



**COUNCIL OF  
THE EUROPEAN UNION**

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COR 1**

**LIMITE**

**MAP 60  
MI 595  
CODEC 1640**

**CORRIGENDUM TO THE NOTE**

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from: General Secretariat  
to: Permanent Representative Committee

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No. prev. doc.: 11644/13 MAP 58 MI 589  
No. Cion prop.: 18964/11 MAP 9 MI 685

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Subject: Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors (First reading)  
- Approval of the final compromise text

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In document ST 11746/13 INIT:

1. In Article 86a (pg. 190) the following two changes should be made:
  - 8042000-4 should be 80420000-4 (E-learning services)
  - 9250000-6 should be 92500000-6 (Library, archives, museums and other cultural services)
2. In first paragraph of recital 26 (pg. 31) the word "prior should be added twice (alignment with the Article 42), the first paragraph of recital 26 therefor reads:

"In view of the detrimental effects on competition, negotiated procedures without a prior call for competition should only be used in very exceptional circumstances. This exception should be limited to cases where publication is either not possible, for reasons of extreme urgency brought about by events unforeseeable for and not attributable to the contracting entity, or where it is clear from the outset that publication would not trigger more competition or better procurement outcomes, not least because there is objectively only one economic operator that can perform the contract. This is the case for works of art, where the identity of the artist intrinsically determines the unique character and value of the art object itself. Exclusivity can also arise from other reasons, but only situations of objective exclusivity can justify the use of the negotiated procedure without a prior call for competition, where the situation of exclusivity has not been created by the contracting entity itself with a view to the future procurement procedure.

3. In first paragraph of recital 32 (pg. 40) the word "should" is to be inserted (alignment with the Classical directive) and shall read: "

"Centralised purchasing techniques are increasingly used in most Member States. Central purchasing bodies are responsible for making acquisitions, managing dynamic purchasing systems or awarding contracts/framework agreements for other contracting authorities or contracting entities, with or without remuneration. The contracting entities for whom a framework agreement is concluded should be able to use it for individual or repetitive purchases. In view of the large volumes purchased, such techniques may help increase competition and should professionalise public purchasing. Provision should therefore be made for a Union definition of central purchasing bodies dedicated to contracting entities and it should be clarified that central purchasing bodies operate in two different manners."

4. Recital 37a of the Utilities should be aligned on Recital 29a of the Classic Directive and therefor reads:

" (37a) When drawing up technical specifications, contracting entities should take into account requirements ensuing from Union law in the field of data protection law, notably in relation to the design of the processing of personal data (data protection by design)."

5. In article 33.1(d), (pg. 113) the word "submitted" should be deleted (alignment to the Classic) and reads:

"(d) the procurement documents require the submission of physical or scale models which cannot be ~~submitted~~ transmitted using electronic means."

6. At the end of the document (pg 248), Annexes XVIII-XX are inserted:

**"ANNEX XVIII**  
**Information to be included in notices concerning contracts for social and other specific**  
**services**  
**(as referred to in Article 85)**

**Part A Contract notice**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. Description of the services or categories thereof and where applicable, incidental works and supplies to be procured, including an indication of the quantities or values involved, nomenclature reference No(s).
4. NUTS code for the main place of performance of the services.

5. Where appropriate, state whether the contract is reserved for sheltered workshops or whether its performance is reserved in the context of sheltered employment programmes.
6. Main conditions to be fulfilled by the economic operators in view of their participation, or, where appropriate, the electronic address where detailed information may be obtained.
7. Time limit(s) for contacting the contracting entity in view of participation.
8. Any other relevant information.

## **Part B Contract award notice**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. At least a summary indication of the nature and quantity of the services and where applicable, incidental works and supplies provided.
4. Reference of publication of the notice in the *Official Journal of the European Union*
5. Number of tenders received.
6. Name and address of the chosen economic operator(s).
7. Any other relevant information.

**ANNEX XIX**  
**INFORMATION TO BE INCLUDED IN THE DESIGN CONTEST NOTICE**  
**(as referred to in Article 89(1))**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. Project description (nomenclature reference No(s)).
4. Nature of the contest: open or restricted.
5. In the case of open contests: final date for receipt of projects.
6. In the case of restricted contests:
  - (a) the number of participants envisaged, or range;
  - (b) where applicable, names of participants already selected;
  - (c) criteria for the selection of participants;
  - (d) final date for receipt of requests to participate.
7. Where applicable, indication of whether participation is reserved to a particular profession.
8. Criteria to be applied in the evaluation of projects.
9. Where applicable, names of the selected members of the jury.
10. Indication of whether the decision of the jury is binding on the authority.
11. Where applicable, number and value of prizes.
12. Where applicable, details of payments to all participants.
13. Indication of whether the prize-winners are permitted any follow-up contracts.
14. Name and address of the body responsible for the appeal and, where appropriate, mediation procedures. Precise information concerning the time limit for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
15. Date of dispatch of the notice.
16. Any other relevant information

**ANNEX XX**  
**INFORMATION TO BE INCLUDED IN THE RESULTS OF DESIGN CONTEST**  
**NOTICES**  
**(as referred to in Article 89(1))**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting entity and, where different, of the service from which additional information may be obtained.
2. Main activity exercised.
3. Project description (nomenclature reference No(s)).
4. Total number of participants.
5. Number of foreign participants.
6. Winner(s) of the contest.
7. Where applicable, the prize(s).
8. Other information.
9. Reference of the design contest notice.
10. Name and address of the body responsible for the appeal and, where appropriate, mediation procedures. Precise information concerning the time limit for lodging appeals, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.
11. Date of dispatch of the notice."

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