit for the receipt of tenders in open procedures, and
2. the time limit for the receipt of requests to participate in restricted procedures, in negotiated procedures with prior publication of a contract notice and in the competitive dialogue.
(2) The time limits for the receipt of tenders in the open and restricted procedures may be shortened by five days where the contracting authority, from the date of publication of the contract notice, offers unrestricted and full direct access by electronic means to the tender documents and any supplementary documents relating to the public procurement procedure. The notice shall specify the Internet address at which this documentation is accessible.
(3) The reduction of the time limits referred to in paragraph 2 of this Article may be added to that referred to in paragraphs 1 of this Article.

Shortened time limits for the receipt of requests to participate and for the receipt of tenders for reasons of urgency

Article 45

In the case of restricted procedures and negotiated procedures with prior publication of a contract notice, where urgency renders impracticable the regular or shortened time limits, the contracting authority may fix the following time limits:
1. a time limit for the receipt of requests to participate in a public procurement procedure which may not be less than 15 days from the date on which the contract notice was sent, or
2. a time limit for the receipt of requests to participate in a public procurement procedure which may not be less than 10 days from the date on which the contract notice was sent, if the notice was drawn up electronically using the standard forms and if it was sent by electronic

means,
3. a time limit for the receipt of tenders in a restricted procedure which may not be less than 10 days from the date on which the invitation to tender was sent, if the notice was drawn up electronically using the standard forms and if it was sent by electronic means.

Section 4
SUITABILITY OF ECONOMIC OPERATORS

Subsection 1
EXCLUSION OF ECONOMIC OPERATORS FROM PARTICIPATION IN A PUBLIC PROCUREMENT PROCEDURE

Reasons for exclusion

Article 46

The contracting authority shall exclude from participation in a public procurement procedure any economic operator:
1. if the economic operator or the person authorised to represent the economic operator has been the subject of a conviction by final judgment for the criminal acts of participation in a criminal organisation, corruption, fraud and money laundering, or the corresponding criminal acts in accordance with the legal provisions of the country in which he is established, and
2. if the economic operator has not fulfilled obligations relating to the payment of all mature taxes and obligations relating to the payment of pension and health insurance contributions, and other state levies.
(2) If the contracting authority has laid this down as a condition of suitability, it shall exclude any economic operator from participation in the public procurement procedure where that economic operator:
1. is subject to a bankruptcy procedure, except in the event where there is a final judgment confirming the bankruptcy plan, or where the economic operator is in the process of liquidation (or any analogous situation arising from a similar procedure under legal provisions of the country in which he is established),
2. is in the process of winding up his business or where he has already suspended his business activities,
3.has been convicted or the person authorised to represent the economic operator has been convicted by a judgment which has the force of res judicata of any offence concerning his professional conduct,
4. has been guilty of professional misconduct which the contracting authority can prove by any means, and
5. has not submitted evidence of his ability, appropriate evidence of ability or if he has submitted untruthful evidence.

Subsection 2
CONDITIONS AND EVIDENCE OF SUITABILITY

Determining the moment of suitability

Article 47

Suitability must exist no later than:
1. at the time of opening of the tender in an open procedure,
2. at the time of the invitation to tender in a restricted procedure and in a negotiated procedure,
3. at the time of submission of plans and projects in an open contest,
4. at the time of the invitation to submit plans and projects in a restricted contest,
5. at a specific point in time in the case of framework agreements, depending on the type of the public procurement procedure selected for the conclusion of a framework agreement in accordance with the provisions of items 1 and 2 of this Article, and at the time of expiry of the time limit for the receipt of tenders in the case of a repeated invitation to tender,
6. at the time when the permission is granted to participate in the dynamic purchasing system and at the time of expiry of the time limit for the receipt of tenders based on the special invitation to tender in accordance with the provisions of Article 104 of this Act, and
7. at the time of the invitation to tender in the competitive dialogue.

Exclusion criteria

Article 48

(1) The contracting authority shall determine the criteria for legal and business capacity and the conditions relating to the non-existence of a criminal record, while the criteria for the financial and economic standing of the economic operator shall be determined in accordance with the provision of Article 51, paragraph 1 of this Act.
(2) In a public procurement procedure, where necessary, the contracting authority may determine the criteria:
1. of financial and economic standing of the economic operator in accordance with the provisions of Article 51, paragraph 2 of this Act, and
2. of technical and professional ability of the economic operator.
(3) Evidence and the value indicators thereof which the contracting authority requires to establish the ability of an economic operator may be required only to the extent to which that is justified by the subject-matter of procurement and the estimated value of procurement. The contracting authority shall respect the justified interests of the economic operator to protect his technical or business secrets.
(4) For the purpose of establishing the ability of an economic operator, the contracting authority may request only the evidence of ability stipulated in the provisions of this Act.
(5) In the event of a joint tender, all members of the group of tenderers shall individually prove that they satisfy the criteria referred to in paragraph 1 of this Article.
(6) The Republic of Croatia shall notify the European Commission of the competent authorities for issuing documents proving the ability of an economic operator under this Act. Such notifications shall not be contrary to the regulations on data protection.

Evidence of legal and business capacity

Article 49

(1) The contracting authority shall request the economic operator to provide the following as evidence of his legal and business capacity:
1. the certificate of registration with the business, court (commercial), professional, trades/crafts or other appropriate register or an adequate certificate proving that a bankruptcy

procedure is not pending, that the economic operator is not in the procedure of liquidation or in the procedure of winding up his business activity or that he has not wound up his business activity, or
2. the evidence that the economic operator holds an authorisation, approval and the like that he needs in the country where he is established in order to perform activities related to the subject-matter of procurement or a certificate of membership in a specific professional organization which is mandatory in the country where he is established in order to perform activities related to the subject-matter of procurement.
(2) If the evidence referred to in paragraph 1 of this Article is not issued in the country where the economic operator is established, the contracting authority may request the economic operator to provide an appropriate statement with the signature certified by the competent authority.
(3) The evidence of legal and business capacity shall not be older than six months on the date on which the notice was sent.

Evidence of the non-existence of a criminal record

Article 50

(1) The contracting authority shall require from the economic operator to provide proof that the economic operator or the person authorised to represent the economic operator has not been the subject of a conviction by final judgment for the criminal acts of participation in a criminal organisation, corruption, fraud and money laundering, or corresponding criminal acts in accordance with the legal provisions of the country in which the economic operator is established, in accordance with special legal provisions of the country in which the economic operator is established.
(2) The contracting authority may request the economic operator to provide evidence that the economic operator or the person authorised to represent the economic operator has not been convicted by a judgment which has the force of res judicata of any offence concerning his professional conduct or that he is not guilty of professional misconduct, and require the evidence in accordance with the special legal provisions of the country in which the economic operator is established.
(3) The evidence of the non-existence of a criminal record shall not be older than 30 days on the date on which the notice was sent.

Proof of the economic operator's economic and financial standing

Article 51

(1) As proof that there are no reasons for exclusion referred to in the provision of Article 46, paragraph 1, item 2 of this Act, the contracting authority shall require a certificate issued by the tax authority concerning the state of debt or an equivalent document issued by the competent authorities of the country in which the economic operator is established, which may not be older than 30 days on the date on which the notice was sent.
(2) Along with the proof referred to in paragraph 1 of this Article, the contracting authority may require one or more of the following references as proof of the economic operator's economic and financial standing:
1. the balance-sheet, the profit and loss account or an appropriate financial statement, if the publication thereof is required under the law of the country in which the economic operator is

established,
2. documents issued by banks or other financial institutions proving the solvency of the economic operator,
3. a guarantee for the coverage of professional risk indemnity insurance,
4. a statement concerning the joint and several liability of a group of tenderers,
5. a report or statement of the economic operator's overall turnover and, where appropriate, of the turnover of the economic operator generated in the area covered by the procurement in question for a period of one to a maximum of the last three financial years available, or for a shorter period of activity in the event that the economic operator did not trade in the period concerned.
(3) The economic operator may prove his economic and financial standing by any other document, other than the one required by the contracting authority, if the required proof cannot be submitted for any valid reason and if the submitted proof has the same evidentiary weight as the required one.
(4) The contracting authority shall state in the contract notice which evidence referred to in this Article it requires, and make reference to the possibility of proving one's standing by any other document within the meaning of paragraph 3 of this Article.

Proof of technical and professional ability

Article 52

(1) As proof of the technical and professional ability of the economic operators, the contracting authority may require the proof referred to in this Article, depending on the nature, quantity or scope and use of the subject-matter of procurement.
(2) If the contracting authority requires proof of satisfactory execution of contracts, the proof shall be submitted in the form of a list (referred to in paragraph 4, item 1, paragraph 5, item 1, and paragraph 6, item 1 of this Article), accompanied by certificates of satisfactory execution of contracts, provided by the other contracting party to the contracts concerned. If, for objective reasons, such a certificate cannot be obtained from a contracting party which is not the contracting authority referred to in Article 2 of this Act, a statement issued by the economic operator concerning satisfactory execution of contracts shall also be valid, on presentation of proof that the certificate was requested.
(3) The certificate of satisfactory execution of contracts shall include the following data:
1. the name and place of establishment of the contracting parties,
2. the subject-matter of the contract,
3. the value of the contract

4. the time and place of performance of the contract,
5. a statement concerning the satisfactory execution of contracts.
(4) In the event of public supply contracts, the contracting authority may require the following proof to verify the technical and professional ability:
1. a list of the principal deliveries effected in the past three years,
2. a statement concerning the description of the technical facilities and measures used by the economic operator for ensuring quality and the economic operator's study and research facilities,
3. a list of the technicians or technical departments involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control,

4. certificates drawn up by the competent quality control institutes or agencies attesting the conformity of products clearly identified by references to specifications or standards,
5. a statement by the economic operator accepting the procedure of quality control for the products which are complex or products which are exceptionally required for a special purpose, where a check is carried out by the contracting authority or on its behalf by a competent body of the country in which the economic operator is established, on the production capacities of the economic operator and, if necessary, on the means of study and research which are available to it and the quality control measures the economic operator will use,
6. a statement by the economic operator that he has at his disposal persons who have the educational and professional qualifications and experience for the activities of siting and installation of the products being procured.
(5) In the event of public works contracts, the contracting authority may require the following proof to verify the technical and professional ability:
1. a list of the works carried out over the past five years,
2. a list of the technicians or technical departments involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control,
3. a certificate proving the educational qualifications and a certificate proving the professional qualifications of the persons responsible for the execution of the works,
4. a statement by the economic operator concerning the measures of environmental management which the economic operator will apply during the execution of the works, in the event of public works of the type which justifies the request of the contracting authority to apply such measures,
5. a statement by the economic operator concerning construction machinery and technical equipment available to the economic operator to perform the contract,
6. a statement by the economic operator on the average annual manpower and the number of managerial staff over the past three years,
7. a statement by the economic operator concerning the part of the contract he intends to subcontract,
8. a statement by the economic operator that he has at his disposal persons who have the educational and professional qualifications and experience for the execution of the works.
(6) In the event of public service contracts, the contracting authority may require the following proof to verify the technical and professional ability:
1. a list of the principal services carried out over the past three years,
2. a statement concerning the description of the technical facilities and measures used by the economic operator for ensuring quality and the economic operator's study and research facilities,
3. a list of the technicians or technical departments involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control,
4. a statement by the economic operator accepting the procedure of quality control for the services which are complex or the services which are exceptionally required for a special purpose, where a check is carried out by the contracting authority or on its behalf by a competent body of the country in which the economic operator is established, on the technical capacities of the economic operator and, if necessary, on the means of study and research which are available to it and the quality control measures the economic operator will use,
5. a document proving the educational qualifications and a certificate proving the professional qualifications of the persons responsible for the provision of the services,
6. a statement by the economic operator concerning the measures of environmental

management which the economic operator will apply during the provision of the services, in the event of services of the type which justifies the request of the contracting authority to apply such measures,
7. a statement by the economic operator concerning the construction machinery and technical equipment available to the economic operator to perform the contract,
6. a statement by the economic operator on the average annual number of workers and the number of managerial staff over the past three years,
7. a statement by the economic operator concerning the part of the contract he intends to subcontract,
8. a statement by the economic operator that he has at his disposal persons who have the educational and professional qualifications and experience for the provision of the services.

Proof of the ability of other economic operators and groups of tenderers

Article 53

Any economic operator or a group of tenderers may use the capacities of other economic operators, regardless of their mutual legal relationship, for the purpose of proving their ability. In this case the economic operator must prove to the contracting authority that he will have at his disposal the resources necessary to perform the public contract.

Quality assurance standards and environmental management standards

Article 54

(1) The contracting authority may require from economic operators to prove their compliance with certain quality assurance standards. For the purpose of proving such compliance, certificates shall be used, drawn up by independent bodies referring to quality assurance systems based on the relevant European standards series and certified by official bodies, in conformity with the European standards series concerning certification. Contracting authorities shall recognise equivalent certificates from bodies established in other Member States. Contracting authorities shall also accept other evidence of equivalent quality assurance measures.
(2) Should contracting authorities, in the cases referred to in Article 52, paragraph 5, item 4, and paragraph 6, item 6 of this Act, require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain environmental management standards, they shall refer to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant Croatian, European or international standards. Contracting authorities shall recognise equivalent certificates from bodies established in other Member States. Contracting authorities shall also accept other evidence of equivalent environmental management measures from economic operators.

Section 5
TENDER DOCUMENTS

Subsection 1
GENERAL PROVISIONS ON TENDER DOCUMENTS

The method of drawing up tender documents

Article 55

(1) The tender documents shall establish the requirements pertaining to the tender format, the tender content, its term of validity, the price, the technical specifications (descriptions of the subject-matter of the procurement), the contractual provisions, and the evidence that the economic operators must submit along with their tender to prove that they meet the suitability criteria referred to in Article 48 of this Act.
(2) The tender documents shall be drawn up in such a way to enable the tenders to be compared and the prices to be calculated without assuming unusual risks and without extensive preliminary actions on the part of the tenderer.
(3) If the contracting authority subdivided the subject-matter of procurement into groups or lots, the tender documents shall be made in such a way to enable the tenderer to determine the price for the groups or lots.
(4) The tender documents shall be drawn up in such a way to enable the tenderer to set prices for variants, where they are foreseen for either the overall procurement or for particular groups or lots of the subject-matter of procurement.
(5) The contracting authority may state in the tender documents the bodies from which a candidate or tenderer may obtain valid information on the obligations relating to taxes, environmental protection, energy efficiency, work safety provisions and working conditions which are in force in the area in which the works are to be carried out or services are to be provided and which shall be applicable to the works performed on-site or to the services provided during the performance of the contract.
(6) In the event where the information referred to in paragraph 5 of this Article is submitted, the contracting authority shall request the candidates and tenderers to state that when drawing up their tender they have taken into account their obligations relating to employment protection provisions and the provisions on working conditions which are in force in the area in which the works are to be carried out or the services are to be provided. This provision shall be without prejudice to the application of the provisions concerning the examination of abnormally low tenders.
(7) Before launching a public procurement procedure, the contracting authority may, using a technical dialogue, seek or accept advice which may be used in the preparation of the specifications, provided that such advise does not have the effect of precluding competition.
(8) The content of the tender documents shall be prescribed by the Government of the Republic of Croatia in the Regulation on the methodology for drawing up and handling tender documents and tenders.

The cost of production of the tender documents

Article 56

In a public procurement procedure, the contracting authority may request from the economic operator reimbursement of the cost of production of the tender documents (for paper, printing, copying, data-carrier), and reimbursement of shipping costs, if any.

Submitting the tender documents

Article 57

(1) In public procurement procedures, each interested economic operator and each candidate invited to submit a tender shall be provided an equal opportunity to access all documents necessary to draw up a tender, to make copies thereof or to purchase the documents, if so foreseen.
(2) The provisions of Article 40, paragraph 1 of this Act shall apply to the submission of tender documents in open procedures.
(3) In restricted procedures, negotiated procedures and the competitive dialogue, tender documents shall be submitted along with the invitation to tender or made readily available by electronic means at the same time as the relevant notice.
(4) Information on economic operators who have requested access to the documents or who have purchased the documents shall be kept confidential.
(5) If corrections or changes to the tender documents are necessary before the expiry of the time limit for the receipt of tenders, the tender documents shall be changed or corrected, and if necessary the notice shall also be changed or corrected, while the time limit for the receipt of tenders shall be appropriately extended, where necessary.
(6) The contracting authority shall ensure access to changes and corrections in good time for all economic operators.

Contract award criteria

Article 58

(1) The criteria on which contracting authorities shall base the award of public contracts shall be either:
a) when the award is made to the tender most economically advantageous from the point of view of the contracting authority, various criteria linked to the subject-matter of the public contract in question, for example, quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date and delivery period or period of completion, and the like, or
b) the lowest price.
(2) When the award is made to the tender most economically advantageous, the contracting authority shall specify in the contract notice or in the tender documents or, in the case of a competitive dialogue, in the descriptive document, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender. Those weightings can be expressed by providing for a range with an appropriate maximum spread.
(3) Where, in the opinion of the contracting authority, weighting of the criteria chosen to determine the most economically advantageous tender is not possible for demonstrable reasons, the contracting authority shall indicate in the contract notice or tender documents or, in the case of a competitive dialogue, in the descriptive document, the criteria in descending order of importance.
(4) The contracting authority shall draw up a report on the reasons for the application of the criteria chosen to determine the most economically advantageous tender and their relative weighing, and, where possible, determine the proportionate value thereof in the overall system of valuation and the method of calculation.

(5) The award criteria shall be without prejudice to the provisions concerning the remuneration of specific services, and in the event of supplies, they shall not affect the application of provisions setting out fixed prices.

Subcontractors and subsuppliers

Article 59

Contracting authorities may request the tenderers in public procurement procedures to indicate in their tenders any share of the contract which is to be performed by a subcontractor/subsupplier and the data on such subcontractor/subsupplier. Such indications shall be without prejudice to the liability of the tenderer.

Types of guarantees

Article 60

The types of guarantees shall be the following:
1. the tender guarantee – means a guarantee in the event that the tenderer decides to withdraw his tender during its term of validity, that is, provides inaccurate or inappropriate proof of his ability,
2. the performance guarantee – means a guarantee in the event of breach of certain contractual obligations,
3. the overpayment guarantee – means a guarantee in the event that the overpaid amount is to be repaid (repayment of advance payment, payment in instalments, or in line with a payment plan),
4.the warranty period guarantee – means a guarantee in the event that the agent fails to meet the obligation of rectifying defects, arising from the warranty or compensation of damages within the warranty period,
5. the professional liability insurance guarantee – means a guarantee warranting the rectification of damages which might occur in connection with the performance of a specific activity.

The tender guarantee

Article 61

(1) If the contracting authority requires a tender guarantee, it shall state the absolute amount of the guarantee in the tender documents. The tender guarantee, except in justified cases, may not exceed 5% of the estimated value of procurement.
(2) In the tender documents, the contracting authority shall state that the tender must include proof of the deposit of a tender guarantee and that the lack of such proof shall be an irremediable defect.
(3) The tender guarantee must be returned not later than 14 days after the adoption of the contract award decision or after the cancellation of the public procurement procedure, if undrawn. If the award decision is not made within the stipulated period for awarding the contract, the tender guarantee shall be returned not later than 14 days after the expiry of the time limit for the adoption of the contract award decision, unless the contracting authority requested an extension of the validity of the guarantee in accordance with the requested

extension of the term of validity of the tender.
(4) The tender guarantee shall be returned without any delay where the tender is not being considered for the contract award.

Subsidised housing schemes

Article 62

(1) In the case of public contracts relating to the design and construction of a subsidised housing scheme the size and complexity of which, and the estimated duration of the work involved require that planning be based from the outset on close collaboration within a team comprising representatives of the contracting authorities, experts and the contractor to be responsible for carrying out the works, a special award procedure may be adopted by the contracting authority for selecting the contractor most suitable for integration into the team.
(2) Contracting authorities shall include in the contract notice and tender documents as accurate as possible a description of the works to be carried out so as to enable interested economic operators to become aware of all conditions and circumstances necessary to draw up a tender. In the contract notice and tender documents, contracting authorities shall, in accordance with the ability criteria, set out the professional, technical, economic and financial conditions to be fulfilled by candidates.
(3) Where the procedure referred to in paragraph 1 of this Article is adopted by the contracting authority, it shall comply with the provisions of this Act concerning the principles of public procurement, contract notices, time limits, the methods of submitting information, the obligation to keep documents and the suitability of economic operators.

Subsection 2
SPECIAL PROVISIONS ON THE TENDER DOCUMENTS

Provisions on the electronic submission of tenders

Article 63

(1) The contracting authority shall state whether the electronic submission of tenders is allowed, at the latest, in the tender documents. If the contracting authority has not expressly provided for the electronic submission of tenders, it shall not be allowed.
(2) If the electronic submission of tenders is allowed, the contracting authority shall state in the tender documents whether the tender is to be submitted only electronically or whether a hard copy of the tender must also be submitted.

Communication channels

Article 64

(1) The contracting authority shall identify, at the latest in the tender documents, one or more communication channels for the electronic submission of tenders. The contracting authority shall do it in a non-discriminatory manner and publish the electronic address to which the tenders must be submitted.
(2) The tools to be used for communicating by electronic means and their technical characteristics must be non-discriminatory, generally available and interoperable with the

information and communication technology products in general use.
(3) The communication channels referred to in paragraph 1 of this Article shall guarantee a successful and demonstrable exchange of electronic documents between the contracting authority and the tenderer.

Document formats

Article 65

(1) The contracting authority shall lay down the document formats for the preparation of tenders or parts thereof. The contracting authority shall do it in a non-discriminatory manner and it shall publish them in the tender documents at the latest.
(2) For tenders to be made in a single document and for the main parts of the tender, only the document formats which can be signed by advanced electronic signature may be stipulated.

Encryption

Article 66

(1) The contracting authority shall announce, in the tender documents at the latest, which encryption procedures applicable to the tender shall be allowed.
(2) Encryption methods that guarantee a sufficient level of security shall be used for the encryption referred to in paragraph 1 of this Article.

Subsection 3
THE SUBJECT-MATTER OF PROCUREMENT

Types of description of the subject-matter of procurement

Article 67

(1) The description of the subject-matter of procurement may be constructive, functional or a combination of both descriptions.
(2) In the case of a constructive description, the subject-matter of procurement shall be broken down in parts of the subject-matter of procurement in the cost-estimate of the subject-matter of procurement.
(3) In the case of a functional description, the subject-matter of procurement shall be described in terms of performance or functional requirements.

Describing the subject-matter of procurement

Article 68

(1) The contracting authority shall describe the subject-matter of procurement clearly, comprehensibly and unambiguously, so that tenderers may offer supplies, services or works comparable in terms of their type, quality, price and any other property and condition as may be required.
(2) In the case of a constructive description of the subject-matter of procurement, the subject-matter of procurement shall be described clearly, fully and neutrally, in a way which ensures

the comparability of tenders. The constructive description of the subject-matter of procurement shall contain technical specifications and, where appropriate, it shall be supplemented with plans, drawings, models, trials, samples and the like.
(3) In the case of a functional description of the subject-matter of procurement, the technical specifications shall describe the goal of procurement accurately and neutrally so that all the conditions and circumstances for drawing up a tender can be clearly recognised. The description of the subject-matter of procurement must identify the purpose of the subject-matter of procurement and the requirements set for the subject-matter of procurement in terms of its technical, economic, aesthetic and functional aspects, in a way which ensures the comparability of tenders on the basis of their aesthetic or functional requirements laid down by the contracting authority. The performance and functional requirements must be sufficiently precise to allow candidates and tenderers to get a clear idea of the contract subject-matter and to allow the contracting authority to award the contract. The functional description of the subject-matter of procurement must contain technical specifications as well as plans, drawings, models, trials, samples and similar, if they are available to the contracting authority.
(4) The description of the subject-matter of procurement and the formulation of the tasks shall not favour a specific tenderer.
(5) Where appropriate, the requirements laid down for the subject-matter of procurement shall include the environmental and/or energy-efficiency requirements. The description of the subject-matter of procurement shall indicate, where appropriate, the specifications for the delivery of environmental and/or energy-efficient products or for procurement within the framework of environmental and/or energy-efficient procedures, if technically or commercially possible.
(6) The description of the subject-matter of procurement and the requirements shall include all possible factors relating to the subject-matter of procurement which have had or will have an effect on the costs (e.g., operation and maintenance works, repairs, necessary storage of spare parts, waste management, the costs of energy or energy sources), if these costs are one of the award criteria.
(7) The description of the subject-matter of procurement and the requirements shall state all the circumstances (e.g., the place of performance, performance deadlines or special requirements regarding the method of performance of the subject-matter of procurement) which are significant for the performance of the subject-matter of procurement and thus also for the preparation of the tender. The same shall apply to the special aggravating or mitigating circumstances.
(8) In the description of the subject-matter of procurement and in the formulation of the task, the contracting authority shall state what samples, descriptions and photographs of products to be delivered the tenderers must enclose with their tender, the truthfulness of which must be proven subject to a request by the contracting authority.

Subdividing the subject-matter of procurement

Article 69

(1) The subject-matter of procurement may be subdivided based on the economic and technical criteria into groups or lots of the subject-matter of procurement in accordance with the sectors of the economy, professional areas, the type, quantity, place and time of delivery.
(2) Where the contracting authority has subdivided the subject-matter of procurement into groups or lots, all the groups or lots of the subject-matter of procurement must be specified in

the tender documents. In that case, the tenderers shall be allowed to tender for individual groups or lots of the subject-matter of procurement.
(3) The contracting authority shall specify the form of the tender and the tendering method for groups or lots of the subject-matter of procurement in the tender documents.
(4) A public contract shall be awarded separately for each group or lot of the subject-matter of procurement for which the tenderer was allowed to bid pursuant to the tender documents.

Technical specifications (technical description of the subject-matter of procurement)

Article 70

(1) The technical specifications as defined in Annex IV to this Act shall afford equal access for candidates and tenderers and not have the effect of creating unjustified obstacles to the opening up of public procurement to competition.
(2) Without prejudice to mandatory national technical rules, the technical specifications shall be formulated:
1. either by reference to technical specifications defined in Annex IV to this Act and, in order of preference, to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when these do not exist - to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products. Each reference shall be accompanied by the words "or equivalent", or
2. in terms of performance or functional requirements, the latter may include environmental characteristics and the characteristics of energy efficiency, or
3. in terms of performance or functional requirements as mentioned in item 2, paragraph 2 of this Article, with reference to the specifications mentioned in item 1, paragraph 2 of this Article as a means of presuming conformity with such performance or functional requirements, or
4. by referring to the technical specifications mentioned in item 1, paragraph 2 of this Article for certain characteristics, and by referring to the performance or functional requirements mentioned in item 2, paragraph 2 of this Article for other characteristics.
(3) Where the technical specifications are referred to in accordance with the provisions of item 1, paragraph 2 of this Article, the contracting authority may not reject a tender on the grounds that the products and services tendered for do not comply with the specifications to which it has referred, once the tenderer proves in his tender, by whatever appropriate means, that the solutions which he proposes satisfy in an equivalent manner the requirements defined by the technical specifications.
(4) Where the technical specifications are specified in terms of performance or functional requirements in accordance with the provisions of item 2, paragraph 2 of this Article, the contracting authority may not reject a tender which complies with a national standard transposing a European standard, with a European technical approval, a common technical specification, an international standard or a technical reference system established by a European standardisation body, if these specifications address the performance or functional requirements which the contracting authority has laid down. In his tender, the tenderer must prove by any appropriate means that the work, product or service in compliance with the standard meets the performance or functional requirements of the contracting authority .
(5) Recognised bodies for conformity evaluation within the meaning of this Article are independent laboratories, certification bodies, inspection and other bodies which participate in

the conformity evaluation procedure, authorised to conduct conformity evaluation procedures by a state administration body in accordance with the relevant Croatian standards which transpose applicable European standards. Contracting authorities shall accept certificates from recognised bodies established in other states if issued in accordance with the international treaties acceded to by the Republic of Croatia.
(6) An appropriate means within the meaning of this Article is the technical description of the manufacturer or a test report from a recognised body for conformity evaluation.
(7) Where contracting authorities lay down environmental characteristics in terms of performance or functional requirements as referred to in paragraph 2, item 2 of this Article, they may use the technical specifications, or parts thereof, as defined by European, national, multinational or other eco-labels, provided that:
1. those specifications are appropriate to define the characteristics of the supplies or services that are the object of the public contract,
2. the requirements for the eco-label are drawn up on the basis of scientific information,
3. the eco-labels are adopted using a procedure in which all stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations can participate, and
4. the eco-labels are accessible to all interested parties.
(8) Contracting authorities may indicate in the tender documents that the products and services bearing the eco-label are presumed to comply with the technical specifications laid down in the tender documents. Contracting authorities must accept any other appropriate means of proof.
(9) Unless justified by the subject-matter of procurement, technical specifications shall not refer to a specific make or source, or a particular process, or to trade marks, patents, types or a specific origin with the effect of favouring or eliminating certain economic operators or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of procurement is not possible, and such reference shall be accompanied by the words "or equivalent".
(10) Where on an exceptional basis an invitation to tender for a specific product appears accompanied by the words "or equivalent", the tenderer must state the information concerning such product and the type of the corresponding product it offers in the designated empty boxes in the cost-estimate, with the corresponding items, and, if requested, it must provide other information relating to the product. The criteria for the evaluation of equivalence shall be stated in the technical specifications of the subject-matter of procurement. The proof of equivalence shall be submitted by the tenderer. Products which are stated in the tender documents as examples shall be regarded as offered if the tenderer does not indicate any other products in the designated box in the cost-estimate of the subject-matter of procurement.
(11) Contracting authorities may lay down special conditions relating to the performance of a contract, provided that these are compatible with the law of the European Community and are indicated in the contract notice or in the technical specifications. The conditions governing the performance of a contract may, in particular, concern social and environmental considerations.

Section 6
PROVISIONS ON TENDERS

Subsection 1
GENERAL PROVISIONS ON TENDERS

Tenders

Article 71

(1) In the public procurement procedure, the tenderer shall comply with the requirements and conditions stated in the tender documents when drawing up his tender. The stipulated text of the tender documents shall not be modified or supplemented.
(2) Unless expressly provide otherwise in the tender documents, the tender and its supporting documents shall be drawn up in the Croatian language, and the tender price shall be denominated in HRK.
(3) When, from the position of the economic operator, it is necessary to amend or correct the contract notice and/or the tender documents, he shall communicate this to the contracting authority without any delay. The contracting authority shall, when necessary, correct the contract notice and/or the tender documents in accordance with the provisions of Article 57, paragraphs 5 and 6 of this Act.
(4) Before the expiry of the time limit for the receipt of tenders, the tenderer may use an additional, duly signed statement to amend, supplement or withdraw his tender. If the tender amendment results in a new total price, that price must also be stated. The amendment to the tender shall be submitted to the contracting authority in accordance with the provisions of this Act which apply to the tender, and the contracting authority must treat them as a tender. Should the tenderer withdraw his tender, he can immediately request for his unopened tender to be returned to him.

Variants

Article 72

(1) Variants are tenders in which the tenderer provides an alternative solution for the subject-matter of procurement. Contracting authorities shall expressly indicate in the contract notice and in the tender documents whether or not they authorise variants. Variants may be authorised only where the criterion for award is that of the most economically advantageous tender,. In case the tender documents do not contain an indication that variants are authorised, they shall not be allowed.
(2) Contracting authorities shall state in the tender documents the minimum requirements to be met by the variants for the subject-matter of procurement and any specific requirements for their presentation. Only variants meeting the minimum requirements laid down by these contracting authorities and providing for the performance of an equivalent (corresponding) subject-matter of procurement shall be taken into consideration. The proof of equivalence shall be submitted by the tenderer.
(3) Where the submission of variants is allowed, the contracting authority may not reject a submitted variant on the sole ground that it would lead to a public supply contract rather than a public service contract or vice versa.

Tender Content

Article 73

Each tender shall include:
1. the name (the company name or the abbreviated company name) and the place of establishment of the tenderer, and for groups of tenderers the information on the group of

tenderers and the principal tender for the participation in the public procurement procedure and contract award, and the electronic address of the tenderer or the service of the tenderer authorised to receive mail;
2. the data on the subcontractor/subsupplier, with enclosed necessary proof that the tenderer has at his disposal the resources necessary for the execution of the entire contract. The information on the subcontractor/subsupplier shall be provided along with the required proof of their legal and business capacity,
3. the data on the parts of the contract that the tenderer intends to assign to the subcontractor/subsupplier in the form of a subcontract,
4. the proof of a guarantee, where applicable,
5. prices with all the required breakdowns and necessary explanations. The cost-estimate and the summary (recapitulation) of the cost-estimate, the prices must be entered in the designated boxes,
6. the term of validity of the tender,
7. a list of documents attached to the tender,
8. the proof of legal and business capacity, non-existence a criminal record, financial and economic standing, and technical and professional ability, which are required in accordance with the provisions of the tender documents, and the documents submitted separately (e.g., samples),
9. an indication that it is a variant,
10. the date and the valid signature of the tenderer,
11. a statement by the tenderer that he is familiar with the provisions of the tender documents and that he accepts them, and that he shall perform the subject-matter of procurement in accordance with those provisions and the prices quoted in the tender.

Compensation for tender preparation

Article 74

(1) In principle, tenders shall be drawn up without any particular compensation. The calculation and all necessary preliminary activities, preparation of the cost-estimate and drawing up of variants shall not be considered as separate works within the meaning of the provision of paragraph 3 of this Article.
(2) The contracting authority shall refund the cost of purchase of the tender documents to the tenderers at their request if the contracting authority is solely responsible for the cancellation of the public procurement procedure.
(3) The contracting authority may provide for compensation of the costs of producing separate works if such works are required with a tender. The payment of the compensation shall be possible only if the submitted work complies with the required subject-matter of procurement.
(4) The candidate or tenderer who has not been awarded the contract may request the return of the works referred to in paragraph 3 of this Article which he made available and for which no compensation is foreseen. The same applies to special works for variants which are not to be used.

Subsection 2
SPECIAL PROVISIONS ON TENDERS

Provisions on electronically submitted tenders

Article 75

If the submission of tenders by electronic means is allowed in accordance with the provisions of Article 63, paragraph 2 of this Act, the information contained in the tender submitted by electronic means must be identical to the information contained in the hard copy of the tender, and if there are any discrepancies, the tender submitted by electronic means shall prevail.

Tender format, encryption and advanced electronic signature

Article 76

(1) The tenderer shall draw up the tender or the integral parts thereof within the time limit for the receipt of tenders and in the document format provided for by the contracting authority, deliver it by using the means of communications laid down by the contracting authority and encrypt it in line with the published procedure. If the contracting authority did not stipulate the document format, the tenderer shall draw up the tender and the integral parts thereof in a generally available document format, which is non-discriminatory and which can be securely signed. If the contracting authority laid down only the document formats which can be securely signed, the tenderer can, where parts of the tender can be securely linked together, draw up the other parts of the tender in a generally available non-discriminatory document format. If requested, the tenderer shall provide the contracting authority without any delay and free of charge with all means necessary for processing the document format.
(2) When preparing the tender, the tenderer shall ensure that after its submission the contracting authority is able to verify the completeness, authenticity and credibility of the tender.
(3) If the tender is made in a single document, the tenderer shall sign the document with an advanced electronic signature.
(4) At the request of the contracting authority, the tenderer shall deliver to the contracting authority, without any delay and free of charge, the necessary information and methods for verifying the signature.
(5) The provisions of paragraphs 1 to 4 of this Article shall also apply to electronic documents submitted separately from the tender, whereby the tenderer has modified, amended or withdrawn his tender. When submitting an electronic document separately from the tender, the tenderer shall indicate the public procurement procedure and the tender to which the electronic document relates.

Secure linking of tender parts

Article 77

(1) If the tender consists of several parts, the tenderer shall meet the requirement of the advanced electronic signature and act in a way which will ensure secure linking of all parts of the tender.
(2) The tenderer shall draw up the principal part of the tender in the document format specified by the contracting authority, and it shall include the date and the advanced electronic signature.
(3) As the procedure of defining the hash value of a file, the secure linking shall rely on the procedure applied for the advanced signature in the principal part of the tender.

(4) Where the secure linking of the principal part of the tender with other parts of the tender is ensured, the tenderer may draw up the other parts of the tender in the document format which as such cannot be signed by the advanced electronic signature.

Subsection 3
RECEIPT AND OPENING OF TENDERS

Receipt and storage of tenders

Article 78

(1) The contracting authority shall mark the date and time of the receipt of the tender on the closed envelope, and record all tenders in the register in the order of their receipt.
(2) The moment of receipt of an electronically submitted tender shall be documented by the acknowledgement of receipt of an electronic tender, which must be sent to the tenderer concerned without any delay. The time of receipt of the electronically submitted tender must be made interactively legible if interactive procedures and solutions are used in the public procurement procedure. All tenders shall be entered in the register in the order of their receipt.
(3) Provision of information on the tenders received shall not be permitted.
(4) The contracting authority shall store the tenders in a way that will prevent them from being accessed by unauthorised persons.
(5) The contracting authority may become acquainted with the tender content only after the expiry of the time limit for the receipt of tenders.
(6) The procedure of receiving tenders shall be prescribed by the Government of the Republic of Croatia in the Regulation on the methodology for drawing up and handling tender documents and tenders.

Opening of tenders

Article 79

(1) In open and restricted procedures, tenders shall be opened in a formal public opening of tenders, which shall be documented in the form of minutes. The tenders shall be opened at the designated place and at the designated time, concurrent with the expiry of the time limit for the receipt of tenders. The tenders shall be opened by at least two representatives of the contracting authority. The public opening of tenders may be witnessed by authorised representatives of the tenderers and persons who either have or do not have the status of an interested party. Only the representatives of the contracting authority and authorised representatives of the tenderer shall have the right to actively participate in the public opening of tenders.
(2) In a negotiated procurement procedure, the formal opening of tenders as described in paragraph 1 of this Article shall not be obligatory. The tenderers shall not attend the opening of tenders. The information included in the tenders shall be kept confidential.
(3) The procedure of the opening of tenders and storage of documents shall be prescribed by the Government of the Republic of Croatia in the Regulation on the methodology for drawing up and handling tender documents and tenders.

Subsection 4
EXAMINATION, EVALUATION AND REJECTION OF TENDERS

Dubious price quotations and errors in calculation

Article 80

(1) Where in the event of tenders with unit prices the price of a particular item does not correspond to the price which can be calculated on the basis of the stated quantity and unit price, the stated quantities and the offered unit price shall be valid. If there are discrepancies between the offered prices and a possible price breakdown, the offered unit prices shall be valid.
(2) The contracting authority shall correct the detected errors in calculation and notify the tenderer of the corrections made without any delay, requesting the tenderer to confirm that he accepts the correction of the calculation error within three days from the date on which the notice was received. The corrections shall be clearly indicated in the tender.
(3) For tenders with lump-sum prices, only the lump-sum prices shall be valid regardless of the mentioned price breakdown.

Abnormally low tenders

Article 81

(1) If tenders appear to be abnormally low in relation to the goods, works or services, the contracting authority may reject those tenders after requesting in writing details of the constituent elements of the tender which it considers relevant. The details of the constituent elements provided by the tenderer in the fixed time limit shall be attached to the minutes on the examination and evaluation of the tenders.
(2) The details referred to in paragraph 1 of this Article may relate to:
a) the economics of the construction method, the manufacturing process or the services provided,
b) the technical solutions chosen and/or any exceptionally favourable conditions available to the tenderer for the execution of the work, for the supply of the goods or services,
c) the originality of the work, supplies or services proposed by the tenderer,
d) compliance with the provisions relating to employment protection and working conditions in force at the place where the work, service or supply is to be performed,
e) the possibility of the tenderer obtaining state aid.
(3) The contracting authority shall verify those constituent elements by taking account of the evidence supplied.
(4) Where in a public procurement procedure the contracting authority establishes that a tender is abnormally low because the tenderer has obtained state aid, the tender can be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was granted legally. Where the contracting authority rejects a tender in these circumstances, it shall inform the European Commission of that fact.

Clarifications

Article 82

(1) The contracting authority may request the economic operator to clarify the tender in writing.
(2) Such clarifications of the tender may relate to the documents submitted by the economic operator for the purpose of meeting the ability criteria, quality assurance standards, energy efficiency standards and environmental management standards.

Minutes on the examination and evaluation of tenders

Article 83

(1) Minutes shall be drawn up of the examination and evaluation of tenders and on the results of the examination and evaluation of tenders.
(2) If so requested, the tenderer shall be provided with the information on the total prices arising from the examination and evaluation of the tenders. The tenderer shall be allowed access to his tender and the calculation of the price of his tender if the contracting authority made corrections to the calculations therein.
(3) In the minutes concerning the examination and evaluation of the tenders, the contracting authority must provide an analytical presentation of the requested and submitted proof of ability, the acceptability of tenders and the reasons for rejecting tenders under Article 84 of this Act.

Rejection of tenders

Article 84

(1) Before the adoption of the contract award decision, the contracting authority shall reject the following tenders based on the results of the examination and evaluation of tenders:
1. any tender which is contrary to the provisions of Article 11, paragraph 5 of this Act,
2. any tender in line with the provision of Article 46 of this Act,
3. any tender submitted by a tenderer who failed to prove his ability in accordance with the tender documents and the provisions of this Act,
4. any tender in which the tenderer has not quoted the price, but only stated that he would offer a price which would be by a percentage or certain value lower than the tender with the lowest price, or any tender in which the price is not quoted in an absolute amount,
5. any tender for which a guarantee is required, but the proof of such a guarantee is missing at the time the tender is opened,
6. any tender which has been received too late,
7. any tender which is contrary to the provisions of the tender documents,
8. any tender for a group or lots of the subject-matter of procurement or any variant, if they are not allowed,
9. any variant which does not meet the minimum requirements and/or does not ensure the performance of an equivalent subject-matter of procurement,
10. any tender which contains mistakes, defects or ambiguities, if such mistakes, defects or ambiguities are not remediable,
11. any tender in which the defect or ambiguity is not remedied by a written clarification

issued by the tenderer,
12. any tender which is incomplete,
13. any tender with respect to which the tenderer did not accept the correction of a calculation error in writing,
14. any tender submitted by an uninvited tenderer.
(2) Before the adoption of the contract award decision, the contracting authority may reject any tender submitted by a tenderer who did not provide the requested clarification within the fixed time limit or whose clarification is not acceptable to the contracting authority.

Subsection 7
THE ADOPTION OF THE CONTRACT AWARD DECISION

AND THE CANCELLATION DECISION

The contract award decision and the cancellation decision

Article 85

(1) After the rejection of tenders in accordance with Article 84 of this Act, the contracting authority shall adopt the contract award decision in line with the award criteria. Only one acceptable tender is needed to make the award.
(2) Reasons for the adoption of the decision within the meaning of paragraph 1 of this Article shall be recorded in writing as an attachment to the minutes on the examination and evaluation of the tenders.
(3) The contract award decision is a written decision of the contracting authority in a public procurement procedure as to which tenderer it intends to award the contract to, and it shall be sent to all the tenderers.
(4) The cancellation decision is a written decision of the contracting authority in a public procurement procedure concerning its intention to cancel the public procurement procedure, and it shall be sent to the economic operators.

Contract award decision

Article 86

(1) In the contract award decision, the contracting authority shall state:
– the number of the tender procedure,
–information on the contracting authority,
– the number and date of the adopted decision,
–information concerning the contract notice,
– the type of the public procurement procedure and the legal basis for its conduct,
– the subject-matter of procurement,
– the estimated value of procurement,
– the ordinal number, the name of the group or lot of the subject-matter of procurement with respect to which the decision is adopted,
– the number of received tenders and names of the tenderers,
– the identity of the tenderer to whom the contract is awarded,
– the reasons for such a decision,
– the date of expiry of the standstill period in accordance with the provisions of Article 88 of

this Act,
–information on the features and advantages of the chosen tender,
– instructions about the legal remedy,
– the certified signature of the responsible person of the contracting authority.
(2) The contracting authority shall send the contract award decision to each tenderer along with a copy of the minutes of the examination and evaluation of the tenders by either registered mail with delivery confirmation or another traceable manner.
(3) In case of a negotiated procedure with a single economic operator, the contracting authority shall not be obliged to send the contract award decision.

Time limit for the adoption the contract award decision

Article 87

(1) The time limit for the adoption of the contract award decision shall be calculated from the date of expiry of the time limit for the receipt of tender. The time limit for the adoption of the contract award decision shall be reasonable. If the time limit for the adoption of the contract award decision is not fixed in the tender documents, the time limit shall be 30 days from the date of expiry of the time limit for the receipt of tenders.
(2) Upon the request of the contracting authority, the tenderer may extend the term of validity of his tender.
(3) The time limit for the adoption of the contract award decision, in accordance with the provision of paragraph 1 of this Article, shall not run during the suspension of the public procurement procedure if that is the consequence of an imposed injunction.

Period of standstill and nullity of the contract award decision

Article 88

(1) The contracting authority shall not sign the public contract before the expiry of the standstill period, which shall last for 12 days from the date on which the contract award decision is submitted to each tenderer.
(2) The contract award decision shall be null and void if the contracting authority had not previously sent it to each tenderer without any delay.
(3) The contracting authority shall not proceed with the procedure before the expiry of the standstill period, which shall last for 12 days from the date on which the notice on the commencement of the public procurement procedure was published in the event of a negotiated procedure without prior publication of a contract notice and the award of a public contract for services referred to in Annex II B, and exclusions from the application of this Act, except in the event referred to in Article 5, paragraph 1, item 15 of this Act.

The effects of the contract award decision

Article 89

(1) Upon the expiry of the standstill period referred to in Article 88 of this Act, unless the procedure of legal remedy was instituted, or upon the delivery of the decision of the State Commission for the Supervision of Public Procurement Procedure dismissing or rejecting the appeal, the contract award decision becomes enforceable, resulting in a contractual

relationship between the contracting authority and the chosen tenderer.
(2) If at the moment referred to in paragraph 1 of this Article, the validity period of the tender expires, the contractual relationship shall be created only by a written statement by the tenderer accepting the contract. The tenderer shall be given a reasonable time limit to issue the statement concerned.
(3) Before the public contract is concluded, the contracting authority may request the tenderer to whom the contract is awarded to provide the originals or certified copies of the enclosed proof of ability, if so provided in the tender documents.
(4) The public contract shall be in line with the chosen tender and the conditions stipulated in the tender documents.

Section 8
COMPLETION OF THE PUBLIC PROCUREMENT PROCEDURE

General provisions on the completion of the public procurement procedure

Article 90

(1) The public procurement procedure shall be concluded when the contract award decision or the cancellation decision become final.
(2) Immediately after the public procurement procedure is concluded, the contracting authority shall return the projects/documents for which such a return is provided for, upon a request by unsuccessful tenderers or, if the public procurement procedure was cancelled, to all the candidates or tenderers, except in the case of a legal protection procedure in which the final decision is still pending.

Obligatory records

Article 91

(1) The contracting authority shall draw up a report on each awarded contract, on each awarded framework agreement and on each established dynamic purchasing system, or a note on a cancelled public procurement procedure, which shall include the following data:
1. the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system,
2. the names of the candidates or tenderers to whom the contract is awarded and the reasons for the award of the contract, and, if known, the part of the contract or part of the framework agreement which the successful tenderer intends to subcontract,
3. the names of rejected candidates or tenderers and the reasons for the rejection of their requests to participate or tenders,
4. the reasons for the rejection of tenders considered to be abnormally low,
5. the names of the unsuccessful candidates,
6. an explanation of the reasons for applying and the terms justifying the selection of the negotiated procedure and the competitive dialogue,
7. the reasons because of which the contracting authority decided not to award a contract, framework agreement or not to set up a dynamic purchasing system.
(2) The contracting authority shall deliver the report referred to in paragraph 1 of this Article to the Public Procurement Office of the Government of the Republic of Croatia and to the European Commission, if so requested.

Storing records on completed public procurement procedures

Article 92

The contracting authority shall keep all the documents concerning each public procurement procedure for a period of at least four years from the date on which the public procurement procedure was completed.

Reasons for cancellation of the public procurement procedure before the expiry of the time limit for the receipt of tenders

Article 93

The contracting authority may cancel a public procurement procedure before the expiry of the time limit for the receipt of tenders if circumstances become known which, had they been known before the commencement of the public procurement procedure, would have resulted in the non-publication of the invitation to tender or in the publication of a substantially different invitation to tender.

Reasons for cancellation of the public procurement procedure after the expiry of the time limit for the receipt of tenders

Article 94

The contracting authority shall cancel the public procurement procedure after the expiry of the time limit for the receipt of tenders in the following cases:
1. if circumstances become known which, had they been known before the commencement of the public procurement procedure, would have resulted in the non-publication of the invitation to tender, or
2. if circumstances become known which, had they been known before the commencement of the public procurement procedure, would have resulted in the publication of a substantially different invitation to tender, or
3. if the price of the most advantageous tender is higher than the funds dedicated for the procurement, or
4. if no tender has been submitted, or
5. if after the rejection of tenders in the procedure no acceptable tender remains.

The cancellation decision and the standstill period

Article 95

(1) The contracting authority shall send the cancellation decision together with a copy of the minutes of the examination and evaluation of the tenders to each tenderer without any delay by registered mail with confirmation of delivery or another traceable means of communication. The cancellation decision shall contain an indication of the date of expiry of the standstill period referred to in paragraph 3 of this Article, as well as the reasons for the cancellation.
(2) In the case of cancellation of a public procurement procedure pursuant to the provisions of Article 93 and Article 94, paragraph 1, item 4 of this Act, the cancellation decision shall be

published in the same way as the invitation to tender, and it shall be sent to the economic operators which obtained the tender documents without any delay, by registered mail with the confirmation of delivery or another traceable means of communication. The publication and the cancellation decision shall include an indication of the date of expiry of the standstill period and the reasons for cancellation.
(3) The cancellation decision relating to a public procurement procedure shall become final after the expiry of the standstill period of 12 days from the date on which the cancellation decision was sent to the tenderers, or from the date on which the cancellation decision was published in accordance with the provision of paragraph 2 of this Article, unless the procedure of legal protection was instituted.
(4) Before the expiry of the standstill period, a new public procurement procedure for the same subject-matter of procurement shall not be initiated, unless the procurement is caused by force majeure. In the case of cancellation of a public procurement procedure, in accordance with the provisions of Article 93 of this Act, the submitted tenders shall not be opened after the cancellation decision is adopted.
(5) After the cancellation decision becomes final, the submitted tenders shall be returned to the tenderers.

Title Three
PROVISIONS ON SPECIAL CONTRACTS AND SPECIAL PROCEDURES

Section 1
AWARDING PUBLIC SERVICE CONTRACTS LISTED IN ANNEX II B OF THIS ACT

Public service contracts listed in Annex II B of this Act

Article 96

(1) Public service contracts which have as their subject-matter services listed in Annex II B to this Act shall be subject solely to the provisions relating to contract notices and technical specifications referred to in this Act.
(2) If possible, based on the subject-matter and the estimated value of procurement, the public service contracts referred to in Annex II B to this Act shall be awarded to several economic operators in the procedure which is in line with the principle of equal treatment and non-discrimination.
(3) In a procedure of public procurement of services referred to in Annex II B to this Act, the contracting authority shall publish the decision on the commencement of the public procurement procedure in the Electronic Public Procurement Classifieds in the Official Gazette, and the decision shall include the information referred to in Article 13, paragraph 5 of this Act and the information concerning the economic operator(s) to whom it intends to award the contract.

Section 2
PROVISIONS ON THE USE OF ELECTRONIC AUCTIONS

General provisions on the use of electronic auctions

Article 97

(1) The use of electronic auctions shall be based on an ordinance on the electronic auction adopted by the contracting authority which shall be an integral part of the tender documents, and which shall include:
1. the requirements relating to registration and identification,
2. all relevant information concerning the electronic equipment which will be used to conduct an electronic auction, and the arrangements and technical specifications for connection,
3. the elements of the tender (the price, other parts of the tender) the values for which will be the subject of electronic auction, provided that such elements are quantifiable and can be expressed in figures or percentages,
4. any limits on the values which may be submitted, as they result from the specifications relating to the subject-matter of procurement,
5. the conditions under which the tenderers will be able to offer the price and, in particular, the minimum differences which will, where appropriate, be required when bidding,
6. the time of commencement and the mode of closing the electronic auction,
7. the reasons for rejection of tenders,
8. time limits,
9. the Internet address where the tender with the lowest price or the economically most advantageous tender will be published, as well as the current order of participants during the electronic auction,
10. the information which will be submitted or made available to tenderers by the contracting authority in the course of the electronic auction or afterwards, and the time or phase of the electronic auction in which the information will be made available, and the electronic address where the information will be published,
11. the guarantee,
12. any other conditions and information on the conduct of the auction.
(2) If the tender is to be chosen after an open or restricted procedure, the tenderers shall not be permitted to attend the opening of the tenders. The data included in the tenders shall be kept confidential.
(3) Before proceeding with an electronic auction, contracting authorities shall make a full initial evaluation of the tenders in accordance with the award criterion/criteria set and with the weighting fixed for them.

Method for conducting electronic auctions

Article 98

(1) The electronic auction may not start sooner than two working days after the date on which invitations to participate in an electronic auction are sent out. Contracting authorities shall provice all the tenderers permitted to participate in the electronic auction, as of the moment the invitation to participate in the auction is sent, with an unrestricted and full direct access by electronic means to the entire documentation relating to the electronic auction.
(2) All suitable tenderers who have submitted their tenders in the procedure which preceded

the auction in accordance with the provision of Article 17, paragraph 2 of this Act shall be invited or enabled simultaneously by electronic means to submit new prices and/or new values for the elements of the tender for which the electronic auction is being conducted, in accordance with the provisions of the tender documents. Throughout each phase of an electronic auction the contracting authorities shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment. The contracting authorities may also communicate other information concerning other prices and values submitted, provided that that is stated in the tender documents, and announce the number of participants in that phase of the auction. In no case, however, may they disclose the identities of the tenderers during any phase of an electronic auction.
(3) Electronic auctions shall not be misused or used in such a way as to prevent, restrict or distort competition. In particular, the subject-matter of the procurement, as put up for tender in the published contract notice and defined in the tender documents, shall not be changed.
(4) Contracting authorities may close an electronic auction:
1. at the moment fixed in the invitation to take part in the electronic auction (according to the stated date and time), or
2. when, after receiving the last submission within the fixed time limit stated in the invitation to take part in the electronic auction, they receive no more new tenders which meet the requirements concerning minimum differences, or
3. when the last phase of the electronic auction, fixed in the invitation to take part in the electronic auction, has been completed.
(5) The contracting authorities may choose to close the electronic auction in accordance with the provisions of items 1 through 3, paragraph 4 of this Article or by a combination of the arrangements laid down in the provisions of items 1 through 3, paragraph 4 of this Article. If the contracting authorities choose to apply the provisions of paragraph 4, item 3 of this Article, in combination with the arrangements laid down in paragraph 4, item 2 of this Article, the invitation to take part in the auction shall indicate the timetable for each phase of the electronic auction.
(6) After closing an electronic auction, the name of the tenderer chosen and the price included in his tender shall be published without any delay at the Internet address stated in the ordinance on the electronic auction. This publication shall have the effect of delivery of the contract award decision within the meaning of Article 86 of this Act. The 12-day standstill period shall begin at the moment the decision is published at the Internet address of the contracting authority. In the event of a complex electronic auction, the unsuccessful tenderers shall be notified without any delay by electronic means, simultaneously and in a confirmable way, of the reasons why their tenders were rejected, unless the reasons are clearly visible from the information submitted or made available pursuant to the ordinance on the electronic auction.
(7) Termination of an electronic auction shall be considered to be the cancellation of the public procurement procedure within the meaning of Article 94 of this Act. If an electronic auction is terminated, the tenderers shall be notified about the reasons for such termination at the Internet address stated in the ordinance on the electronic auction. This notification shall have the effect of delivery of the cancellation decision within the meaning of Article 95 of this Act. The 12-day standstill period shall begin at of the moment the cancellation decision is published at the Internet address of the contracting authority.
(8) Throughout the duration of an electronic auction, the identity of the tenderers shall not be revealed.
(9) Contracting authorities shall keep a full record of the electronic auction and of all transmissions of the data relating to the electronic auction.

Special provisions on conducting a simple electronic auction

Article 99

During a simple electronic auction, under Article 17, paragraph 3 of this Act, the contracting authorities shall publish at the Internet address stated in the ordinance on the electronic auction, the lowest price at the moment, along with other information, if so provided in the ordinance on the electronic auction,.

Special provisions on conducting a complex electronic auction

Article 100

(1) In the case of a complex electronic auction, under Article 17, paragraph 4 of this Act, the contracting authorities shall include in the invitation to take part in the electronic auction the outcome of the first evaluation of the relevant tender. The invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic rerankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria fixed to determine the most economically advantageous tender, as indicated in the contract notice or in the tender documents; for that purpose, any ranges shall, however, be reduced beforehand to a specified value. Where variants are authorised, a separate formula shall be provided for each variant.
(2) The contracting authorities shall, without any delay and continuously, throughout the duration of an electronic auction, publish information for each tenderer at the Internet address stated in the ordinance on the electronic auction, concerning the current ranking of his tender in relation to other tenders received, without stating the identity of the other tenderers. If the ordinance on the electronic auction so provides, other information besides the lowest price may also be pusblished on the Internet address stated in the ordinance on the electronic auction.
(3) The contracting authorities shall adopt the decision on the economically most advantageous tender from amongst the tenders submitted by the tenderers who took part in the electronic auction.

Section 3
PROVISIONS ON CONCLUDING FRAMEWORK AGREEMENTS AND THE PROCEDURE OF AWARDING PUBLIC CONTRACTS BASED ON A FRAMEWORK AGREEMENT

Concluding framework agreements

Article 101

(1) The contracting authorities shall send the tender documents or make the tender documents available by electronic means to economic operators who have expressed their interest in the framework agreement, without any delay, and not later than within six days of the date on which the request of the economic operator was received.
(2) The parties to the framework agreement shall be chosen after an open procedure, a restricted procedure, a negotiated procedure or a competitive dialogue. Where a framework agreement is concluded with a single economic operator, contracts based on that agreement

shall be awarded to the tenderer who has submitted the best tender on the basis of the published award criterion/criteria. Where a framework agreement is concluded with several economic operators, contracts based on that agreement shall be awarded to the tenderers who have submitted the best tenders on the basis of the published award criterion/criteria. Where a framework agreement is concluded with several economic operators, the latter must be at least three in number, insofar as there is a sufficient number of economic operators to satisfy the selection criteria and/or of admissible tenders which meet the award criteria.
(3) The framework agreement may not be misused or used in such a way as to prevent, restrict or distort competition.
(4) The term of a framework agreement may not exceed four years, save in exceptional cases duly justified, in particular by the subject of the procurement.

The procedure of awarding public contracts based on a framework agreement

Article 102

(1) When awarding contracts based on a framework agreement, the parties shall not make substantial amendments to the terms laid down in that framework agreement.
(2) Public contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in paragraphs 3 to 6 of this Article. Those procedures may be applied only between the contracting authority(s) and the economic operator(s) originally party to the framework agreement.
(3) Where a framework agreement is concluded with a single economic operator, the contract based on that agreement may be awarded either by:
1. application of the terms laid down in the framework agreement and the tender submitted in accordance with the requirements laid down in the tender documents for a framework agreement, or
2. a written request of the contracting authority to the economic operator to submit its tender based on:
a) the original terms for the award of the contract based on the framework agreement, or
b) the supplemented terms for the award of the contract based on the framework agreement where the terms were not laid down in the framework agreement, or
c) other irrelevant changes to the terms of the framework agreement stated in the tender documents for a framework agreement (such as a corrigendum or amendment).
(4) Where a framework agreement is concluded with several economic operators, contracts based on that agreement may be awarded either:
1. by application of the terms laid down in the framework agreement without reopening competition, or
2. after reopening competition, where not all the terms are laid down in the framework agreement.
(5) Where not all the terms are laid down in the framework agreement, the invitation to a reopened competition may include:
1. besides the original terms, also, if necessary, more precisely formulated terms for the award of the contract based on the framework agreement, or
2. where appropriate, other terms of the framework agreement stated in the tender documents for the framework agreement (such as a corrigendum or amendment).
(6) In a reopened competition, in accordance with the provisions of paragraphs 4, item 2 of this Article, the contracting authorities may adopt the contract award decision after the implementation of an electronic auction in accordance with the provisions of Articles 97

through 100 of this Act, or after conducting a procedure in which:
1. for every contract to be awarded, contracting authorities shall consult the parties to the framework agreement capable of performing the contract,
2. contracting authorities shall fix a time limit which is sufficiently long to allow new tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject-matter of the procurement and the time needed to send in tenders and other documents,
3. tenders shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for the receipt of tenders has expired,
4. contracting authorities shall award each contract on the basis of the award criterion/criteria set out in the tender documents for the framework agreement, with a written explanation of the reasons for the adoption of the contract award decision. The contract award decision shall be subject to the provisions of Articles 86 through 89 of this Act.

Section 4
PROVISIONS ON SETTING UP AND USE OF THE DYNAMIC PURCHASING SYSTEM AND THE AWARD OF CONTRACTS BASED ON A DYNAMIC PURCHASING SYSTEM

Setting up and use of dynamic purchasing systems

Article 103

(1) Dynamic purchasing systems may be set up and used solely by electronic means, after an open procedure has been conducted.
(2) The contracting authorities shall publish a contract notice by electronic means in accordance with Article 31, paragraph 5 of this Act, subject to the provisions of Article 32 of this Act. The contracting authorities shall include in the notice the electronic address at which the tender documents and other documents may be consulted, and the information required to set up and use the dynamic purchasing system. The contracting authorities shall provide for a direct, unrestricted and free electronic access to the tender documents relating to the setting-up and use of the dynamic purchasing system from the date of the publication of the notice to the moment of closing the dynamic purchasing system.
(3) The tender documents concerning the setting up of the dynamic purchasing system shall clearly indicate the subject-matter of procurement. The tender documents shall accurately indicate all the information concerning the dynamic purchasing system, the technical equipment and technical measures required for participation, and the specifications of the connection.
(4) All the tenderers who have demonstrated their suitability in accordance with the tender documents on setting up the dynamic purchasing system and who have submitted an indicative tender in the open procedure, subject to the provisions of Articles 75 through 78, shall be admitted to the dynamic purchasing system. The tenderers may change their indicative tenders provided that they continue to comply with the provisions of the tender documents on setting up the dynamic purchasing system.
(5) A dynamic purchasing system may not last for more than four years, except in duly justified exceptional cases.
(6) Throughout the entire period of the dynamic purchasing system, contracting authorities shall give any interested economic operator the possibility of submitting an indicative tender and of being admitted to the dynamic purchasing system. Within 15 days from the date of

receipt of the indicative tender, contracting authorities shall complete the evaluation of the indicative tender and establish whether it complies with the tender documents and whether the economic operator is admissible pursuant to the tender documents on setting up the dynamic purchasing system. Contracting authorities may extend the period of 15 days, as appropriate, provided that no invitation to tender is issued in the meantime in accordance with Article 104 of this Act.
(7) If the contracting authorities establish that an indicative tender is admissible in accordance with the tender documents and that the economic operator is suitable in accordance with the tender documents on setting up the dynamic purchasing system, they shall admit such an economic operator to the dynamic purchasing system. The contracting authority shall inform the economic operator thereof by electronic means at the earliest possible opportunity in a confirmable way. The contracting authority shall inform the economic operator by electronic means of the rejection of its indicative tender at the earliest possible opportunity and include the reasons for such rejection.
(8) Dynamic purchasing system shall not be misused or used in a way to prevent, restrict or distort competition.
(9) No charges shall be billed by contracting authorities to the economic operators for the setting-up, use and participation in the dynamic purchasing system.
(10) The cancellation of the dynamic purchasing system shall be governed by the provisions of Articles 93 through 95 of this Act.

Awarding public contracts based on a dynamic purchasing system

Article 104

(1) Public contracts in the dynamic purchasing system set up in accordance with the provisions of Article 103 of this Act shall be awarded solely by electronic means according to the procedure described in the provisions of paragraphs 2 through 5 of this Article. The procedure described shall be permitted only between the contracting authorities and the economic operators taking part in the dynamic purchasing system.
(2) Each specific contract must be the subject of an invitation to tender (call for competition).
(3) Before issuing the invitation to tender, pursuant to paragraph 2 of this Article, contracting authorities shall publish a simplified contract notice in the dynamic purchasing system in line with the tender documents. The simplified contract notice in the dynamic purchasing system shall include the information listed in Annex V D to this Act. The simplified contract notice shall invite all interested economic operators to submit an indicative tender within a time limit that may not be less than 15 days from the date on which the simplified notice was sent, in accordance with Article 103, paragraph 6 of this Act.
(4) A special invitation to tender shall be permitted only after the contracting authority has decided on all electronic statements on the performance of procurement in accordance with Article 103, paragraph 7 of this Act, submitted in good time after the publication of a simplified contract notice in accordance with paragraph 3 of this Article.
(5) Contracting authorities shall adopt the decision after the completion of an electronic auction, in line with the provisions of Articles 97 through 100 of this Act, or after the implementation of the following procedure:
1. a simultaneous invitation of all economic operators admitted to the dynamic purchasing system, delivered by electronic means, to submit by electronic means their tenders for contracts awarded under a dynamic purchasing system. In the invitation, contracting authorities shall set a reasonable time limit for the receipt of tenders,

2. the adoption of a decision on the best tender according to the award criterion/criteria laid down in the tender documents for the establishment of the dynamic purchasing system. Contracting authorities shall award the contract to the tenderer who submitted the best tender on the basis of the award criteria set out in the notice. Where necessary, the criteria may be formulated more precisely in a special invitation to tender. The reasons for the adoption of the contract award decision shall be recorded. The publication of the contract award decision and the effects of the award decision shall be subject to the provisions of Articles 86 through 89 of this Act.
(6) The publication of the awarded contracts shall be governed by the provisions of Article 41, paragraph 3 of this Act.
(7) The cancellation of the special invitation to tender shall be governed by the provisions of Articles 94 and 95 of this Act.

PART THREE
SPECIAL PROVISIONS FOR CONTRACTING ENTITIES OPERATING IN THE WATER, ENERGY, TRANSPORT AND POSTAL SERVICES SECTORS

Title One
GENERAL PROVISIONS

Scope of application

Article 105

(1) This part of the Act contains special provisions to be applied by the contracting entities operating in the water, energy, transport and postal services sectors and by contracting authorities (hereinafter the contracting entities) when awarding contracts for the purpose of activities in the aforesaid fields.
(2) Contracting entities shall apply the relevant provisions of Part Two of this Act, unless provided otherwise in Part Three of the Act.
(3) This Part of the Act shall not apply to contracts which the contracting entities award for purposes other than the pursuit of their activities as described in Articles 106 to 111 of this Act, or for the pursuit of such activities in a third country, in conditions not involving the physical use of a network or geographical area within the Republic of Croatia.

Water

Article 106

(1) The activities in the water sector are the following:
1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water,
2. the supply of drinking water to such networks.
(2) The provisions of this Act shall also apply to public contracts or design contests awarded or organised by entities which pursue an activity referred to in paragraph 1 and which:
1. are connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations, or

2. are connected with the disposal or treatment of sewage.
(3) The supply of drinking water to networks which provide a service to the public by a contracting entity other than a contracting authority shall not be considered a relevant activity within the meaning of paragraph 1 of this Article where:
1. the production of drinking water by the entity concerned takes place because its consumption is necessary for carrying out an activity other than those referred to in Articles 106 to 111of this Act, and
2. supply to the public network depends only on the entity's own consumption and has not exceeded 30 % of the entity's total production of drinking water, having regard to the average for the preceding three years, including the current year.

Gas, heat and electricity

Article 107

(1) The activities in the gas and heat sectors are the following:
1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas and heat,
2. the supply of gas or heat to such networks.
(2) The supply of gas or heat to networks which provide a service to the public by a contracting entity other than a contracting authority shall not be considered a relevant activity within the meaning of paragraph 1 of this Article where:
1. the production of gas or heat by the entity concerned is the unavoidable consequence of carrying out an activity other than those referred to in paragraphs 1 or 3 of this Article or in Articles 106 to 111 of this Act,
2. supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the entity's turnover having regard to the average for the preceding three years, including the current year, and
3. if the contracting entity procures products for its own needs exercising its right as a preferred buyer in accordance with a special regulation.
(3) As far as electricity is concerned, the activities are the following:
1. the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity,
2. the supply of electricity to such networks.
(4) The supply of electricity to networks which provide a service to the public by a contracting entity other than a contracting authority shall not be considered a relevant activity within the meaning of paragraph 3 of this Article where:
1. the production of electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than those referred to in paragraphs 1 or 3 of this Article or in Articles 106 to 111 of this Act,
2. supply to the public network depends only on the entity's own consumption and has not exceeded 30% of the entity's total production of energy, having regard to the average for the preceding three years, including the current year, and
3. if the contracting entity procures products for its own needs exercising its right as a preferred buyer in accordance with a special regulation.

Exploration for, and extraction of, oil, gas, coal and other solid fuels

Article 108

The activities of exploration for and extraction of oil, gas, coal and other solid fuels means the activities relating to the exploitation of a geographical area for the purpose of exploring for or extracting oil, gas, coal or other solid fuels.

Transport services

Article 109

(1) The activities in the field of transport include the provision or operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.
(2) As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.
(3) The provision of bus transport services to the public shall not be considered an activity within the meaning of this Article if other economic operators may provide such services in general or within a specific geographical area under the same conditions as the contracting entity.

Airports, maritime and inland ports

Article 110

The activities of airports, maritime and inland ports means the activities relating to the exploitation of a geographical area for the purpose of provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.

Postal services

Article 111

(1) The activities in the postal services sector means the activities relating to the provision of postal services or, on the conditions set out in paragraph 4 of this Article, other services than postal services.
(2) Postal services within the meaning of paragraph 1 of this Article means services consisting of the receipt, handover and clearance, takeover, sorting, routing and delivery of postal items. These services comprise:
1. reserved postal services: postal services which are reserved solely for the public operator in accordance with the Postal Act,
2. other postal services: postal services which may not be reserved for the providers of universal services in accordance with the valid regulations on postal services.
(3) Postal item means an item of correspondence, a postal order, a telegram, and a package addressed to a recipient to whom the item is to be served, irrespective of weight. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without

commercial value, irrespective of weight.
(4) Other services than postal services means services provided in the following areas, on condition that such services are provided by an entity which also provides postal services within the meaning of paragraph 2 of this Article, and provided that such services are not directly exposed to competition within the meaning of Article 113 of this Act, and the areas in question are the following:
1. mail service management services (services both preceding and subsequent to despatch, such as mailroom management services),
2. added-value services linked to and provided entirely by electronic means (including the secure transmission of coded documents by electronic means, address management services and transmission of registered electronic mail),
3. services concerning postal items not included in paragraph 3 of this Article (such as postal items bearing no address, advertising material, promotional material, and the like),
4. financial services, as defined in category 6 of Annex II A and in Article 5, item 9 of this Act,
5. philatelic services,
6. logistics services, combining physical delivery and/or warehousing with other non-postal functions.

Contracts covering several activities

Article 112

(1) A contract which is intended to cover several activities shall be subject to the provisions of Part Three of this Act applicable to the activity for which it is principally intended.
(2) If one of the activities for which the contract is intended is subject to Part Three of this Act and the other is not subject to either Part Three or Part Two of this Act, and if it is objectively impossible to determine for which activity the contract is principally intended, the contract shall be awarded in accordance with Part Three of this Act.
(3) If one of the activities for which the contract is intended is subject to Part Three of this Act and the other to Part Two of this Act, and if it is objectively impossible to determine for which activity the contract is principally intended, the contract shall be awarded in accordance with Part Two of this Act.

Procedure for establishing whether a given activity is directly exposed to competition

Article 113

(1) Public procurement procedures intended to enable an activity in the water, energy, transport and postal services sectors shall not be subject to Part Three of this Act if, in the Republic of Croatia, the activity is directly exposed to competition on markets to which access is not restricted.
(2) The question of whether an activity is directly exposed to competition shall be decided on the basis of criteria that are in conformity with the provisions on competition of the Treaty establishing the European Community, such as the characteristics of the goods or services concerned, the existence of alternative goods or services, the prices and the actual or potential presence of more than one supplier of the goods or services in question.
(3) Access to a market shall be deemed not to be restricted if the Republic of Croatia has transposed the provisions of the law of the European Communities.

(4) If free access to a given market cannot be presumed on the basis of paragraph 2 of this Article, it must be demonstrated that access to the market in question is free de facto and de jure.
(5) When a line ministry considers that, in compliance with paragraphs 2, 3 and 4 of this Article, paragraph 1 of this Article is applicable to a given activity, it shall notify the competent authority thereof which shall then notify the European Commission and inform it of all relevant facts, and in particular of any law, regulation, administrative provision or agreement concerning compliance with the conditions set out in paragraph 1 of this Article, where appropriate together with the position adopted by an independent national authority that is competent in relation to the activity concerned.
(6) The provisions of Part Three of this Act shall not apply to public procurement procedures intended to enable an activity in the water, energy, transport and postal services sectors in the following cases:
– if the European Commission has adopted a decision establishing the applicability of paragraph 1 of this Article in accordance with paragraph 10 of this Article and within the period it provides for, or
- if the European Commission has not adopted a decision concerning such applicability within that period.
(7) Where free access to a given market is presumed on the basis of paragraph 3 of this Article and where an independent national authority that is competent in the activity concerned has established the applicability of paragraph 1 of this Article, public procurement procedures intended to enable an activity in the water, energy, transport and postal services sectors to be carried out shall no longer be subject to Part Three of this Act if the European Commission has not established the inapplicability of paragraph 1 by a decision adopted in conformity with paragraph 10 of this Article and within the period it provides for.
(8) The contracting entities may ask the European Commission to establish the applicability of paragraph 1 of this Article to a given activity by a decision. The European Commission shall immediately inform the competent authority thereof. That competent authority shall inform the European Commission of all relevant facts, and in particular of any law, regulation, administrative provision or agreement concerning compliance with the conditions set out in paragraphs 2, 3 and 4 of this Article, where appropriate together with the position adopted by an independent national authority that is competent in the activity concerned.
(9) The European Commission may also begin the procedure for adoption of a decision establishing the applicability of paragraph 1 of this Article to a given activity on its own initiative. In such a case, the European Commission shall immediately inform the competent authority. If, at the end of the period laid down in paragraph 10 of this Article, the European Commission has not adopted a decision concerning the applicability of paragraph 1 to a given activity, paragraph 1 of this Article shall be deemed to be applicable.
(10) For the adoption of a decision under this Article, the European Commission shall be allowed a period of three months from the date on which it receives the notification or the request. This period may be extended once by a maximum of three months in duly justified cases, in particular if the information contained in the notification or the request or in the documents annexed thereto is incomplete or inexact or if the facts as reported undergo any substantive changes. This extension shall be limited to one month where an independent national authority that is competent in the activity concerned has established the applicability of paragraph 1 in the cases provided for under paragraph 7 of this Article.
(11) When an activity is already the subject of a procedure under this Article, further requests concerning the same activity in the Republic of Croatia before the expiry of the period opened in respect of the first request shall not be considered as new procedures and shall be treated in the context of the first request.

Contracts awarded to an affiliated undertaking or to a joint venture

Article 114

(1) Provided that the conditions in paragraph 2 of this Article are met, the provisions of Part Three of this Act shall not apply to public supply contracts, public works contracts or public service contracts awarded:
(a) by a contracting entity to an affiliated undertaking, or
(b) by a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities within the meaning of Articles 106 through 111 of this Act, to an economic operator which is affiliated with one of these contracting entities.
(2) Paragraph 1 of this Article shall apply:
(a) to service contracts provided that at least 80 % of the average turnover of the affiliated undertaking with respect to services for the preceding three years derives from the provision of such services to undertakings with which it is affiliated;

(b) to supplies contracts provided that at least 80 % of the average turnover of the affiliated undertaking with respect to supplies for the preceding three years derives from the provision of such supplies to undertakings with which it is affiliated;

(c) to works contracts provided that at least 80 % of the average turnover of the affiliated undertaking with respect to works for the preceding three years derives from the provision of such works to undertakings with which it is affiliated.
(3) When, because of the date on which an affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it will be sufficient for that undertaking to show that the turnover referred to in the provision of paragraph 2 of this Article is credible. Where more than one undertaking affiliated with the contracting entity provides the same or similar services, supplies or works, the above percentages stated in paragraph 2 of this Article shall be calculated taking into account the total turnover deriving respectively from the provision of services, supplies or works by those affiliated undertakings.
(4) This Act shall not apply to public contracts awarded:
2. by a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities within the meaning of Articles 106 through 111 of this Act, to one or more of these contracting entities, or
3. by a contracting entity to such a joint venture of which it forms part, provided that the joint venture has been set up in order to carry out the activity concerned over a period of at least three years and that the instrument setting up the joint venture stipulates that the contracting entities, which form it, will be part thereof for at least the same period.
(5) Contracting entities shall notify to the European Commission, at its request, the following information:
(a) the names of the undertakings in accordance with the provisions this Article,
(b) the nature and value of the contracts in accordance with the provision of this Article, and
(c) such proof as may be deemed necessary by the European Commission that the relationship between the undertaking or joint venture to which the contracts are awarded and the contracting entity complies with the requirements of this Article.

Title II
PUBLIC PROCUREMENT PROCEDURES

The choice between the open procedure, the restricted procedure and the negotiated procedure with prior publication of a contract notice

Article 115

(1) Contracting entities shall be free to choose between the open procedure, restricted procedure and the negotiated procedure with prior publication of a contract notice, provided that an invitation to tender has been made in accordance with Article 117 of this Act.
(2) The negotiated procedure without prior publication of a contract notice may be used by the contracting entity only in exceptional cases and under the circumstances laid down in Article 116 of this Act.

Conditions for the selection of the negotiated procedure without prior publication of a contract notice

Article 116

Contracting entities may use a negotiated procedure without prior publication of a contract notice in the following cases:
1. when no tenders or no suitable tenders or no requests to participate have been submitted in response to an open procedure, restricted procedure or negotiated procedure with prior publication of a contract notice, provided that the initial conditions of contract are not substantially altered, or
2. where a contract is purely for the purpose of research, experiment, study or development, and not for the purpose of securing a profit or of recovering research and development costs, and insofar as the award of such contract does not prejudice the competitive award of subsequent contracts which do seek, in particular, those ends, or
3. when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be executed only by a particular economic operator, or
4. insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting entities, the time limits laid down for open procedures, restricted procedures and negotiated procedures with prior publication of a contract notice cannot be adhered to, or
5. in the case of supply contracts for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance, or
6. for additional works or services which may not exceed 25% of the original contract, which were not included in the project initially awarded or in the contract first concluded but have, through unforeseen circumstances, become necessary to the performance of the contract, on condition that the award is made to the economic operator executing the original contract, and
a) when such additional works or services cannot be technically or economically separated from the original contract without great inconvenience to the contracting entities,
b) when such additional works or services, although separable from the performance of the original contract, are strictly necessary to its later stages, or
7. in the case of new works contracts consisting in the repetition of similar works:
a) if the contract is to be assigned to the economic operator to which the same contracting entities awarded the original contract,

b) if the original contract was assigned in an open procedure, restricted procedure or negotiated procedure with prior publication of a contract notice,
c) if the works conform to a basic (original) project for which the original contract was awarded,
d) if the possibility of applying such a negotiated procedure was foreseen in the first invitation to tender,
e) if the total value of such works to be repeated was taken as the basis for calculation of the estimated value of procurement,
8. for supplies quoted and purchased on a commodity market, or
9. for contracts to be awarded on the basis of a framework agreement, on condition that the framework agreement:
a) was concluded pursuant to the provisions of this Act, and
b) does not hinder, limit or distort competition, or
10. for bargain purchases, where it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices, or
11. for purchases of supplies under particularly advantageous conditions from either a supplier definitively winding up his business activities or the receivers or liquidators of a bankruptcy, or
12. when the service contract concerned is part of the follow-up to a design contest organised in accordance with the provisions of this Act and shall, in accordance with the relevant rules, be awarded to the winner or to one of the winners of that contest. In the latter case, all the winners shall be invited to participate in the negotiations.

Title Three
PUBLICATION

Publication of contract notices

Article 117

(1) Contract notices are the following:
1. the invitation to tender in an open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice;
2. the invitation to participate in an open or restricted contest;
3. the simplified contract notice for use in a dynamic purchasing system;
4. the periodic indicative notice;
5. the notice on the existence of a qualification system,
6. the buyer profile,
7. the notice on awarded contracts, results of contests and awarded framework agreements ,
8. the notice on the commencement of a public procurement procedure in the event of a negotiated procedure without prior publication of a contract notice and on the award of a public service contract referred to in Annex II B, and exclusions from the application of this Act.
(2) An invitation to tender may be published by:
1 a periodic indicative notice, or
2. a notice on the existence of a qualification system, or
3. a publication referred to in paragraph 1, item 1 through 4 of this Article.

(3) The content of the notices referred to in this Article is stipulated in Annexes V and VI to this Act.

Periodic indicative notices

Article 118

(1) Contracting entities shall make known, at least once a year, by means of a periodic indicative notice or on their buyer profile:
1. where public supply contracts are concerned, information on the groups of supplies classified by reference to the codes and descriptions of the Common Procurement Vocabulary (CPV) and the estimated total value of all contracts or framework agreements which they intend to award over the following twelve months, where the total estimated value is equal to or greater than EUR 750,000,
2. where public service contracts are concerned, classified by reference to the categories of Annex II A to this Act, the estimated total value of all contracts or framework agreements which the contracting entity intends to award over the following twelve months, where the total estimated value is equal to or greater than EUR 750,000,
3. where public works contracts are concerned, information on the essential characteristics of the contracts or framework agreements which the contracting authority intends to award over the following twelve months, where the total estimated value is equal to or greater than EUR 5,278,000.
(2) The periodic notices shall be sent to the European Commission by using the appropriate standard form or published on the buyer profile. The periodic notice shall not be published on the buyer profile before the contracting entity notifies the European Commission thereof. The buyer profile shall indicate the date on which the notice was sent to the European Commission.
(3) The periodic notice relating to public supply contracts and public service contracts shall be sent to the European Commission or published on the buyer profile as soon as possible after the beginning of the budgetary year. The periodic notice relating to public works contracts shall be sent to the European Commission or published on the buyer profile as soon as possible after the decision approving the planning of the works contracts or the framework agreements that the contracting entities intend to award.
(4) The publication of the notices referred to in paragraph 1 of this Article shall be compulsory only where the contracting entities take the option of reducing the time limits for the receipt of tenders as laid down in Article 123, paragraph 1 of this Act.
(5) This Article shall not apply to the negotiated procedure without prior publication of a contract notice.
(6) Contracting entities may, in particular, publish or arrange for the European Commission to publish periodic indicative notices relating to major projects without repeating information previously included in a periodic indicative notice, provided that it is clearly pointed out that these notices are additional ones.

An invitation to tender by means of a periodic indicative notice

Article 119

(1) An invitation to tender shall be made by means of a periodic indicative notice only in the following cases:

1. if the periodic indicative notice refers specifically to the supplies, works or services which will be the subject of the contract to be awarded,
2. if the publication of a periodic indicative notice includes:
a) an indication that the contract will be awarded by restricted or negotiated procedure without further publication of an invitation to tender,
b) an invitation to interested economic operators to express their interest in writing, and
3. if the periodic indicative notice is published not more than 12 months prior to the moment in which the contracting entity sends an invitation to all interested economic operators to confirm their interest based on a detailed description of the subject-matter of procurement. The contracting entity shall meet the time limits laid down in Article 122, paragraph 1 of this Act.
(2) When an invitation to tender is made by means of a periodic indicative notice, contracting entities shall subsequently invite all candidates to confirm their interest. The invitation shall include at least the following information:
1. nature and quantity, including all options concerning complementary contracts and, if possible, the estimated time available for exercising these options for renewable contracts, the nature and quantity and, if possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender,
2. type of procedure (restricted or negotiated),
3. where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate,
4. the address and closing date for the submission of requests for tender documents and the language or languages in which they are to be drawn up,
5. the address of the entity which is to award the contract and the information necessary for obtaining the specifications and other documents,
6. economic and technical conditions, financial guarantees and information required from economic operators,
7. the amount and payment procedures for any sum payable for obtaining tender documents,
8. the form of the contract which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of these; and

(i) the contract award criteria and their weighting or, where appropriate, the order of importance of such criteria, if this information is not given in the periodic indicative notice or the tender documents or in the invitation to tender or to negotiate.

Qualification systems

Article 120

(1) Contracting entities which so wish may establish and operate a system of qualification of economic operators. Contracting entities which establish or operate a system of qualification shall indicate in the notice the purpose of the qualification system and the manner in which the rules of qualification may be requested, and ensure that economic operators are at all times able to request qualification. Where the qualification system is of a duration greater than three years, the notice on the establishment of a qualification system shall be published annually. Where the qualification system is of a shorter duration, publication of a notice at the beginning of the procedure shall suffice.
(2) The qualification system under paragraph 1 of this Article may involve different qualification stages. It shall be operated on the basis of objective criteria and rules for qualification to be established by the contracting entity. The criteria and rules may be updated

as required.
(3) The criteria and rules for qualification referred to in paragraph 2 of this Article may include the exclusion criteria. The contracting entity shall list the exclusion criteria and include them in the criteria and rules for qualification.
(4) Where the criteria and rules for qualification include requirements relating to the financial and economic capacity and/or technical and professional ability, the economic operator may where necessary rely on the capacity of other entities, whatever the legal nature of the link between itself and those entities. In this case the economic operator must prove that these resources will be available to it throughout the period of the validity of the qualification system.
(5) Under the same conditions as in paragraph 4 of this Article, a group of economic operators may rely on the capacity of participants in the group or of other economic operators.
(6) The criteria and rules for qualification referred to in paragraph 2 of this Article shall be made available to economic operators on request. The updating of these criteria and rules shall be communicated to interested economic operators by the contracting entity. Where a contracting entity considers that the qualification system of certain other contracting entities meets its requirements, it shall communicate to interested economic operators the names of such other entities.
(7) Contracting entities which establish and operate a system of qualification shall inform applicants of their decision as to qualification within a reasonable term. If the decision will take longer than four months from the presentation of an application, the contracting entity shall inform the applicant, within two months of the application, of the reasons justifying the longer period and of the date by which his application will be accepted or refused. The applicant shall be notified of the decision as to qualification within a period of not more than six months after the receipt of the application.
(8) Applicants whose qualification is refused shall be informed of this decision and the reasons for refusal as soon as possible and under no circumstances more than 15 days later than the date of the decision. The reasons shall be based on the criteria for qualification referred to in paragraph 2 of this Article.
(9) Successful applicants shall be included in the list, where further classification is possible based on the subject-matter of procurement for which individual applicants are qualified.
(10) Contracting entities which establish and operate a system of qualification may bring the qualification of an economic operator to an end only for reasons based on the criteria for qualification referred to in paragraph 2 of this Article. Any intention to bring qualification to an end shall be notified in writing to the economic operator beforehand, at least 15 days before the date on which qualification is due to end, together with the reason or reasons justifying the proposed action.
(11) If an invitation to tender is published by means of a qualification system, the candidates shall be selected in the restricted procedure or in the negotiated procedure from amongst the economic operators who are qualified within the qualification system.

Title Four
TIME LIMITS

Time limits for the receipt of tenders in the open procedure

Article 121

(1) In the case of open procedures, the minimum time limit set by the contracting entity for the receipt of tenders shall be 52 days from the date on which the contract notice was sent.
(2) In the case of public procurement procedures with the estimated value lower than the amount laid down in the Regulation on public procurement notices and records, the publication of which is compulsory at the European Community level, the time limit for the receipt of tenders in open procedures shall be at least 26 days from the date on which the notice was sent.

Time limits in restricted procedures and in negotiated procedures with prior publication of a contract notice

Article 122

(1) In restricted procedures and in negotiated procedures with prior publication of a contract notice, the time limit for the receipt of requests to participate, which is set by the contracting entity, shall be the following:
1. no less than 37 days and in no case less than 22 days from the date on which the notice was sent,
2. no less than 15 days if the notice is transmitted by electronic means or fax.
(2) In the case of public procurement procedures with the estimated value lower than the amount laid down in the Regulation on public procurement notices and records, the publication of which is compulsory at the European Community level, the time limit for the receipt of requests to participate shall be no less than 10 days from the date on which the notice was sent.
(3) In restricted procedures and in negotiated procedures with prior publication of a contract notice, the time limit for the receipt of tenders may be set by mutual agreement between the contracting entity and the selected candidates, provided that all candidates have the same time limit. The time limit for the receipt of tenders set by mutual agreement may be less than 10 days.
(4) Whenever the time limit for the receipt of tenders cannot be set by mutual agreement, the contracting entity shall fix a time limit of at least 24 days but which shall in no case be less than 10 days from the date of the invitation to tender.

Shortened time limits for the receipt of tenders in open procedures

Article 123

(1) The time limit for the receipt of tenders may be shortened to 36 days, but it shall in no case be less than 22 days:
1. if the contracting entities have published a periodic indicative notice between 52 days and 12 months before the date on which the contract notice was sent, and
2. if the periodic indicative notice has included, in addition to the information required by the

standard form referred to in Annex V B, part I, all the information required by Annex V B, part II, insofar as the latter information is available at the time the notice is published.
(2) Where notices are drawn up and transmitted by electronic means in accordance with the format and procedures for transmission, the time-limits for the receipt of tenders in open procedures may be shortened by seven days.
(3) The time limits for the receipt of tenders in open procedures may be further shortened by five days where the contracting entity offers unrestricted and full direct access to the tender documents and any supplementary documents by electronic means from the date on which the first notice used as a means of invitation to tender is published. The notice should specify the Internet address at which this documentation is accessible.
(4) In open procedures, the shortened time limits for the receipt of tenders provided for in paragraphs 1, 2 and 3 of this Article may have cumulative effect, but the cumulative effect of the reductions may in no case result in a time limit for the receipt of tenders of less than 15 days from the date on which the contract notice is sent.
(5) If the contract notice is not transmitted by fax or electronic means, the cumulative effect of the shortened time limits for the receipt of tenders in open procedures may in no case result in a time limit for the receipt of tenders of less than 22 days from the date on which the contract notice is transmitted.

Shortened time limits in restricted procedures and in negotiated procedures with prior publication of a contract notice

Article 124

(1) Where notices are drawn up and transmitted by electronic means in accordance with the format and procedures for transmission, the time-limits for the receipt of requests to participate in restricted and negotiated procedures with prior publication of a contract notice may be shortened by seven days.
(2) Except in the case referred to in Article 122, paragraph 3 of this Act, the time limits for the receipt of tenders in restricted procedures and in negotiated procedures with prior publication of a contract notice may be further shortened by five days where the contracting entity offers unrestricted and full direct access to the tender documents and any supplementary documents by electronic means from the date on which the notice used as a means of calling for competition is published. The notice should specify the Internet address at which this documentation is accessible.
(3) In restricted procedures and in negotiated procedures with prior publication of a contract notice, the shortened time limits provided for in paragraphs 1 and 2 of this Article may have a cumulative effect.
(4) The cumulative effect of the reductions may in no case result in a time limit for receipt of requests to participate, in response to a notice published or in response to an invitation by the contracting entities in accordance with the provisions of Article 119, paragraph 1 of this Act, of less than 15 days from the date on which the contract notice or invitation is sent.
(5) The cumulative effect of the reductions, except in the case referred to in Article 122, paragraph 3 of this Act, may in no case result in a time limit for the receipt of tenders of less than 10 days from the date of the invitation to tender.

Time limits for the adoption of the contract award decision

Article 125

The time limit for the adoption of a decision on the award of contract shall begin on the date of expiry of the time limit for the receipt of tenders. The time limit for the adoption of a contract award decision shall be reasonable. If the tender documents do not specify a time limit for the adoption of a contract award decision, the time limit shall be 60 days from the date of expiry of the time limit for the receipt of tenders.

Title Five
RELATIONS WITH THIRD COUNTRIES

Tenders comprising products originating in third countries

Article 126

(1) This Article shall apply to tenders covering products originating in third countries with which the European Community has not concluded an agreement ensuring comparable and effective access for European Community undertakings to the markets of those countries. This Article shall be without prejudice to the obligations of the European Community or its Member States in respect of third countries.
(2) Any tender submitted for the award of a supply contract may be rejected where the proportion of the products originating in third countries, as determined in accordance with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, exceeds 50 % of the total value of the products constituting the tender. For the purposes of this Article, software used in telecommunications network equipment shall be regarded as products.
(3) Where two or more tenders are equivalent in the light of the contract award criteria, preference shall be given to those tenders which may not be rejected pursuant to paragraph 2 of this Article. The prices of those tenders shall be considered equivalent for the purposes of this Article, if the price difference does not exceed 3 %. A tender shall not be preferred to another where its acceptance would oblige the contracting entity to acquire equipment having technical characteristics different from those of existing equipment, resulting in incompatibility, technical difficulties in operation and maintenance, or disproportionate costs.
(4) Those third countries to which the benefit of the application has been extended by a Council Decision in accordance with paragraph 1 of this Article shall not be taken into account for determining the proportion, referred to in paragraph 2 of this Article, of products originating in third countries.

Relations with third countries as regards works, supplies and service contracts

Article 127

(1) The Republic of Croatia shall inform the European Commission through its line ministry of any difficulties encountered and reported by its undertakings in securing the award of service contracts in third countries.
(2) The Republic of Croatia shall inform the European Commission through its line ministry of any difficulties encountered and reported by its economic operators, and which are due to

the non-observance of the international labour law provisions when these economic operators have tried to secure the award of contracts in third countries.

PART FOUR
PROCUREMENT OF LESSER VALUE

Value of procurement

Article 128

(1) The contracting authorities shall apply the provisions of this Part Four hereof if the estimated value of procurement, exclusive of value added tax, is the following:
– HRK 300,000.00 and less for goods and services,
– HRK 500,000.00 and less for works.
(2) Unless provided otherwise in this Part Four hereof, the other provisions of this Act shall apply.

Selection of the procedure and method of procurement of lesser value

Article 129

(1) When awarding public contracts of lesser value, the contracting authorities shall use open procedures, restricted procedures, negotiated procedures, framework agreements and electronic auctions in accordance with the procedures and conditions laid down in this Act.
(2) For the estimated value of procurement of up to HRK 70,000.00, exclusive of value added tax, the contracting authorities may use public procurement procedures laid down in this Act.

Time limits

Article 130

(1) The time limit for the receipt of requests to participate in restricted procedures and in negotiated procedures with prior publication of a contract notice shall be at least 10 days from the date on which the notice was sent.
(2) The time limit for the receipt of tenders shall be at least 10 days:
– in open procedures, from the date on which the notice was sent,
– in restricted procedures and in negotiated procedures, from the date on which the invitation to tender was sent.
(3) The contracting authorities shall not sign public contracts before the expiry of the standstill period, which will last for 5 days from the date on which the decision on the award of contract was sent to the tenderers, or from the date on which the notice on the commencement of the public procurement procedure was published in the case of negotiated procedures without prior publication of a contract notice and the award of public service contracts listed in Annex II B, and the exclusions from the application of this Act, except in the case referred to in Article 5, paragraph 1, item 15 of this Act.

Shortened time limit for the receipt of tenders by electronic means

Article 131

The time limit for the receipt of tenders may be at least five days where the contracting authority offers the tender documents and any supplementary documents relating to the procurement procedure by electronic means from the first publication of the notice used as a means of calling for competition. The notice should specify the Internet address at which this documentation is accessible.

The public opening of tenders

Article 132

The contracting authority shall conduct a public opening of tenders if so stated in the notice.

Notices of procurement of lesser value

Article 133

The contracting authority shall publish the notice of procurement of lesser value in accordance with the information included in the standard form for procurement of lesser value, laid down in the Regulation on public procurement notices and records.

PART FIVE
LEGAL PROTECTION

Title One
LEGAL PROTECTION PROCEDURE

Section 1
GENERAL PROVISIONS

Article 134

(1) The State Commission for the Supervision of Public Procurement Procedures (hereinafter the "State Commission") shall decide on appeals in public procurement procedures governed by this Act and in procedures governed by special laws.
(2) The organisational structure and the scope of competencies of the State Commission shall be regulated by a separate law.

Principles of the legal protection procedure

Article 135

In addition to the general principles of public procurement, legal protection shall be based on the principles of legality, efficiency, cost-effectiveness and the adversarial nature of the procedure.

Language of the procedure

Article 136

The legal protection procedure shall be conducted in the Croatian language and using the Latin script.

Protection of Rights

Article 137

(1) Any dissatisfied party shall be entitled, subject to the conditions laid down in this Act, to seek protection of its rights before the State Commission by filing an appeal and other petition against a decision, action or failure to take an action by the contracting entity which was obliged to take an action under this Act, and against procedures which must be governed by this Act.
(2) Candidates or tenderers in public procurement procedures, and any other economic operators who have a legal interest in being awarded the public contract or who suffered or may suffer damages resulting from the alleged infringements of their rights, shall be entitled to seek protection of their rights.
(3) The protection of the rights may be sought by the Public Procurement Office of the Government of the Republic of Croatia and/or the State Attorney's Office.

Prohibition to conclude contracts

Article 138

(1) Contracting entities may not sign a public contract or proceed with its performance before the expiry of a period of twelve days, or five days in procedures of lesser value, counting from the date stipulated in Article 147, paragraph 2, item 3 of this Act.
(2) Appeals filed against an award decision, a notice on the commencement of a public procurement procedure in negotiated procedures without prior publication of a contract notice, an exclusion from the application of this Act or procurement of public services listed in Annex II B, shall prevent signing of a public contract for all groups or lots of the subject-matter of procurement.

Rules for presenting evidence

Article 139

(1) In the course of the procedure, the parties shall present all facts on which they base their requests or decisions, actions or lack of actions, and propose evidence with respect thereto.
(2) In the course of the procedure of legal protection, the contracting authority shall prove all the facts and circumstances used to make decisions concerning one's rights, take actions or omit to take actions, or conduct procedures which are the subject of the review procedure.
(3) In the procedure of legal protection, the appellant shall prove or show that there are reasonable grounds to believe in the existence of facts and reasons which concern the powers to submit appeals, infringements of the procedure or violations of the substantive law, referred to in the appeal, which are either known to him or should be known to him.

Substantial violations of the Act
Article 140

In public procurement procedures, the following shall represent substantial violations of this Act:
1. conducting a public procurement procedure without the adoption of a decision on the commencement of the public procurement procedure, with the content as provided for in Article 13, paragraph 5 of this Act,
2. the tender documents that are not compliant with this Act, which resulted or might have resulted in discrimination against some tenderers or restricted competition,
3. contract notices which are not compliant with this Act,
4. deficiencies relating to the opening of tenders, deficiencies relating to the evaluation of the request to participate,
5. deficiencies relating to the procedure of examination and evaluation of tenders and contract award,
6. the award of contract to a tender the total price of which exceeds the funds dedicated for the procurement,
7. the award of contract to a tender which is not the most advantageous,
8. the award of contract to an unacceptable tender.

Powers of the State Commission

Article 141

(1) In the procedure of legal protection, the State Commission shall act within the limits of the requests stated in the appeal, and ex officio with respect to substantial violations of the Act as described in Article 140 herein.
(2) The State Commission is not authorised to review the state of facts or the legal situation which was the subject of a previous appeal in the same procurement procedure.

Conciliation

Article 142

The parties to the procedure and the State Commission shall endeavour, throughout the entire procedure, to resolve the dispute amicably.

Section 2
APPEALS

C*ontent of appeals*

Article 143

(1) The appeal shall include the following information:
1. information on the appellant (the first and last name, company name or title, address of habitual residence, registered office),
2. information on the representative or agent with a power of attorney,
3. the name, company name and registered office of the contracting authority,

4. the number and date of the public procurement procedure and information concerning the contract notice,
5. the number and date of the contract award decision, the cancellation decision or other decisions made by the contracting authority,
6. other information concerning actions, failures to act or procedures of the contracting authority which are the subject of the review procedure, information concerning the subject-matter of procurement, and the procurement registration number,
7. a description of the state of facts,
8. a description of the infringements and an explanation,
9. the proposed evidence,
10. the claim for remedy and/or the claim for the compensation of procedural costs,
11. the signature of the authorised person and seal.

(2) The appellant shall enclose to the appeal the proof of payment of administrative taxes and the proof of payment of the fee for conducting the procedure.
(3) Appellants who do not have their registered office in the territory of the Republic of Croatia shall designate an agent with a power of attorney or an agent for the service of documents within the territory of the Republic of Croatia or provide for a different way of service of documents, which shall not result in the stalling of the procedure.
(4) Subject to the requirements stipulated by this Act, the appellant may file a motion for injunction only together with an appeal.
(5) Any motion for injunction filed contrary to paragraph 4 of this Article shall be dismissed.

Procedure with irregular appeals

Article 144

(1) If an appeal does not include the minimum information laid down in Article 143, paragraph 1, items 1, 3, 4, 5 and 9 of this Act, the State Commission shall ask the appellant to supplement the appeal and it shall set a time limit which may not be longer than five days.
(2) If the appellant fails to comply, the appeal shall be dismissed as irregular, unless its contents allow further procedure and the appeal contains a claim for remedy.

Section 3
LODGING AN APPEAL

Method of lodging an appeal

Article 145

(1) Appeals shall be addressed to the State Commission and lodged with the contracting authority in writing, either in person or sent by registered mail, or by electronic means, provided that the conditions for the submission of electronic documents have been met by both parties in line with the provisions concerning the electronic signature.
(2) The appellant shall, at the same time and in the same manner, submit one copy of the appeal to the State Commission.
(3) The appeal shall be submitted in a sufficient number of copies to allow that it be served to other parties to the procedure, besides the State Commission.
(4) The date of submission of the registered letter at the post office shall be regarded as the date of service of the appeal.

(5) Where an appeal is lodged in person, the contracting authority shall issue to the appellant a receipt confirmation with the indication of the time of receipt.
(6) Where the contracting authority refuses to issue a receipt confirmation, the appeal shall be deemed to have been lodged in good time, unless the contracting authority proves otherwise.

The procedure of the contracting authority concerning an appeal

Article 146

(1) The contracting authority shall submit, within five days of the receipt of an appeal, to the State Commission:
1. the original appeal and all attachments thereto, with information on and proof of the time of receipt,
2. the reply to the appeal, with an explanation thereof, with a statement concerning the state of facts the legal situation and the claims, the chronology of the public procurement procedure with the essential elements of the public procurement procedure (the estimated value of procurement, information on the contract notice, the procedure of opening tenders, the procedure of examination and evaluation of tenders, the contract award decision, etc.),
3. a complete set of documents concerning the procedure with a list of schedules,
4. an unaltered complete set of original tenders, at least the tenders of the appellant, the chosen tenderer and the suitable tenderers who rendered the award procedure possible,
5. other evidence as to the existence of the preconditions necessary for the adoption of a lawful decision, performance of actions, omissions or procedures.
(2) The contracting authority is not obliged to submit the documents referred to in paragraph 1 of this Article where it acts in accordance with the powers stipulated in Article 153 of this Act.

Lodging an appeal

Article 147

(1) The procedure of legal protection starts with an appeal being lodged with the contracting entity, or a request to cancel the public procurement procedure due to the failure to submit the documents to the State Commission, in line with Article 154, paragraph 1 of this Act.
(2) The appeal must be lodged before the expiry of a period of eight days, or a period of three days in the case of contracts of lesser value, from the date of:
1. the contract notice if the appeal concerns the information, actions, procedures and failures to act referred to in the notice,
2. the opening of tenders if the appeal concerns the actions, procedures, failures to act relating to the procurement documents and the procedure of opening tenders,
3. the receipt of a decision concerning an individual right arising from public procurement and relating to the procedure of examination and evaluation of the suitability of tenderers and the procedure of examination and evaluation of tenders and contract award
4. the expiry of the time limit for the adoption of a decision on individual rights arising from public procurement referred to in item 3 of this paragraph,
5. the applicant becoming aware that the public procurement procedure was conducted contrary to this Act, and not later than within a period of one year from the date on which the procedure was conducted.
(3) Any appellant who fails to lodge an appeal according to the provisions of paragraph 2 of

this Article shall lose the right to apply for a review of lawfulness in a later phase of the procedure.

Section 4
INJUNCTIONS AND THE CONTINUATION OF THE PUBLIC PROCUREMENT PROCEDURE

Requests to continue the public procurement procedure

Article 148

(1) Where a motion for injunction has been filed, the contracting authority may file a request for the approval of the continuation of the public procurement procedure. The request for the continuation of the public procurement procedure shall be filed simultaneously with the reply to the appeal and the procurement documents.
(2) The request for the continuation of the procedure filed contrary to paragraph 1 of this Article shall be dismissed.
(3) The request for the continuation of the procedure entails the signing of the public contract which is the subject-matter of the dispute.
(4) The request for the continuation of the procedure may be filed on the grounds of potential damage which might result from the non-performance of procurement, and which is disproportionate with respect to the procurement value. The request must include the basic information included in the appeal as stipulated by Article 143, paragraphs 1, 3 and 4 of this Act, and a request, an explanation and proof of the facts supplied.

Motion for injunction

Article 149

(1) Along with the appeal, the appellant may file a motion for injunction. The proposed measure may be the prohibition of signing of the public contract and performing contractual obligations which are the subject-matter of the review procedure, but also any other measure aimed at preventing damage which might occur if the proposed measure is not adopted.
(2) In the motion for injunction, the appellant must show that there are reasonable grounds to believe that the circumstances on which he is basing his motion indeed exist.
(3) Any contract signed contrary to the injunction shall be null and void.

Article 150

(1) The State Commission shall pass a decision concerning the motion for injunction before the expiry of a period of three days from the date on which the motion was filed or it shall postpone the adoption of the decision concerning the injunction until a decision on the principal matter is adopted.
(2) The State Commission, acting ex officio, may issue an injunction prohibiting the signing of a public contract if it considers that the requirements for its imposition are met.
(3) The decision on the imposition of an injunction shall also set the duration thereof.

Section 5
DECIDING ON APPEALS

Decisions on appeals

Article 151

(1) In a legal protection procedure , the State Commission may:
1. discontinue the procedure because the appeal is withdrawn,
2. dismiss the appeal due to non-venue, impermissibility, irregularity, untimeliness or due to the fact that it was lodged by an unauthorised person,
3. reject the appeal due to it being ill-founded,
4. annul a decision, procedure or action in the part which is unlawful,
5. pronounce the decision on individual rights or the procedure null and void if an irregularity was committed in the public procurement procedure which warrants annulment under the provisions of this Act and the law which regulates the administrative procedure,
6. decide on the settlement reached in a procedure before the State Commission,
7. decide on the request for the compensation of costs of the appellate procedure,
8. decide on an injunction in line with the provisions of this Act,
9. decide on the proposal to continue the public procurement procedure.
(2) The State Commission shall decide on the principal matter by issuing a decision, and in other cases by issuing a conclusion.
(3) The decision of the State Commission is final and enforceable.

Settlement

Article 152

The parties may reach a settlement at any time during the procedure conducted before the State Commission. The settlement agreement shall be entered in the minutes. Any settlement reached in a procedure before the State Commission shall be approved by the council, provided that it is not contrary to the coercive provisions of the law and the rules of public morality or legal interests of third parties.

Powers of the contracting authority concerning appeals

Article 153

(1) If, after receiving an appeal, the contracting authority finds that the appeal is either partially or completely founded, it may either rectify the action, undertake an action or conduct another procedure, or it may place the existing decision out of force and replace it by another, or annul the public procurement procedure and notify the participants thereof in line with the provisions of this Act, within a period of five days from the receipt of the appeal.
(2) The contracting entity shall not have the powers stipulated in Article 151, paragraph 1, item 2 of this Act.
(3) An appeal may be lodged, under the conditions stipulated by this Act, against a new decision, action, failure to act or a procedure.
(4) The contracting authority who exercised the powers referred to in this Article shall notify the State Commission thereof, and enclose the original of the new decision and proof of service of the decision to all participants in the award procedure.

The special case of public procurement cancellation for failure to submit documents

Article 154

(1) If the contracting authority fails to comply with the obligation established in Article 146 of this Act (the submission of the appeal and relevant documents), the appellant shall be entitled to request, within a period of 30 days from the date on which the appeal was lodged with the contracting authority, that the State Commission adopt a decision cancelling the entire public procurement procedure.
(2) The request referred to in paragraph 1 of this Article shall be submitted to the State Commission and it shall include evidence of the service of the appeal to the contracting authority, the information on the contracting authority, the subject-matter of procurement, the procurement registration number and the contract notice, if available.
(3) The State Commission shall accept the appellant's motion if the conditions referred to in paragraph 2 of this Article are met.

Parties to the procedure

Article 155

(1) Parties to the legal protection procedure are the appellant, the contracting authority and the tenderer to whom the contract is awarded. Other economic operators referred to in Article 137, paragraph 2 of this Act also have the capacity of a party.
(2) The State Commission, acting ex officio, shall notify the tenderer to whom the contract is awarded that an appellate procedure has been launched, while other persons having the capacity of party may apply to participate.
(3) If they apply to participate, the Public Procurement Office of the Government of the Republic of Croatia and the State Attorney's Office shall have the capacity of a party, unless they have lodged the appeal themselves.
(4) All parties shall be entitled to give statements concerning the claims and allegations of another party and to propose evidence. The State Commission shall submit to each party the motions received in the case, with regard to the principal matter, or with regard to new facts and evidence.
(5) All parties shall be entitled to review the case file, save for that part of the tender and documents which are confidential under law.
(6) In a legal protection procedure parties may be represented by agents with a power of attorney. The relations concerning representation which are not regulated by this Act shall be governed by the provisions of the law which regulates the administrative procedure.
(7) In the appellate procedure, the contracting authority shall submit any documents requested by the State Commission within the time limit fixed by the State Commission.
(8) With a view to adopting a decision concerning the cost of an appellate procedure, the value of the subject-matter shall be calculated based on the estimated value of procurement.

The decision-making process in the State Commission

Article 156

(1) In matters concerning appeals, the State Commission shall adopt decisions at council meetings.

(2) The State Commission may adopt valid decisions if at least three members are present at the council meeting . The president and/or vice-president must attend the meeting of the competent appellate body.
(3) At the council meetings, decisions shall be adopted by a majority vote of the attending members, while a written official copy of the decision shall be sent to the parties to the procedure, to the Public Procurement Office of the Government of the Republic of Croatia and to the State Audit Office.
(4) No member of the council may abstain from voting.
(5) The meetings of the council of the State Commission shall not be open to the public.
(6) Special minutes shall be drawn up of the council's deliberation and voting. The minutes shall be signed by the attending members of the State Commission and by the person drawing up the minutes.
(7) The State Commission shall pass its decision before the expiry of a period of 15 days from the date on which the case file was completed.
(8) The decisions shall be published at the web site of the State Commission, and may also be published in the Official Gazette.

Recusal

Article 157

(1) A member of the council of the State Commission shall recuse himself from working on a particular case in the following cases:
1. if he is a party, attorney of a party or has a business relationship with the party,
2. if the party or his attorney is a relative or spouse of the council member or related to him by marriage,
3. if there are other circumstances due to which his impartiality might be questioned.
(2) As soon as a reason for recusal becomes known, the council member shall be recused and the president or, in the event of recusal of the president, other members of the State Commission shall be notified.
(3) Parties are entitled to file a motion for the recusal of members of the council of the State Commission.
(4) A party's motion for recusal shall be decided on by the president of the State Commission, and a motion by the president of the council shall be decided on by the general assembly.

Section 6
PROCEDURAL COSTS, REIMBURSEMENT AND FEES

Procedural costs

Article 158

(1) In the procedure before the State Commission, each party shall bear the costs incurred by its actions in advance.
(2) The State Commission shall decide on the costs of an appellate procedure, determine who shall bear the costs of the procedure and the amount thereof, and to whom and by when they must be paid.
(3) The request for reimbursement of procedural costs must be very clear, specified and submitted before the decision is adopted.

(4) The party who initiated the procedure, and at whose detriment the procedure was terminated, shall reimburse the other party for all justified costs incurred by its participation in the procedure.
(5) If an appeal is withdrawn or rejected, the appellant shall reimburse the contracting authority for all costs incurred in connection with the appeal.
(6) If an appeal is partially accepted, the State Commission may decide that each party shall bear its respective costs, that the costs of the appellate procedure shall be split into equal parts or that they shall be divided proportionally to the acceptance of the appeal.

The fee for conducting the procedure

Article 159

In the procedure before the State Commission, along with the administrative fee, the appellant shall also pay a fee for conducting the procedure in the amount of:
– HRK 2,000.00 for the estimated value of procurement equal to or lower than the amounts established in Article 128, paragraph 1 of this Act,
– HRK 5,000.00 for the estimated value of procurement higher than the amounts established in Article 128, paragraph 1 of this Act, and lower than HRK 2,000,000.00,
– HRK 7,500.00 for the estimated value of procurement higher than HRK 2,000,000.00.

Section 7
MINUTES AND ORAL HEARINGS

Minutes concerning actions

Article 160

(1) Actions taken at a council meeting at which the subject-matter of a particular dispute is discussed shall be recorded in the form of minutes.
(2) The minutes shall include the name of the body, its members, the date and hour at which the action was taken, an indication of the subject-matter of the dispute, information on the attending parties and their attorneys.
(3) The minutes shall include the essential information on the action, and in the case of a hearing, statements made by the parties and the decision reached at the hearing.
(4) The minutes shall be signed by the president of the council, the attending parties and their attorneys, and the person having drawn up the minutes. The minutes shall be an integral part of the case file.

The oral hearing

Article 161

(1) The parties may propose an oral hearing and present reasons for such a hearing, in particular when the aim is to clarify a complex state of facts or a complex legal issue.
(2) The State Commission shall decide on the proposed oral hearing.
(3) The State Commission may decide to hold an oral hearing where it establishes that it is necessary to clarify a complex state of facts or a complex legal issue.
(4) The progress of an oral hearing shall be recorded in the form of minutes.

(5) The oral hearing shall be open to the public, where the public may be excluded for reasons connected with the keeping of a business, military or official secret.

Section 8
COURT PROTECTION AND SUBSIDIARY APPLICATION OF THE REGULATIONS

Administrative disputes

Article 162

(1) An administrative dispute against a decision of the State Commission may be initiated before the Administrative Court of the Republic of Croatia.
(2) Procedures further to administrative complaints in cases concerning public procurement shall be urgent.

Subsidiary application of the rules of the administrative procedure

Article 163

The procedure before the State Commission which is not regulated by the provisions of this Act shall be governed by the provisions of the law which regulates the administrative procedure.

Title Two
CIVIL LAW PROVISIONS

Nullity of a contract

Article 164

A public contract shall be null and void in the following cases:
1. if awarded contrary to the procedures and actions stipulated by this Act, where the contracting authority distributed the value of procurement to avoid the application of this Act,
2. if awarded without a public procurement procedure as compensation for claims and obligations,
3. if the contracting authority awards a public contract contrary to the chosen tender and the terms laid down in the tender documents,
4. if awarded before the expiry of the standstill period,
5. if the contracting authority conducts a procurement procedure or authorises a third party or a person who is not a contracting authority under this Act to conduct the procedure to avoid the application of this Act,
6. if amendments to the original contract were made contrary to the provisions of this Act,
7. if awarded contrary to a decision of the competent appellate body,
8. if awarded without a previously conducted public procurement procedure, and the contracting authority should have conducted it according to the provisions of this Act,
9. if awarded contrary to an injunction imposed by the competent appellate body.

The right to compensation of costs in the public procurement procedure

Article 165

(1) If the contracting authority infringes this Act or the implementing regulations based on this Act, the economic operator is entitled to request from the contracting authority to provide compensation for the costs incurred by the preparation of the tender and participation in the public procurement procedure.
(2) The economic operator shall not have the right referred to in paragraph 1 of this Article if, after the adoption of the contract award decision or the cancellation decision, the State Commission for the Supervision of Public Procurement Procedure establishes that the candidate or tenderer whose tender was not examined would not have had a great chance of winning the contract even if the provisions of this Act and the implementing regulations based on this Act were adhered to, or that the candidate's or tenderer's application for review and motion for injunction were rejected,.

Competence in the procedure of compensation of costs

Article 166

(1) The municipal court in the place of establishment of the contracting authority shall have the jurisdiction to adjudicate matters concerning the compensation of costs incurred in public procurement procedures.
(2) Requests for the compensation of costs shall be permitted only if the State Commission for the Supervision of Public Procurement Procedure established that:
1. due to actions taken contrary to the provisions of this Act or the implementing regulations based on this Act, the decision adopted was not in line with the invitation to tender for the lowest price or the economically most advantageous tender, or
2. the selection of the public procurement procedure without prior publication of a contract notice was unlawful, or
3. the cancellation decision was unlawful because of actions contrary to the provisions of this Act or the implementing regulations based on this Act or because of violations of the directly applicable law of the Community, or
4. the contract award decision, which was adopted in favour of one of the economic operators without the participation of other undertakings in the procedure, based on the provisions of this Act or the implementing regulations based on this Act, was obviously impermissible, or
5. the contracting authority, having substantially fallen behind the time limit for the adoption of a contract award decision and contrary to the tenderer’s plea that the public procurement procedure should continue, failed to resume the public procurement procedure or to terminate it by a contract award decision or a cancellation decision.

The relation to other regulations

Article 167

The responsibility of the contracting parties for the obligations under the public contract shall be governed by the relevant provisions of the Civil Obligations Act.

PART SIX
THE PUBLIC PROCUREMENT OFFICE OF THE GOVERNMENT OF THE REPUBLIC OF CROATIA

The Public Procurement Office of the Government of the Republic of Croatia

Article 168

The competencies of the Public Procurement Office of the Government of the Republic of Croatia shall include: development, improvement and coordination of the entire public procurement system; issuing opinions, instructions and provision of legal assistance in connection with the application of this Act and other regulations in the field of public procurement; proposals, preparation and coordination of the development of draft proposals of laws and other regulations on public procurement and participation in the development of the related regulations; development of expert and normative bases for the integration of the Republic of Croatia to the European Union in the field of public procurement; oversight of the implementation of this Act and other regulations in the field of public procurement through the activities aimed at both prevention and instruction and filing requests for the initiation of misdemeanour procedures; preparation and implementation of activities relating to training and professional development (seminars, workshops, counselling and the like) for persons participating in the public procurement system; organisation of special (specialised) training programmes in the field of public procurement in accordance with special regulations; maintenance of the Public Procurement Portal, monitoring of the Electronic Public Procurement Classifieds and publication of the public procurement e-bulletin and expert publications; participation in the application of the information and communication technology in the system of public procurement and electronic auctions; harmonisation and participation in the development of technical and standardisation rules in the procedure of public procurement; cooperation with the state bodies of the Republic of Croatia with a view of achieving uniform interpretation and correct application of the regulations in the field of public procurement; collection, recording, processing and analysing data on public procurement and delivery of statistical reports; international cooperation and promotion of values of the public procurement system, and other tasks established in this Act.

Preparation and implementation of training

Article 169

(1) The Public Procurement Office of the Government of the Republic of Croatia shall prepare and implement activities relating to training and professional development for persons participating in the public procurement system.
(2) The Public Procurement Office of the Government of the Republic of Croatia shall organise specialised training programmes in the field of public procurement for civil servants in accordance with special regulations.
(3) After a successfully completed training programme, it shall issue appropriate certificates.
(4) The programme, the categories of training, the criteria for attendants, the organisation, the manner of implementation and the criteria to be met by persons participating in the implementation of training, and the format and content of the certificate on a successfully completed programme shall be laid down by the Government of the Republic of Croatia in the

Regulation on the format, methods and conditions of training in the public procurement system.

Preventive and instructive activities

Article 170

(1) With the aim of remedying any irregularities in a public procurement procedure, the Public Procurement Office of the Government of the Republic of Croatia may:
1. request the contracting authority to provide the tender documents or parts thereof, any decision adopted by the contracting authority and other information concerning the procurement in question, and a statement concerning the procurement performed,
2. issue an opinion to the contracting authority concerning the irregularities observed and a recommendation on how to rectify such irregularities.
(2) With the aim of protecting the public interest, the Public Procurement Office of the Government of the Republic of Croatia shall be authorised to instigate legal protection procedures before the State Commission for the Supervision of Public Procurement Procedure.
(3) The contracting authority shall submit or make available to the Public Procurement Office of the Government of the Republic of Croatia, within the time limit set and as requested by the Public Procurement Office of the Government of the Republic of Croatia, the tender documents or parts thereof, any decision adopted by the contracting authority and other information concerning the procurement in question, and a statement concerning the procurement performed.
(4) The powers of the Public Procurement Office, the method of operation and other relevant issues concerning the oversight of the implementation of this Act through the activities of both prevention and instruction shall be prescribed by the Government of the Republic of Croatia in the Regulation on the implementation of control through the activities of prevention and instruction.

The obligation to deliver statistical data

Article 171

(1) The contracting authority referred to in Article 3 and the contracting entity referred to in Article 4 of this Act shall deliver statistical reports of the contracts awarded during the preceding year to the Public Procurement Office of the Government of the Republic of Croatia by 31 March of each year. The Public Procurement Office of the Government of the Republic of Croatia shall forward such statistical reports to the European Commission by 31 October of each year.
(2) The statistical report shall detail:
1. the data relating to:
a) the number and value of awarded contracts,
b) the number and total value of contracts awarded pursuant to derogations to the Agreement of the World Trade Organisation,
c) the contract award procedure used, the type of products and works as given in the Common Procurement Vocabulary (CPV) and services as given in Annex II A and Annex II B to this Act, identified by category of the international nomenclature of the Common Procurement Vocabulary (CPV) and by the country in which the economic operator to whom the public

contract was awarded is established,
d) the number and value of awarded contracts and the terms of this Act which justify the selection of the negotiated procedure with prior publication of a contract notice, the negotiated procedure without prior publication of a contract notice, the framework agreement, the dynamic purchasing system and the competitive dialogue, and exclusions from the application of this Act, classified by the country in which the economic operator to whom the contract was awarded is established,
2. all other statistical data required under the Agreement of the World Trade Organisation (WTO) and those relating to the field of procurement of lesser value.
(3) The content and the method of delivery of public procurement reports for the preceding year shall be prescribed by the Government of the Republic of Croatia in the Regulation on the content and the method of forwarding public procurement reports.

PART SEVEN
PROVISIONS CONCERNING MISDEMEANOUR OFFENCES

Provisions concerning misdemeanour offences

Article 172

(1) Any legal person or unit of local and regional self-government shall be fined in an amount from HRK 50,000.00 to HRK 1,000,000.00 for a misdemeanour if:
1. they procure products, works or services without a public procurement procedure laid down in this Act, save in cases permitted by the Act,
2. they fail to comply with the conditions and the method of public procurement based on the estimated value and split up the value of procurement with the intention of avoiding a particular procurement procedure (Article 9, paragraph 3),
3. they use the negotiated procedure without prior publication of a contract notice contrary to the provision of Articles 14, 15 or 16 of this Act (Article 13, paragraph 4) and Article 116 of this Act (Article 115, paragraph 2),
4. they fail to submit decisions which under this Act must be forwarded to the candidates or tenderers,
5. they award a public contract which is not in line with the chosen tender and the criteria laid down in the tender documents (Article 89, paragraph 4),
6. they do not complete a public procurement procedure by awarding a public contract or by cancelling the procedure (Article 90, paragraph 1),
7. they assign the procurement procedure or authorise a third party or a person who is not a contracting entity within the meaning of this Act to conduct the procurement in order to avoid the application of this Act,
8. at the request of the Public Procurement Office of the Government of the Republic of Croatia or of a body in charge of the review of public procurement procedures, they fail to submit the requested documents or if they prevent access to such documents (Article 170, paragraph 3),
9. they act contrary to a decision issued by the State Commission for the Supervision of Public Procurement Procedure,
10. after a significant violation of the time limit for the adoption of a decision and contrary to the request by the tenderers for the continuation of the public procurement procedure, they do not continue the procedure nor conclude it with an award decision or a cancellation decision,
11. in the case of capital investments, they fail to conduct the procedure of preparation and

adoption of an investment project in accordance with the Regulation on the methodology of preparation, appraisal and implementation of investment projects (Article 9, paragraph 5).
(2) The responsible person in the legal person or the responsible person in the state body or in the unit of local and regional self-government shall be fined for the misdemeanour referred to in paragraph 1 of this Article in an amount from HRK 10,000.00 to HRK 100,000.00.

Statute of limitations

Article 173

(1) The misdemeanour proceedings for misdemeanours referred to in this Act may not be instituted after the expiry of two years of the date on which the misdemeanour was committed.
(2) The statute of limitations shall take effect on the expiry of a period twice as long as the period after the date on which misdemeanour was committed referred to in paragraph 1 of this Article.

PART EIGHT
TRANSITIONAL AND FINAL PROVISIONS

Article 174

The Government of the Republic of Croatia shall adopt the following within 30 days of the date of entry into force of this Act:
1. the List of Entities Bound by this Act referred to in Article 3, paragraph 3, and Article 4, paragraph 2,
2. the Regulation on public procurement notices and records referred to in Article 9, paragraph 4, Article 10, paragraph 2, Article 31, paragraph 7 of this Act,
3. the Regulation on the methodology of preparation, appraisal and implementation of investment projects referred to in Article 9, paragraph 6 of this Act,
4. the Regulation on the conditions for applying the Common Procurement Vocabulary (CPV) referred to in Article 35, paragraph 2 of this Act,
5. the Regulation on the methodology for drawing up and handling tender documents and tenders referred to in Article 55, paragraph 8, Article 78, paragraph 6, Article 79, paragraph 3 of this Act,
6. the Regulation on the format, methods and conditions of training in the public procurement system referred to in Article 169, paragraph 4 of this Act,
7. the Regulation on the implementation of control through the activities of prevention and instruction referred to in Article 170, paragraph 4 of this Act,
8. the Regulation on the content and the method of forwarding public procurement reports referred to in Article 171, paragraph 3 of this Act.

Article 175

(1) Public procurement procedures launched before the entry into force of this Act in which public contracts have not been awarded yet or which are the subject of court or other procedures, shall be concluded pursuant the provisions of the Public Procurement Act which was in force at the time the procurement procedure began.
(1) The contracting authority shall conduct the public procurement procedure for products,

works and services which are the subject-matter of public contracts awarded for an indefinite period of time, within 12 months of the date of entry into force of this Act.

Article 176

The following shall cease to be valid on the date of entry into force of this Act:
– the Public Procurement Act (OG 117/01 and 92/05),
– the Regulation on public procurement notices and records (OG 14/02, 18/02 and 122/05),
– the Regulation on the procurement of products, works and services of lesser value (OG 14/02),
– the list of entities bound by the Public Procurement Act (OG 18/06),
– Article 8 of the Act on the State Commission for the Supervision of Public Procurement Procedures (OG 117/03).

Article 177

This Act shall be published in the Official Gazette and enter into force on 1 January 2008, save for the provisions of Article 5, paragraph 1, items 3 and 5, Article 5, paragraph 2, items 1 and 2, Article 14, paragraph 2, item 1, Article 15, paragraph 2, item 1, Article 16, paragraph 2, item 1, Article 32, paragraph 1, subparagraph 2, Article 36, paragraph 2, Article 48, paragraph 6, Article 54, paragraph 1, Article 70, paragraph 11, Article 81, paragraph 4, Article 91, paragraph 2, Article 113, Article 114, paragraph 5, Article 118, paragraphs 2, 3 and 6, Article 126, Article 127 and Article 171, paragraph 1, which shall enter into force on the date of admission of the Republic of Croatia to the European Union.

Class: 330-01/07-01/03
Zagreb, 3 October 2007

THE CROATIAN PARLIAMENT
The President of the Croatian Parliament
Vladimir Šeks, m. p.

ANNEX I

LIST OF ACTIVITIES IN CONSTRUCTION (PUBLIC WORKS)

NACE [1]					
CPV			Section F		CONSTRUCTION
Division	Group	Class	Subject	Notes	
45			Construction	This division includes: - construction of new buildings and works, restoring and common repairs	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	This class includes: - demolition or wrecking of buildings and other structures - clearing of building sites - earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. - site preparation for mining: - overburden removal and other development and preparation of mineral properties and sites This class also includes: - building site drainage - drainage of agricultural or forestry land	45110000
		45.12	Test drilling and boring	This class includes: - test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes This class excludes: - drilling of production oil or gas wells, see 11.20 - water well drilling, see 45.25 - shaft sinking, see 45.25 - oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20	45120000
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of	This class includes: - construction of all types of	45210000

			buildings and civil engineering works	buildings - construction of civil engineering constructions: • bridges, including those for elevated highways, viaducts, tunnels and subways • long-distance pipelines, communication and power lines • urban pipelines, urban communication and power lines; ancillary urban works - assembly and erection of prefabricated constructions on the site This class excludes: - service activities incidental to oil and gas extraction, see 11.20 - erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28 - construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23 - building installation, see 45.3 - building completion, see 45.4 - architectural and engineering activities, see 74.20 - project management for construction, see 74.20	
		45.22	Erection of roof covering and frames	This class includes: - erection of roofs - roof covering - waterproofing	45220000
		45.23	Construction of highways, roads, airfields and sports facilities	This class includes: - construction of highways, streets, roads, other vehicular and pedestrian ways - construction of railways - construction of airfield runways - construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations - painting of markings on road surfaces and car parks This class excludes: - preliminary earth moving, see	45230000

				45.11	
		45.24	Construction of water projects	This class includes: - construction of waterways, harbour and river works, pleasure ports (marinas), locks, etc. dams and dykes - dredging and subsurface work	45240000
		45.25	Other construction work involving special trades	This class includes: construction activities specializing in one aspect common to different kind of structures, requiring specialized skill or equipment: - construction of foundations, including pile driving - water well drilling and construction, shaft sinking - erection of non-self-manufactured steel elements - steel bending - bricklaying and stone setting - scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms - erection of chimneys and industrial ovens This class excludes: - renting of scaffolds without erection and dismantling, see 71.32	45250000
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	This class includes: installation in buildings or other construction projects of: - electrical wiring and fittings - telecommunications systems - electrical heating systems - residential antennas and aerials - fire alarms - burglar alarm systems - lifts and escalators - lightning conductors, etc.	45310000
		45.32	Insulation work activities	This class includes: - installation in buildings or other construction projects of thermal, sound or vibration insulation This class excludes: - waterproofing, see 45.22	45320000

		45.33	Plumbing	This class includes: - installation in buildings or other construction projects of: - plumbing and sanitary equipment - gas fittings - heating, ventilation, refrigeration or air-conditioning equipment and ducts - sprinkler systems This class excludes: - installation of electrical heating systems, see 45.31	45330000
		45.34	Other building installation	This class includes: - installation of illumination and signalling systems for roads, railways, airports and harbours - installation in buildings or other construction projects of fittings and fixtures	45340000
	45.4		Building completion		45400000
		45.41	Plastering	This class includes: - application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials	45410000
		45.42	Joinery installation	This class includes: - installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials - interior completion such as ceilings, wooden wall coverings, movable partitions, etc. This class excludes: - laying of parquet and other wood floor coverings, see 45.43	45420000
		45.43	Floor and wall covering	This class includes: laying, tiling, hanging or fitting in buildings or other construction projects of: - ceramic, concrete or cut stone wall or floor tiles - parquet and other wood floor coverings - carpets and linoleum floor coverings, including of rubber or plastic - terrazzo, marble, granite or slate floor or wall coverings	45430000

				- wallpaper	
		45.44	Painting and glazing	This class includes: - interior and exterior painting of buildings - painting of civil engineering structures - installation of glass, mirrors, etc. This class excludes: - installation of windows, see 45.42	45440000
		45.45	Other building completion	This class includes: - installation of private swimming pools - steam cleaning, sand blasting and similar activities for building exteriors - restoration work - other building completion and finishing work This class excludes: - interior cleaning of buildings and other structures, see 74.70	45450000
	45.5		Renting of construction or demolition equipment with operator		45500000
		45.50	Renting of construction or demolition equipment with operator	This class excludes: - renting of construction or demolition machinery and equipment without operators, see 71.32	

(1) In the event of any difference of interpretation between the CPV and the NACE, the NACE nomenclature will apply.

ANNEX II

LIST OF SERVICES II A AND II B

Annex II A – LIST OF SERVICES REFERRED TO ARTICLE 2, ITEM 4

Category Number	Subject	CPC reference number[1]	CPV reference number
1.	Maintenance and repair services	6112, 6122, 633, 886	From 50100000 to 50982000 (except fo 50310000 to 503242000 and 50116510-9 50190000-3, 50229000-6, 50243000-0)
2.	Land transport services[2] including armoured car services, and courier services, except transport of mail	712 (except 71235), 7512, 87304	From 6011000-6 to 60129300-1 (excep 60121000 to 60121600, 60122200-1 60122230-0) and from 64120000-3 t 64121200-2
3.	Air transport services of passengers and freight, except transport of mail	73 (except 7312)	From 62100000-3 to 62300000-5 (excep 62121000-6, 62221000-7)
4.	Transport of mail by land and by air[3]	71235, 7321	60122200-1, 60122230-0, 62121000-6 62221000-7
5.	Telecommunications services	752	From 64200000-8 to 64228200-2 72318000-7 and from 72530000-9 to 72532000-3
6.	Financial services: a) Insurance services b) Banking and investment services [4]	Ex 81, 812, 814	From 66100000-1 to 66430000-3 and fron 67110000-1 to 67262000-1
7.	Computer and related services	84	From 50300000-8 to 50324200-4 an from 72100000-6 to 72591000-4 (excep 72318000-7 and from 72530000-9 t 72532000-3)
8.	R & D services[5]	85	From 73000000-2 to 73300000-5 (excep 73200000-4, 73210000-7, 7322000-0)
9.	Accounting, auditing and book-keeping services	862	From 74121000-3 to 74121250-0
10.	Market research and public opinion polling services	864	From 74130000-9 to 74133000-0 an 74423100-1, 74423110-4
11.	Management consulting services[6] and related services	865, 866	From 73200000-4 to 73220000-0 From 74140000-2 to 74150000-5 (excep 74142200-8), and 74420000-9, 7442100 6, 74423000-0, 74423200-2, 74423210-5 74871000-5, 93620000-0
12.	Architectural services; engineering services and integrated engineering services; urban planning and landscape architectural services; related scientific and technical consulting services;	867	From 74200000-1 to 74276400-8, fron 74310000-5 to 74323100-0 an 74874000-6

	technical testing and analysis services		
13.	Advertising services	871	From 74400000-3 to 74422000-3 (excep 74420000-9 and 74421000-6)
14.	Building cleaning services and property management services	874, 82201 do 82206	From 70300000-4 to 70340000-6 and fron 74710000-9 to 74760000-4
15.	Publishing and printing services on a fee or contract basis	88442	From 78000000-7 to 78400000-1
16.	Sewage and refuse disposal services; sanitation and similar services	94	From 90100000-8 to 90320000-6 an 50190000-3, 50229000-6, 50243000-0

[1] In the event of any difference between the CPV and the CPC (provisional version), the CPC will apply.
[2] Except for rail transport services covered by Category 18.
[3] Except for rail transport services covered by Category 18.
[4] Except contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, and central bank services.
Also excluded: services involving the acquisition or rental, by whatever financial procedures, of land, existing buildings or other immovable property or concerning rights thereon. Financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Act.
[5] Except research and development service contracts other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting authority.
[6] Except arbitration and conciliation services.

Annex II B – LIST OF SERVICES REFERRED TO IN ARTICLE 2, ITEM 4

Category Number	Subject	CPC reference number[1]	CPV reference number
17.	Hotel and restaurant services	64	From 55000000-0 to 55524000-9 and from 93400000-2 to 93411000-2
18.	Rail transport services	711	60111000-9 and from 60121000-2 to 60121600-8
19.	Water transport services	72	From 61000000-5 to 61530000-9 and from 63370000-3 to 63372000-7
20.	Supporting and auxiliary transport services	74	62400000-6, 62440000-8, 62441000-5, 62450000-1. From 63000000-9 to 63600000-5 (except 63370000-3, 63371000-0, 63372000-7) and 74322000-2, 93610000-7
21.	Legal services	861	From 74110000-3 to 74114000-1
22.	Personnel placement and supply services[1]	872	From 74500000-4 to 74540000-6 (except 74511000-4) and from 95000000-2 to 95140000-5
23.	Investigation and security services, except armoured car services	873 (except 87 304)	From 74600000-5 to 74620000-1
24.	Education and vocational education services	92	From 80100000-5 to 80430000-7
25.	Health and social services	93	74511000-4, and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2)
26.	Recreational, cultural and sporting services	96	From 74875000-3 to 74875200-5, and from 92000000-1 to 92622000-7 (except 92230000-2)
27.	Other services[2]		

[1] Except employment contracts
[2] Except contracts for the acquisition, development, production and co-production of programmes by broadcasting organisations and contracts for broadcasting time

ANNEX III

LIST OF PRODUCTS FOR THE PURPOSES OF DEFENCE OF THE REPUBLIC OF CROATIA

Chapter 25: Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26: Metallic ores, slag and ash
Chapter 27: Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes
except: ex 27.10: special engine fuels
Chapter 28: Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radioactive elements and of isotopes
except:
ex 28.09:
ex 28.13: explosives
ex 28.14: tear gas
ex 28.28: explosives
ex 28.32: explosives
ex 28.39: explosives
ex 28.50: toxic products
ex 28.51: toxic products
ex 28.54: explosives
Chapter 29: Organic chemicals
except:
ex 29.03: explosives
ex 29.04: explosives
ex 29.07: explosives
ex 29.08: explosives
ex 29.11: explosives
ex 29.12: explosives
ex 29.13: toxic products
ex 29.14: toxic products
ex 29.15: toxic products
ex 29.21: toxic products
ex 29.22: toxic products
ex 29.23: toxic products
ex 29.26: explosives
ex 29.27: toxic products
ex 29.29: explosives
Chapter 30: Pharmaceutical products
Chapter 31: Fertilisers
Chapter 32: Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33: Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34: Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and ‘dental waxes’
Chapter 35: Albuminoidal substances, glues, enzymes
Chapter 37: Photographic and cinematographic goods

Chapter 38: Miscellaneous chemical products,
except:
ex 38.19: toxic products
Chapter 39: Artificial resins and plastic materials, celluloses esters and ethers, articles thereof,
except:
ex 39.03: explosives
Chapter 40: Rubber, synthetic rubber, factice, and articles thereof,
except:
ex 40.11: bullet-proof tyres
Chapter 41: Raw hides and skins (other than fur skins) and leather
Chapter 42: Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silk-worm gut)
Chapter 43: Furskins and artificial fur, manufactures thereof
Chapter 44: Wood and articles of wood, wood charcoal
Chapter 45: Cork and articles of cork
Chapter 46: Manufactures of straw of esparto and of other plaiting materials, basketware and wickerwork
Chapter 47: Paper-making material
Chapter 48: Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49: Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65: Headgear and parts thereof
Chapter 66: Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67: Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68: Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69: Ceramic products
Chapter 70: Glass and glassware
Chapter 71: Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73: Iron and steel and articles thereof
Chapter 74: Copper and articles thereof
Chapter 75: Nickel and articles thereof
Chapter 76: Aluminium and articles thereof
Chapter 77: Magnesium and beryllium and articles thereof
Chapter 78: Lead and articles thereof
Chapter 79: Zinc and articles thereof
Chapter 80: Tin and articles thereof
Chapter 81: Other base metals employed in metallurgy and articles thereof
Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal, parts thereof,
except:
ex 82.05: tools
ex 82.07: tools, parts
Chapter 83: Miscellaneous articles of base metal
Chapter 84: Boilers, machinery and mechanical appliances, parts thereof,
except:
ex 84.06: engines
ex 84.08: other engines
ex 84.45: machinery

ex 84.53: automatic data-processing machines
ex 84.55: parts of machines under heading No 84.53
ex 84.59: nuclear reactors
Chapter 85: Electrical machinery and equipment, parts thereof,
except:
ex 85.13: telecommunication equipment
ex 85.15: transmission apparatus
Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof, railway and tramway tracks fixtures and fittings, traffic signalling equipment of all kinds (not electrically powered),
except:
ex 86.02: armoured locomotives, electric
ex 86.03: other armoured locomotives
ex 86.05: armoured wagons
ex 86.06: repair wagons
ex 86.07: wagons
Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof,
except:
ex 87.08: tanks and other armoured vehicles
ex 87.01: tractors
ex 87.02: military vehicles
ex 87.03: breakdown lorries
ex 87.09: motorcycles
ex 87.14: trailers
Chapter 89: Ships, boats and floating structures,
except:
ex 89.01A: warships
Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof,
except:
ex 90.05: binoculars
ex 90.13: miscellaneous instruments, lasers
ex 90.14: telemeters
ex 90.28: electrical and electronic measuring instruments
ex 90.11: microscopes
ex 90.17: medical instruments
ex 90.18: mechano-therapy appliances
ex 90.19: orthopaedic appliances
ex 90.20: X-ray apparatus
Chapter 91: Manufacture of watches and clocks
Chapter 92: Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
Chapter 94: Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar stuffed furnishings,
except:
ex 94.01A: aircraft seats
Chapter 95: Articles and manufactures of carving or moulding material
Chapter 96: Brooms, brushes, powder-puffs and sieves
Chapter 98: Miscellaneous manufactured articles

ANNEX IV

TECHNICAL SPECIFICATIONS

For the purposes of this Act:

1. Technical specifications

a) in the case of public works contracts, means the totality of the technical prescriptions contained, in particular, in the tender documents, defining the characteristics required of a material, product or supply, which permits the material, product or supply to be described in a manner such that it fulfils the use for which it is intended by the contracting authority. These characteristics shall include levels of environmental performance, energy efficiency, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions and production processes and methods. They shall also include rules relating to design and costing, the test, inspection and acceptance conditions 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,

b) in the case of public supply contracts or public service contracts, means a specification contained in the tender documents defining the required characteristics of a product or a service, such as quality levels, environmental performance levels, energy efficiency, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods and conformity assessment procedures.

2. Standard is a technical specification approved by a recognized standardizing body for repeated and continuous application, compliance with which is not compulsory and which falls into one of the following categories:

a) international standard: a standard adopted by an international standards organisation and made available to the general public,

b) European standard: a standard adopted by the European Committee for Standardization and made available to the general public,

c) national standard: a standard adopted by a national standards organisation and made available to the general public.

3. European technical approval is a favourable technical assessment of the fitness for use of a product, based on the fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of applications and use. European technical approval shall be issued by an approval body designated for this purpose by the Member State of the European Union.

4. Common technical specification is a technical specification laid down in accordance with a procedure recognized by the Member States of the European Union which has been published in the Official Journal of the European Union.

5. Technical reference means any product produced by European standardisation bodies, other than official standards, according to procedures adopted for the development of market needs.

ANNEX V

INFORMATION TO BE INCLUDED IN NOTICES

ANNEX V A

NOTICE OF THE PUBLICATION OF A PRIOR INFORMATION NOTICE ON A BUYER PROFILE

1. Country of the contracting authority
2. Name of the contracting authority
3. Internet address of the "buyer profile" (URL)
4. CPV Nomenclature reference No(s)

PRIOR INFORMATION NOTICE

The prior information notice shall include the following information:

1. The name, address, fax number and electronic address of the contracting authority and, if different, of the service from which additional information may be obtained and, in the case of services and works contracts, of the services, e.g. the relevant governmental Internet site, from which information can be obtained concerning the general regulatory framework for taxes, environmental protection, employment protection and working conditions applicable in the place where the contract is to be performed,
2. Where appropriate, indicate whether the public contract is restricted to candidates or tenderers in accordance with a sheltered employment programme or only to candidates or tenderers where more than 50% of employees are handicapped persons,
3. a) In the case of public works contracts: the nature and extent of the works and the place of execution; if the work is to be subdivided into several lots, the essential characteristics of those lots by reference to the work; if available, an estimate of the range of the cost of the proposed works; Nomenclature reference No(s),

b) In the case of public supply contracts: the nature and quantity or value of the products to be supplied, Nomenclature reference No(s),

c) In the case of public services contracts: the total value of the proposed purchases in each of the service categories in Annex II A; Nomenclature reference No(s),

4. Estimated date for initiating the award procedures in respect of the contract or contracts, in the case of public service contracts by category,
5. Where appropriate, indicate whether a framework agreement is involved,
6. Where appropriate, other information,
7. Date of dispatch of the prior information notice or of dispatch of the notice of the publication of the prior information notice on the buyer profile,
8. Indicate whether the contract is covered by the Agreement of the World Trade Organisation.

ANNEX V B

NOTICE OF PUBLICATION OF A PERIODIC INDICATIVE NOTICE ON A BUYER PROFILE NOT USED AS A MEANS OF CALLING FOR COMPETITION

1. Country of the contracting entity
2. Name of the contracting entity
3. Internet address of the "buyer profile" (URL)
4. CPV Nomenclature reference No(s)

INFORMATION TO BE INCLUDED IN THE PERIODIC INDICATIVE NOTICE

PART ONE. HEADINGS TO BE COMPLETED IN ALL CASES
The headings shall include the following information:
1. Name, address, electronic address, telephone number, telex and fax number of the contracting entity or the service from which additional information may be obtained.
2. a) For supply contracts: nature and quantity or value of the services or products to be supplied (nomenclature reference No(s)),
b) For works contracts: nature and extent of the services to be provided, the general characteristics of the work or of the lots by reference to the work (nomenclature reference No(s)),
c) For service contracts: intended total procurement in each of the service categories listed in Annex II A (nomenclature reference No(s)).
3. Date of dispatch of the periodic indicative notice or of dispatch of the notice of the publication of the periodic indicative notice on the buyer profile.
4. Date of receipt of the notice by the Office for Official Publications of the European Communities (to be supplied by that Office).
5. Any other relevant information.
PART TWO. INFORMATION WHICH SHOULD BE SUPPLIED WHERE THE NOTICE IS USED AS A MEANS OF CALLING FOR COMPETITION OR PERMITS THE REDUCTION OF THE TIME LIMITS FOR THE RECEIPT OF TENDERS
6. A reference to the fact that interested economic operators should advise the entity of their interest in the contract or contracts.
7. Where appropriate, state whether the contract is restricted to candidates or tenderers in accordance with a sheltered employment programme or only to candidates or tenderers where more than 50% of employees are handicapped persons.
8. Time limit for the receipt of applications for an invitation to tender or to negotiate.
9. Nature and quantity of the goods to be supplied or general nature of the work or category of service within the meaning of Annex II A and description, stating if framework agreement(s) are envisaged, including any options for further procurement and the estimated time available for exercising these options as well as the number of renewals, if any. In the case of recurring contracts, also, an estimate of the timing of the subsequent calls for competition.
10. State whether purchase, lease, rental or hire-purchase or any combination of these is involved.
11. Time limits for delivery or completion or duration of service contract and, as far as possible, for starting.
12. Address to which interested economic operators should send their expressions of interest in writing, time limit for receipt of expressions of interest, and language or languages

authorised for the presentation of tenders and requests to participate.
13. Economic and technical conditions, and financial and technical guarantees required of economic operators.
14. a) Estimated date for initiating the award procedures in respect of the contract or contracts (if known),
b) Type of award procedure (restricted or negotiated),
c) The amount of and payment details for any sum to be paid to obtain documents concerning the consultation.
15. Where appropriate, particular conditions to which performance of the contract is subject.
16. Name and address of the body responsible for the review of public procurement procedures, and precise information concerning time limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and electronic address of the service from which this information may be obtained.
17. Where known, criteria to be used for award of the contract: "lowest price" or "most economically advantageous tender". Criteria representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of these criteria shall be mentioned, where they do not appear in the tender documents, or will not be indicated in the invitation to confirm interest or in the invitation to tender or to negotiate.

ANNEX V C

INVITATION TO TENDER

In open and restricted procedures, competitive dialogues and negotiated procedures with prior publication of a contract notice, the invitation to tender shall include the following information:

1. Name, address, fax number, electronic address of the contracting authority,

2. Where appropriate, indicate whether the public contract is restricted to candidates or tenderers in accordance with a sheltered employment programme or only to candidates or tenderers where more than 50% of employees are handicapped persons,

3. (a) The award procedure chosen,

(b) Where appropriate, the reasons for use of the accelerated procedure (in restricted and negotiated procedures),

(c) Where appropriate, indicate whether a framework agreement is involved,

(d) Where appropriate, indicate whether a dynamic purchasing system is involved,

(e) Where appropriate, the holding of an electronic auction (in the event of open, restricted or negotiated procedures, in the situation covered by Article 14, paragraph 1, item 1, Article 15, paragraph 1, item 1, and Article 16, paragraph 1, item 1).

4. Form of the contract;

5. Place of execution/performance of the works, for delivery of products or of the provision of services;

6. (a) Public works contracts:

– nature and extent of the works and general nature of the work; indication in particular of options concerning supplementary works, and, if known, the provisional timetable for recourse to these options as well as the number of possible renewals, if any. If the work or the contract is subdivided into several lots, the size of the different lots; nomenclature reference number(s),

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

– in the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the works for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded,

(b) Public supply contracts:

– nature of the products to be supplied, indicating in particular whether tenders are requested with a view to purchase, lease rental, hire or hire purchase or a combination of these, nomenclature reference number; quantity of products to be supplied, indicating in particular options concerning supplementary purchases and, if known, the provisional timetable for recourse to these options as well as the number of renewals, if any; nomenclature reference number(s).

In the case of regular or renewable contracts during the course of a given period, indicate also, if known, the timetable for subsequent contracts for purchase of intended supplies,

– the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the supplies for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded.

(c) Public service contracts:

– category and description of service, nomenclature reference number(s); quantity of services to be provided. Indicate in particular options concerning supplementary purchases and, if

known, the provisional timetable for recourse to these options as well as the number of renewals, if any. In the case of renewable contracts over a given period, an estimate of the time frame, if known, for subsequent public contracts for purchase of intended services,
– in the event of a framework agreement, indication also of the planned duration of the framework agreement, the estimated total value of the services for the entire duration of the framework agreement and, as far as possible, the value and the frequency of the contracts to be awarded,
– indication of whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession,
– reference to the law, regulation or administrative provision,
– indication of whether legal persons should indicate the names and professional qualifications of the staff to be responsible for the execution of the service.
7. If the contracts are subdivided into groups or lots, indication of the possibility of tendering for groups or lots,
8. Any time limit for completion of works/supplies/services or duration of the works/supply/services contract; where possible any time limit by which works will begin or any time limit by which delivery of supplies or services will begin,
9. Admission or prohibition of variants,
10. Where applicable particular conditions to which the performance of the contract is subject,
11. In the case of open procedures:
(a) name, address, telephone and telefax number and electronic address of the service from which tender documents and additional documents can be requested,
(b) where appropriate, time limit for submission of such requests,
(c) where appropriate, cost of and payment conditions for obtaining these documents,
12. (a) Time limit for receipt of tenders or indicative tenders where a dynamic purchasing system is being used (open procedures):
(b) time limit for receipt of request to participate (restricted and negotiated procedures),
(c) address where these have to be transmitted,
(d) the language or languages in which they must be drawn up,
13. In the case of open procedures:
(a) persons authorised to be present at the opening of tenders,
(b) date and place for such opening,
14. Where appropriate, any guarantees required,
15. Main terms concerning financing and payment and/or references to the texts in which these are contained,
16. Where applicable, the legal form to be taken by the grouping of tenderers to whom the contract is to be awarded,
17. Selection criteria regarding the lack of a criminal record of economic operators that may lead to their exclusion, and required information proving that they do not fall within the cases justifying exclusion; selection criteria and information by which the economic operators prove that they meet the criteria; minimum level(s) of standards possibly required,
18. Where there is a framework agreement, the number and, where appropriate, proposed maximum number of economic operators who will be members of it, the duration of the framework agreement provided for, stating, if appropriate, the reasons for any duration exceeding four years,
19. In the case of a competitive dialogue or a negotiated procedure with the prior publication of a contract notice, indicate, if appropriate, recourse to a staged procedure in order gradually to reduce the number of solutions to be discussed or tenders to be negotiated,
20. In the case of a restricted procedure, a competitive dialogue or a negotiated procedure with the prior publication of a contract notice, when recourse is had to the option of reducing

the number of candidates to be invited to submit tenders, to engage in dialogue or to negotiate, minimum and, if appropriate, proposed maximum number of candidates and objective criteria to be used to choose that number of candidates,
21. Time frame during which the tenderer must submit its tender (open procedures),
22. Where appropriate, names and addresses of economic operators already selected by the contracting authority (negotiated procedures),
23. Criteria to be used for award of the contract: "lowest price" or "most economically advantageous tender". Criteria representing the most economically advantageous tender as well as their weighting shall be mentioned where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document,
24. Name and address of the body responsible for appeal and, where appropriate, mediation procedures. Precise information concerning deadlines for lodging appeals, or if need be the name, address, telephone number, fax number and electronic address of the service from which this information may be obtained,
25. Date(s) of publication of the prior information notice in accordance with the technical specifications of publication indicated in Annex VI or statement that no such publication was made,
26. Date of dispatch of the notice,
27. Indicate whether the contract is covered by the Agreement of the World Trade Organisation.

ANNEX V D

SIMPLIFIED CONTRACT NOTICE FOR USE IN A DYNAMIC PURCHASING SYSTEM

1. Country of contracting authority
2. Name and electronic address of contracting authority
3. Publication reference of the contract notice for the dynamic purchasing system
4. Electronic address at which the technical specification and additional documents relating to the dynamic purchasing system are available
5. Subject of contract: description by reference number(s) of "CPV" nomenclature and quantity or extent of the contract to be awarded
6. Time frame for submitting indicative tenders.

ANNEX V E

CONTRACT AWARD NOTICES

1. Name and address of the contracting authority
2. Award procedures chosen. In the case of negotiated procedure without prior publication of a contract notice, justification
3. a) Public works contracts: nature and extent of the contract, general characteristics of the work
b) Public supply contracts: nature and quantity of products supplied, where appropriate, by the supplier; nomenclature reference number
c) Public service contracts: category and description of the service; nomenclature reference number; quantity of services bought
4. Date of contract award
5. Contract award criteria

6. Number of tenders received
7. Name and address of the successful economic operators
8. Price or range of prices (minimum/maximum) paid
9. Value of the tender (tenders) retained or the highest tender and lowest tender taken into consideration for the contract award
10. Where appropriate, value and proportion of contract likely to be subcontracted to third parties.
11. Date of publication of the invitation to tender (call for competition) in accordance with the technical specifications for publication in Annex IV.
12. Date of dispatch of the notice
13. Name and address of the body responsible for the review of public procurement procedures. Precise information concerning the deadline for lodging appeals, or if need be the name, address, telephone number, fax number and electronic address of the service from which this information may be obtained.

ANNEX V F

INFORMATION WHICH MUST APPEAR IN DESIGN CONTEST NOTICES

CONTEST NOTICES

1. Name, address, fax number and electronic address of the contracting authority and those of the service from which the additional documents may be obtained
2. Description of the project
3. Type of contest: open or restricted
4. In the event of an open contest: time limit for the submission of projects
5. In the event of a restricted contest:
(a) number of participants contemplated
(b) names of the participants already selected, if any
(c) criteria for the selection of participants
(d) time limit for the submission of requests to participate
6. If appropriate, indicate that the participation is restricted to a specified profession
7. Criteria which will be applied in the evaluation of the projects
8. Names of any members of the jury who have already been selected
9. Indicate whether the jury's decision is binding on the contracting authority
10. Number and value of any prizes or payments to be made to participants, if any
11. Indicate whether any contracts following the contest will or will not be awarded to the winner or winners of the contest
12. Date of dispatch of the notice

ANNEX V G

NOTICE OF THE RESULTS OF A CONTEST

1. Name, address, fax number and electronic address of the contracting authority
2. Description of the project
3. Total number of participants
4. Number of foreign participants
5. Winner(s) of the contest

6. Any prizes or payments
7. Reference of the contest notice
8. Date of dispatch of the notice

ANNEX V H

NOTICE OF THE COMMENCEMENT OF A PUBLIC PROCUREMENT PROCEDURE IN THE NEGOTIATED PROCEDURE WITHOUT PRIOR PUBLICATION OF A CONTRACT NOTICE AND OF THE AWARD OF PUBLIC SERVICE CONTRACTS LISTED IN ANNEX II B, AND EXCLUSIONS FROM THE APPLICATION OF THIS ACT

1. Name, address, fax number and electronic address of the contracting authority and the activity of the contracting authority,
2. Subject-matter of the procurement: CPV nomenclature reference number,
3. Estimated value of procurement,
4. Source – the method of dedicated funds,
5. Legal basis for the negotiated procedure without prior publication of a contract notice,
6. Legal basis for an exception to the application of this Act,
7. Legal basis for the award of a public service contract listed in Annex II B,
8. Information on the economic operator(s) with whom the contracting authority intends to negotiate in the negotiated procedure without prior publication of a contract notice,
9. Information on the economic operator(s) with whom the contracting authority intends to conclude a public service contract listed in Annex II B,
10. Authorised representatives of the contracting authority in the public procurement procedure,
11. The contracting authority's responsible person (name and surname),
12. Date of dispatch of the notice.

ANNEX V I

NOTICE ON THE ESTABLISHMENT OF A QUALIFICATION SYSTEM

1. Name, address, telephone number, fax number and electronic address of the contracting entity
2. Where appropriate, indicate whether the public contract is restricted to candidates or tenderers in accordance with a sheltered employment programme or only to candidates or tenderers where more than 50% of employees are handicapped persons.
3. Purpose of the qualification system (description of the goods, services or works or categories thereof to be procured through the system - nomenclature reference No(s).
4. Conditions to be fulfilled by the economic operators in view of their qualification pursuant to the system and the methods according to which each of those conditions will be verified. Where the description of such conditions and verification methods is voluminous and based on documents available to interested economic operators, a summary of the main conditions and methods and a reference to those documents shall be sufficient.
5. Period of validity of the qualification system and the formalities for its renewal.
6. Reference to the fact that the notice acts as the invitation to tender (call for competition).
7. Address where further information and documentation concerning the qualification system can be obtained (if different from the addresses mentioned under 1).

8. Name and address of the body responsible for the review of public procurement procedures. Precise information concerning time-limits for lodging appeals, or, if need be, the name, address, telephone number, fax number and electronic address of the service from which this information may be obtained.
9. Where known, criteria to be used for award of the contract: "lowest price" or "most economically advantageous tender". Criteria representing the most economically advantageous tender as well as their weighting or, where appropriate, the order of importance of these criteria, shall be mentioned where they do not appear in the specifications or will not be indicated in the invitation to tender (call for competition) or to negotiate.
10. Any other relevant information.

ANNEX VI

FEATURES CONCERNING PUBLICATION

1. Publication of notices
(a) Notices which must be published in the Electronic Public Procurement Classifieds in the Official Gazette are sent by the contracting authorities in the format of the relevant standard forms. The prior information notices published on a buyer profile as described in point 2(b), must also use that format, as must the notice of such publication.
(b) Notices which must be published in the Electronic Public Procurement Classifieds in the Official Gazette are published by Narodne novine or by the contracting authorities in the event of a prior information notice published on a buyer profile. In addition, contracting authorities may publish this information on the Internet on a "buyer profile" as referred to in point 2(b).
(c) Narodne novine will give the contracting authority the confirmation of the dispatch of the notice and the date of its receipt. The confirmation will serve as proof of publication.
2. Publication of complementary or additional information
(a) Contracting authorities are encouraged to publish the specifications and the additional documents in their entirety on the Internet.
(b) The buyer profile may include prior information notices, information on ongoing invitations to tender, scheduled purchases, contracts concluded, procedures cancelled and any useful general information, such as a contact point, a telephone and a fax number, a postal address and an electronic address.
3. The format and procedure for sending notices electronically are accessible at the Internet addresses ***http://simap.eu.int*** **and** ***www.nn.hr***

ANNEX VII

REQUIREMENTS RELATING TO DEVICES FOR THE ELECTRONIC RECEIPT OF TENDERS, REQUESTS TO PARTICIPATE, APPLICATIONS FOR QUALIFICATION AND PLANS AND PROJECTS IN CONTESTS

Devices for the electronic receipt of tenders, requests to participate, applications for qualifications and projects in contests must at least guarantee, through technical means and appropriate procedures, that:
(a) electronic signatures relating to tenders, requests to participate, applications for qualification and the forwarding of projects (plans, drawings, etc.) comply with national provisions aligned with European Community law,
(b) the exact time and date of the receipt of tenders, requests to participate, applications for qualification and the submission of projects can be determined precisely,
(c) it may be reasonably ensured that, before the time limits laid down, no-one can have access to data transmitted under these requirements,
(d) if that access prohibition is infringed, it may be reasonably ensured that the infringement is clearly detectable,
(e) only authorised persons may set or change the dates for opening data received,
(f) during the different stages of the contract award procedure or of the contest access to all data submitted, or to part thereof, must be possible only through simultaneous action by authorised persons,
(g) simultaneous action by authorised persons must give access to data transmitted only after the prescribed date,
(h) data received and opened in accordance with these requirements must remain accessible only to persons authorised to acquaint themselves therewith.