

Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (repealed)

TITLE IV

RULES GOVERNING DESIGN CONTESTS

Article 66

General provisions

- 1 The rules for the organisation of design contests shall be in conformity with Articles 66 to 74 and shall be communicated to those interested in participating in the contest.
- 2 The admission of participants to design contests shall not be limited:
 - a by reference to the territory or part of the territory of a Member State;
 - b on the grounds that, under the law of the Member State in which the contest is organised, they would be required to be either natural or legal persons.

Article 67

Scope

- 1 In accordance with this Title, design contests shall be organised by:
 - a contracting authorities which are listed as central government authorities in Annex IV, starting from a threshold equal to or greater than EUR 162 000;
 - b contracting authorities not listed in Annex IV, starting from a threshold equal to or greater than EUR 249 000;
 - c by all the contracting authorities, starting from a threshold equal to or greater than EUR 249 000 where contests concern services in category 8 of Annex II A, category 5 telecommunications services, the positions of which in the CPV are equivalent to reference Nos CPC 7524, 7525 and 7526 and/or services listed in Annex II B.
- 2 This Title shall apply to:
 - a design contests organised as part of a procedure leading to the award of a public service contract;
 - b design contests with prizes and/or payments to participants.

In the cases referred to in (a) the threshold refers to the estimated value net of VAT of the public services contract, including any possible prizes and/or payments to participants.

In the cases referred to in (b), the threshold refers to the total amount of the prizes and payments, including the estimated value net of VAT of the public services contract which might subsequently be concluded under Article 31(3) if the contracting authority does not exclude such an award in the contest notice.

Article 68

Exclusions from the scope

This Title shall not apply to:

- (a) design contests within the meaning of Directive 2004/17/EC which are organised by contracting authorities exercising one or more of the activities referred to in Articles 3 to 7 of that Directive and are organised for the pursuit of such activities; nor shall it apply to contests excluded from the scope of this Directive.

However, this Directive shall continue to apply to design contests awarded by contracting authorities carrying out one or more of the activities referred to in Article 6 of Directive 2004/17/EC and awarded for those activities, insofar as the Member State concerned takes advantage of the option referred to in the second subparagraph of Article 71 thereof to defer its application;

- (b) contests which are organised in the same cases as those referred to in Articles 13, 14 and 15 of this Directive for public service contracts.

Article 69

Notices

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

2 Contracting authorities which have held a design contest shall send a notice of the results of the contest in accordance with Article 36 and must be able to prove the date of dispatch.

Where the release of information on the outcome of the contest would impede law enforcement, be contrary to the public interest, prejudice the legitimate commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information need not be published.

3 Article 37 concerning publication of notices shall also apply to contests.

Article 70

Form and manner of publication of notices of contests

1 The notices referred to in Article 69 shall contain the information referred to in Annex VII D in accordance with the standard model notices adopted by the Commission in accordance with the procedure in Article 77(2).

2 The notices shall be published in accordance with Article 36(2) to (8).

Article 71

Means of communication

1 Article 42(1), (2) and (4) shall apply to all communications relating to contests.

2 Communications, exchanges and the storage of information shall be such as to ensure that the integrity and the confidentiality of all information communicated by the participants in a contest are preserved and that the jury ascertains the contents of plans and projects only after the expiry of the time limit for their submission.

3 The following rules shall apply to devices for the electronic receipt of plans and projects:

- a the information relating to the specifications which is necessary for the presentation of plans and projects by electronic means, including encryption, shall be available to the parties concerned. In addition, the devices for the electronic receipt of plans and projects shall comply with the requirements of Annex X;
- b the Member States may introduce or maintain voluntary arrangements for accreditation intended to improve the level of the certification service provided for such devices.

Article 72

Selection of competitors

Where design contests are restricted to a limited number of participants, the contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.

Article 73

Composition of the jury

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

Article 74

Decisions of the jury

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