

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

22 January 2025

PUBLICATION OF NOTICES: OFFICIAL JOURNAL OF EUROPEAN UNION

The European Union (EU) Procurement / Concession Directives¹ oblige Contracting Authorities / Entities that when the Estimated Procurement / Concession Value meets or exceeds the European Union Financial Thresholds, the relevant Notices shall be drawn up and transmitted by electronic means to the Publications Office of the European Union² for publication on the Official Journal of the European Union (OJEU). The Publications Office of the European Union (OP) is duty bound to publish the Notices by not later than Five (5) Calendar days³.

Publication of Notices Modus Operandi

Government's e-Procurement Platform (ePPS), through System Notifications informs that the publication of the Notices on OJEU took place. However, in the rare occurrence that a Notice is rejected (and accordingly not published⁴) the OP Office *generally* informs the sender and specifies the reason, thus, assisting the Authority Responsible for the Procurement Process to resubmit the Notice that requires publication. In fact, in such instances, further to the necessary amendments required to the Notice, the Sender shall log-in to 'Ted eNotices2!'⁵ and manually resubmit the relevant Notice. It is important to specify that in these circumstances, the Procurement / Concession Call Submission Date would need to reflect the applicable Time-Limits as of the new Dispatch Date of the Notice.

Review of the Publication of Notices

¹ Directive 2014/24/EU, Directive 2014/25/EU and Directive 2014/23/EU.

² OJEU publishes notices on Tenders Electronic Daily (TED): Online version of the Supplement to the OJEU dedicated to European Public Procurement.

³ Article 51(2) of Directive 2014/24/EU, Article 71(2) of Directive 2014/25/EU and Article 33(2) of Directive 2014/23/EU.

⁴ A Notice might not have been published by OP Office due to the usage of foul language or incorrect content.

⁵ <https://enotices2.ted.europa.eu/home>

It is acknowledged that Authorities responsible for the Procurement / Concession Process and the Contracting Authorities / Entities do not have control on, if and when, the publication of Notices takes place. Nonetheless, to mitigate the exceptional possibility that a Notice is rejected, and the OJEU would not have informed the Sender of the Notice⁶ or a Notice is not published for other applicable reasons⁷, the Department of Contracts is hereby establishing a Modus Operandi in relation to managing the said Notices.

To this end, Contracting Authorities / Entities⁸, although they are not always necessarily the Sender of Notices, in their capacity as beneficiaries (and potential recipients of Financial Corrections for EU-Funded Procurement) shall regularly monitor the ‘CfT Core Information’ on the ePPS of each Procurement / Concession Call, specifically the field reading ‘TED Links for Published Notices’.

TED LINKS FOR PUBLISHED NOTICES:

Once the relevant Notice (such as CNs, CANs, PINs and MNs⁹) as well as any corresponding Corrigenda / Change Notice¹⁰ is published, the respective link shall be visible on ‘TED Links for Published Notices’ field and directly accessible to the Tenders Electronic Daily (TED) website. Such official Notices (bearing the ‘Notice Publication Number’) shall be downloaded, and a copy retained on file and the ‘Restricted Area’ of the ePPS, accordingly. Contracting Authorities / Entities are notified that TED Notices may also be accessed from the ‘Advanced Search’ Option of the ePPS.

CfT	Organisation	Published Annual Procurement Plan	TED Notices
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⁶ OJEU might reject notices and thus the notices would not be published.

⁷ Other reasons for non-publication of Notices might for example be that the local e-Procurement Platform (ePPS) failed to submit the Notice or the relevant Notice was created when the TED System was undergoing maintenance.

⁸ Contracting Authorities / Entities categorised under Schedule 3 of S.L. 601.03 and those categorised under Schedule 1 of S.L. 601.09 as well as Contracting Entities (specifically those mentioned in Regulation 30(1)(b)) pursuing activities in line S.L. 601.05 are the direct Senders of Notices, in view that they publish, administer and determine Procurement/Concession Calls on their own without the involvement of the Director of Contracts.

⁹ CN – Contract/Concession Notice, CAN – Contract / Concession Award Notice, Design Contest Notice, Design Contest Result Notice, PIN – Prior Information Notice / Periodic Information Notice, MN – Modification Notice.

¹⁰ A Corrigendum within the context of Public Procurement/Concession Procedures may be defined as a Document containing corrections to a published Procurement / Concession Document. In line with Article 2 of the Commission Implementing Regulation (EU) 2019/178 establishing the eForms, the ‘Change Form’ has the scope of ‘changing or cancelling’ any of the Standard e-Form Categories and Notice Types. In fact, an Extension to the Procurement / Concession Call Submission Date is deemed as requiring the compilation of a Change Notice (vis-à-vis the Original/Previous Notice) and accordingly published on TED website.

Administration of Procurement / Concession Calls directly by the Contracting Authorities / Entities:

In the eventuality that Contracting Authorities / Entities, in their capacity as direct Senders of Notices, become aware that a particular Notice has not been published within a maximum of Five (5) Calendar days (and no information on its non-publication / rejection was received), as and where applicable, communication with the OP Office shall be ensued. Thus, Contracting Authorities / Entities shall immediately communicate in writing with the Publications Office of the European Union via the Contact Form¹¹ accessible through <https://op.europa.eu/en/home> (or via an email to ojs-esenders@publications.europa.eu) and accordingly seek clarification in relation to the non-publication of the relevant Notice. Accordingly, Contracting Authorities / Entities shall take any necessary action as instructed by the OP Office¹².

Contracting Authorities / Entities shall continue monitoring the situation until it is ascertained that the matter was rectified, and the relevant Notice published. Furthermore, any exchange of communication with the Publications Office of the EU shall be kept on file for auditing purposes as well as for review by the Department of Contracts, if such is requested. In addition, such communication should also be uploaded on the 'Restricted Area' of the ePPS.

Administration of Procurement Calls by the Department of Contracts: With specific regard to Procurement Calls published by the Department of Contracts (through the Operations and / or Sectoral Procurement Directorates) on behalf of Contracting Authorities / Entities, in the eventuality that Contracting Authorities / Entities become aware that a particular Notice has not been published on TED, they shall not communicate directly with the Publications Office of the EU in view that they are not the direct Senders of the relevant Notices.

Instead, in such instances, Contracting Authorities / Entities shall notify the Department of Contracts. If the Procurement Call was published by the Operations Directorate, such communication shall be sent to the Customer Care Service on info.contracts@gov.mt and copying in the Officer/s responsible for the Procurement Document Vetting and Publication. On the other hand, if the Procurement Call was published by the Sectoral Procurement Directorate (SPD), the same process shall apply. However, communication shall be sent on spd.mfe@gov.mt and copying in the applicable unit within the SPD.

¹¹ *About us: contact - About Us - Publications Office of the EU (europa.eu).*

¹² *It is important to specify that the resubmission of a Notice shall always reflect the Procurement / Concession Call Submission Date in line with the applicable Time-Limits as of the new Dispatch Date of the Notice.*

Additional Information

To assist Contracting Authorities / Entities, at Annex I, the Department of Contracts has published an Overview of the Background of the Publication of Notices on the OJEU. In addition, at Annex II, an Outline of said Notices, specifying the legislation requirements (including the relevant salient provisions) as detailed in the Public / Utilities Procurement and Concession Contracts Regulations, under CAP 601, is also being provided.

Contact

Contracting Authorities / Entities are encouraged to submit any queries to the Department of Contracts' Customer Care Service on info.contracts@gov.mt or by calling on +356 2378 1001.

Adrian Dalli

Director General (Contracts)

Annex I

OVERVIEW: PUBLICATION OF NOTICES ON THE OFFICIAL JOURNAL OF THE EUROPEAN UNION – BACKGROUND

The European Union (EU) Procurement / Concession Directives oblige Contracting Authorities¹ / Entities² that when the Estimated Procurement / Concession Value³ meets or exceeds the European Union (EU) Financial Thresholds, the relevant Notices shall be drawn up and transmitted by electronic means to the Publications Office of the European Union (OP). The said Office publishes such notices on Tenders Electronic Daily (TED) portal, the online version of the Supplement to the Official Journal of the European Union (OJEU)⁴ dedicated to European Public Procurement.

Scope of the Publication of Notices

The core principles of Directive 2014/24/EU⁵, Directive 2014/25/EU⁶ and Directive 2014/23/EU⁷ are Transparency, Open Competition, Equal Treatment and a Regulated Procedural Management System. Accordingly, the scope of the Notices is to ensure Transparency as well as to enhance access by Economic Operators to business opportunities from the European Union, the European Economic Area and beyond.

To this end, the Public Procurement Regulations S.L. 601.03⁸, the Public Procurement of Entities in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05⁹

¹ Contracting Authorities in S.L. 601.03 and S.L. 601.05 are defined as the 'State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law'. Contracting Authorities in S.L. 601.09 are defined as per S.L. 601.03 with the additional inclusion of ... 'other than those authorities, bodies or associations which pursue one of the activities referred to in Schedule 4 and award a concession for the pursuit of one of those activities'.

² Contracting Entities in S.L. 601.05 are entities which: (a) are contracting authorities or public undertakings and which pursue one of the activities referred to in regulations 8 to 14; (b) when they are not contracting authorities or public undertakings, have as one of their activities any of the activities referred to in regulations 7 to 13, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority.

³ Regulation 53 of the Concession Contracts Regulations S.L. 601.12 states that: The value of a concession shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, as estimated by the contracting authority or the contracting entity, in consideration for the works and services being the object of the concession, as well as for the supplies incidental to such works and services.

⁴ The OJEU, published by the EU's Publications Office is the core part of EU law. It contains the Treaties, the EU Legislation (regulations, directives, decisions, etc), International agreements, Announcements and Notices on Case Law of the Court of Justice of the European Union and a range of other texts, including Information and Notices. On the other hand, the Supplement to the Official Journal of the European Union, dedicated to European Public Procurement, is published on the Tenders Electronic Daily (TED) website. Additional information may be viewed on <https://eur-lex.europa.eu/EN/legal-content/glossary/official-journal-of-the-european-union.html>

⁵ Directive 2014/24/EU: Public Procurement.

⁶ Directive 2014/25/EU: Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors.

⁷ Directive 2014/23/EU: Award of Concession Contracts.

⁸ Directive 2014/24/EU was transposed (through Legal Notice 352-2016) into National Law as the Public Procurement Regulations S.L. 601.03.

⁹ Directive 2014/25/EU was transposed (through Legal Notice 351-2016) into National Law as the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations: S.L. 601.05.

and the Concession Contracts Regulations S.L. 601.09¹⁰ define a set of Notices that must be published in line with the applicable provisions:

- Public Procurement Regulations S.L. 601.03: Regulations 41 till 46
- Utilities¹¹ Procurement Regulations S.L. 601.05: Regulations 63 till 68
- Concession Contracts Regulations S.L. 601.09: Regulations 95 till 97

Such local legislations, as and where applicable, make reference to the following Publication of Notices as well as specify the content information to be included:

- Contract / Concession Notice (CN)
- Contract / Concession Award Notice (CAN)
- Prior / Periodic Information Notice (PIN)
- Design Contest Notice (CN)
- Design Contest Result Notice
- Modification Notice (MN)

Contracting Authorities / Entities are reminded that pursuant to the Commission Implementing Regulation (EU) 2019/178 establishing the ‘Standard Forms for the Publication of Notices’, the European Commission has developed eForms¹² (which are aligned with the EU Legislation) to assist in the Publication of Notices and the relevant Public Procurement/Concession Data.

Publication of Notices Process

Article 51(2) of Directive 2014/24/EU¹³, Article 71(2)¹⁴ of Directive 2014/25/EU and Article 33(2) of Directive 2014/23/EU¹⁵ specify that ‘*Notices shall be published not later than*

¹⁰ Directive 2014/23/EU was transposed (through Legal Notice 353-2016) into National Law as the Concession Contracts Regulations S.L. 601.09

¹¹ Utilities Procurement Regulations refers to the Public Procurement of Entities in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05.

¹² Contracts Circulars N° 16/2023, N° 20/2023 and N° 04/2024 relate to eForms.

¹³ Article 51(2) of EU Directive 2014/24 states that ‘Notices referred to in Articles 48, 49 and 50 shall be drawn up, transmitted by electronic means to the Publications Office of the European Union and published in accordance with Annex VIII. Notices shall be published not later than five days after they are sent. The costs of publication of the notices by the Publications Office of the European Union shall be borne by the Union’.

¹⁴ Article 71(2) of EU Directive 2014/25 states that ‘Notices referred to in Articles 67 to 70 shall be drawn up, transmitted by electronic means to the Publications Office of the European Union and published in accordance with Annex IX. Notices shall be published not later than five days after they are sent. The costs of publication of the notices by Publications Office of the European Union shall be borne by the Union’.

¹⁵ Article 33(2) of EU Directive 2014/25 states that ‘The notices referred to in paragraph 1 shall be drawn up, transmitted by electronic means to the Publications Office of the European Union and published in accordance with Annex IX. The Publications Office of the European Union shall give the contracting authority or contracting entity confirmation of the receipt of the notice and of the publication of the information sent, indicating the date of publication which shall constitute proof of publication. Notices shall be published not later than five days after they are sent. The costs of publication of the notices by the Publications Office of the European Union shall be borne by the Union’.

five days after they are sent'. Accordingly, the Publications Office of the European Union is duty bound to publish the said Notices by not later than Five (5) Calendar days.

In addition, Regulation 44 of S.L. 601.03 and Regulation 66 of S.L. 601.05 specify that the authority responsible for the Procurement / Concession Call *'shall be able to supply proof of the dates on which notices are dispatched'* and that *'the confirmation of the receipt of the notice and the publication of the information sent by the Publications Office of the European Union shall constitute proof of publication'*. On the other hand, Regulation 97 of S.L. 601.09 denotes that the Publications Office of the European Union *'shall give the contracting authority or contracting entity confirmation of the receipt of the notice and of the publication of the information sent, indicating the date of publication which shall constitute proof of publication'*.

Further to the above, it is important to clarify that the Publications Office of the European Union, no longer confirms the publication of Notices to the Sender. Nonetheless, Government's e-Procurement Platform (ePPS¹⁶), through System Notifications informs the relevant officer/s that the publication of Notices on OJEU took place.

However, in the rare occurrence that a Notice is rejected (and accordingly not published¹⁷) the OP Office *generally* informs the sender and specifies the reason for non-publication. It is also important to emphasise that occasionally a Notice is not published in view that the ePPS system fails to submit the Notice or the relevant Notice was created when the TED System was undergoing maintenance.

¹⁶ ePPS stands for the Electronic Public Procurement System: <https://www.etenders.gov.mt>. Regulation 2 of S.L. 601.03, S.L. 601.05 and S.L. 601.09 defines Government's e-Procurement Platform as the 'electronic platform for procurement as established by the Director' of Contracts.

¹⁷ A Notice might not have been published by OP Office due to the usage of foul language or incorrect content.

Annex II

OUTLINE: PUBLICATION OF NOTICES ON THE OFFICIAL JOURNAL OF THE EUROPEAN UNION – LEGISLATION REQUIREMENTS

The Public Procurement Regulations S.L. 601.03, the Public Procurement of Entities in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05 and the Concession Contracts Regulations S.L. 601.09 define a set of Notices that must be published in line with the applicable provisions.

Such Notices shall be transmitted to the Publications Office of the European Union electronically and published in accordance with Schedule 11¹ of S.L. 601.03, Schedule 10² of S.L. 601.05 and Schedule 11³ of S.L. 601.09.

Public Procurement Regulations S.L. 601.03: Regulation 44 of S.L. 601.03 specifies that the Notices in Regulations 41, 42 and 43 are obligatory and *‘shall include the information set out in Schedule 9 in the format of standard forms, including standard forms for corrigenda’*.

Utilities Procurement Regulations S.L. 601.05: Regulation 66 of S.L. 601.05 specifies that the Notices in Regulations 63, 64 and 65 are obligatory and *‘shall include the information set out in Schedules 8 Part A and Part B, 11 and 12 in the format of standard forms, including standard forms for corrigenda’*.

Concession Contracts Regulations S.L. 601.09: Regulation 97 of S.L. 601.09 specifies that the *‘Concession notices, concession award notices ... shall include the information’ set out in Schedules 7, 9 ... in the format of standard forms, including standard forms for corrigenda’*.

Contract / Concession Notice

Pursuant to Regulation 42 of the Public Procurement Regulations S.L. 601.03 and Regulation 64 of the Utilities⁴ Procurement Regulations S.L. 601.05, Contract Notices (CN)⁵ shall be used as a *‘means of calling for competition’* in respect of all applicable procedures that meet or exceed the European Union (EU) Financial Thresholds.

¹ Schedule 11 of S.L. 601.03 relates to Features concerning Publication.

² Schedule 10 of S.L. 601.05 relates to Features concerning Publication.

³ Schedule 11 of S.L. 601.09 relates to Features concerning Publications.

⁴ Utilities Procurement Regulations refers to the Public Procurement of Entities in the Water, Energy, Transport and Postal Services Sectors Regulations S.L. 601.05.

⁵ Regulation 2 of S.L. 601.03 and S.L. 601.05 defines a Contract Notice as *‘a notice to be published in the Official Journal of the European Union’*.

In addition, ‘*Contract notices [ensued as per S.L. 601.03] shall contain the information set out in Schedule 9 part C and shall be published in accordance with Regulation 44*’, whereas ‘*Contract notices [ensued as per S.L. 601.05] shall contain the information set out in the relevant part of Schedule 11 and shall be published in accordance with Regulation 66*’.

On the other hand, a Concession Notice (CN) shall be published as detailed in Regulation 95 of the Concession Contracts Regulations S.L. 601.09, whereby it is specified that ‘*(1) Contracting authorities and contracting entities wishing to award a concession shall make known their intention by means of a concession notice. (2) Concession notices shall contain the information referred to in Schedule 7 and, where appropriate, any other information deemed useful by the contracting authority or entity, in accordance with the format of standard forms*’.

Contract / Concession Award Notice

In line with Regulation 43 of S.L. 601.03 and Regulation 65 of S.L. 601.05, ‘*Not later than thirty [30] days after the conclusion of a contract or of a framework agreement, following the decision to award [or cancel] or conclude it, the authority responsible for the tendering process [or Contracting Entities as applicable] shall send a contract award notice on the results of the procurement procedure*’. Notices in relation to S.L. 601.03 ‘*shall contain the information set out in Schedule 9 Part D and shall be published in accordance with Regulation 44*’, whereas Notices in relation to S.L. 601.05 ‘*shall contain the information set out in Schedule 12 and shall be published in accordance with Regulation 66*’.

In the case of Public Contracts based on Framework Agreements or Dynamic Purchasing Systems, rather than sending a Contract Award Notice (CAN)⁶ for each such Public Contract, it is possible to group such notices and send within thirty (30) days of the end of Each Quarter^{7&8}.

⁶ Regulation 2 of S.L. 601.03 defines a Contract Award Notice as an ‘award notice to be published in the Official Journal of the European Union’. Regulation 2 of S.L. 601.05 defines a Contract Award Notice as a ‘notice to be published in the Official Journal of the European Union’.

⁷ Regulation 43(3) and 43(4) of S.L. 601.03 state: ‘(3) In the case of framework agreements concluded in accordance with Regulations 167 to 173, the authority responsible for the tendering process shall not be bound to send a notice of the results of the procurement procedure for each contract based on that agreement: Provided that the authority responsible for the tendering process shall group notices of the results of the procurement procedure for contracts based on the framework agreement on a quarterly basis. In that case, contracting authorities shall send the grouped notices within thirty days of the end of each quarter. (4) The authority responsible for the tendering process shall send a contract award notice within thirty days after the award of each contract based on a dynamic purchasing system. It may, however, group such notices on a quarterly basis. In that case, it shall send the grouped notices within thirty days of the end of each quarter’.

⁸ Regulation 65(3) and 65(4) of S.L. 601.03 state: ‘(3) In the case of framework agreements concluded in accordance with Regulations 143 to 146, contracting entities shall not be bound to send a notice of the results of the procurement procedure for each contract based on that agreement: Provided that contracting entities shall group notices of the results of the procurement procedure for contracts based on the framework agreement on a quarterly basis. In that case, Contracting Entities shall send the grouped notices within thirty days of the end of each quarter. (4) Contracting Entities shall send a contract award notice within thirty days after the award of each contract based on a dynamic purchasing system. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within thirty days of the end of each quarter’.

Pursuant to Regulation 96 of S.L. 601.09, a Concession Award Notice (CAN) detailing the results of the Concession Award Procedure shall be sent *‘Not later than forty-eight days after the award of a concession’* and such shall take place *‘in accordance with the procedures laid down in Regulation 97’*. The Concession Award Notices *‘shall contain the information set out in Schedule 9’* and *‘shall be published in accordance with the provisions of Regulation 97’*⁹.

Prior Information Notice and Periodic Information Notice

In accordance with Regulation 41 of the S.L. 601.03, the *‘authority responsible for the tendering process may make known its intentions of planned procurements through the publication of a prior information notice’*. Such notice *‘shall contain the information set out in Schedule 9 Part B section I’*. A Prior Information Notice (PIN)¹⁰ shall be published either by the Publications Office of the European Union or by the Contracting Authorities on their Buyer Profiles.

Contracting Entities may make known their *‘intentions of planned procurements through the publication of a periodic indicative notice’* as detailed in Regulation 63 of S.L. 601.05. Such Periodic Information Notices (PIN) *‘shall contain the information set out in Schedule 8, Part A, Section I. They shall be published either by the Publications Office of the European Union or by the Contracting Entities on their buyer profiles in accordance with Regulation 2(b) of Schedule 10’*.

Other Notices

Although the Contract / Concession Notice, the Contract / Concession Award Notices and the Prior / Periodic Information Notices are the most used notices, S.L. 601.03, S.L. 601.05 and S.L. 601.09 make reference to other notices which are applicable in specific circumstances.

Design Contest Notices

In conformity with Regulation 46 of S.L. 601.03 and Regulation 68 of S.L. 601.05 (as well as the information as set out in Schedule 9 Part E and Schedule 18 respectively), a Contest Notice shall be published when a Design Contest¹¹ is planned to be carried out specifically when the EU Financial Thresholds are met or exceeded.

⁹ Regulation 96 of S.L. 601.09 also states that *‘For social and other specific services listed in Schedule 6, such notices may however be grouped on a quarterly basis. In that case they shall send the grouped notices within forty eight days of the end of each quarter’*. In addition, the notice shall contain *‘the information set out in Schedule 10’* and *‘shall be published in accordance with the provisions of regulation 97’*.

¹⁰ Regulation 2 of S.L. 601.03 defines a Prior Information Notice as a *‘notice published in the Official Journal according to what is specified under Part I’*.

¹¹ Regulation 2 of S.L. 601.03 / S.L. 601.05 defines Design Contests as *‘those procedures which enable the contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes’*.

Further to the conclusion of a Design Contest ensued as per S.L. 601.03, ‘a notice of the results of the contest in accordance with Regulation 44’ shall be sent and the relevant authority ‘shall be able to prove the date of dispatch’. Such Notice ‘shall include the information set out ... in Schedule 9 part ... F in the format of the standard forms’. On the other hand, Contracting Entities that have held a Design Contest in line with S.L. 601.05 ‘shall make the results known by means of a notice’ and such results ‘shall include the information set out in Schedule 19 in the format of standard forms’, whilst adhering to the ‘provisions of Regulation 66’.

Modification Notice

Regulation 246(2) of S.L. 601.03 states that ‘The Director [of Contracts] or the contracting authorities having modified a contract in the cases set out under paragraphs (b) and (c) of Sub-regulation (1)¹² shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Schedule 9 Part G and shall be published in accordance with Regulation 43’. Likewise, Regulation 177(2) of S.L. 601.05 states that ‘Contracting Entities having modified a contract in the cases set out under Sub-regulation (1)(b) and (c) shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Schedule 15 and shall be published in accordance with Regulation 78’.

Pursuant to Regulation 85(2) of S.L. 601.09, when Contracting Authorities / Entities modify a concession, which has an ‘estimated value which meets or exceeds the thresholds established under in Schedule 3, in terms of the instances set out under Sub-regulation (1)(b) and (c), it shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Schedule 13 and shall be published in accordance with the provisions of Regulation 97’.

Notices for Social and Other Specific Services

Regulation 163 of S.L. 601.03 specifies that Contracting Authorities ‘intending to award a public contract for the services referred to in Regulation 162 shall make known their intention’, as applicable, by a:

¹² Regulation 246(1)(b) and 246(1)(c) of S.L. 601.03 state that ‘For tenders with an estimated value which falls within regulation 9(1)(b) and upon the prior approval of the Director a contracting authority can order modifications to the contract or framework agreement without a new procurement procedure, in any of the following cases: (b) for additional works, services or supplies by the original contractor that have become necessary and that were not included in the initial procurement where a change of contractor: (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement; and (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority: Provided that, any increase in price shall not exceed 50% of the value of the original contract; (c) where all of the following conditions are fulfilled: (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee; (ii) the modification does not alter the overall nature of the contract; (iii) any increase in price is not higher than 50% of the value of the original contract or framework agreement’.

- Contract Notice *‘which shall contain the information referred to in Schedule 9, Part H, in accordance with the standard forms referred to in Regulation 44’*, or a
- Prior Information Notice *‘which shall be published continuously and contain the information set out in Schedule 9, Part I’*.¹³

Similarly to the above, Regulation 135 of S.L. 601.05 necessitates that Contracts for social and other specific services ensued in line with Regulation 134 shall, as applicable, publish the relevant Contract or Notice or Periodic Indicative Notice. However, Contracting Entities may also *‘make known their intention’* by means of a *‘qualification system, which shall be published continuously’*. Regulation 137 of S.L. 601.05 specifies that such notices *‘shall contain the information referred to in Schedule 17’* specifically Parts A, B or C *‘in accordance with the standard model notices’* and in *‘accordance with Regulation 66’*.

Once a Public Contract has been awarded, pursuant to Regulation 163 of S.L. 601.03 and Regulation 136 of S.L. 601.05, Contracting Authorities / Entities shall make known the results by means of a Contract Award Notice. Regulation 163 of S.L. 601.03 specifies that such notice *‘shall contain the information referred to in Schedule 9, Part J, in accordance with the standard forms referred to in Regulation 44’*¹⁴, whereas Regulation 137 of S.L. 601.05 specifies that such notice *‘shall contain the information referred to in Schedule 17’* specifically Part D *‘in accordance with the standard model notices’* and in *‘accordance with Regulation 66’*.

In conformity with Regulation 95 of S.L. 601.09, Contracting Authorities / Entities undertaking a *‘concession for social and other specific services listed in Schedule 6 shall make known their intention of the planned concession award through the publication of a prior information notice. Those notices shall contain the information set out in Schedule 8’*. Thereafter, in line with Regulation 96 of S.L. 601.09, upon award, the respective Concession Award Notice shall be published and such shall contain the *‘information set out in Schedule 10, and shall be published in accordance with the provisions of Regulation 97’*.

¹³ The prior information notice shall refer specifically to the types of services that will be the subject of the contracts to be awarded. It shall indicate that the contracts will be awarded without further publication and invite interested economic operators to express their interest in writing.

¹⁴ Contract Award Notices in relation to Contracts for social and other specific services, may be grouped on a quarterly basis. In that case, Contracting Authorities shall send the grouped notices within thirty (30) days of the end of each quarter.

eForms: Publication of Notices

The Commission Implementing Regulation (EU) 2019/1780 (eForms)¹⁵ establishes six (6) Standard Form Categories¹⁶ which shall be used for the publication of an array of notices in the Official Journal of the European Union. One such form is the ‘Change’ Form.

Corrigenda/Change Notices

Corrigenda, within the context of Public Procurement / Concession Procedures, may be defined as document/s containing applicable corrections to published Procurement / Concession Documents¹⁷. Accordingly, in line with Article 2(6) of the Regulation (EU) 2019/178, the ‘*Change Form*’ has the scope of ‘*changing or cancelling the notices listed above* [Planning, Competition, Direct Award Prenotification, Result, Contract Modification]. Therefore, Corrigenda in relation to already published Notices are referred to as Change Forms¹⁸ which have the function to produce Change Notices¹⁹.

The ‘eForms Schema Usage’ Document²⁰ which refers to the version of the eForms schemas published as part of the SDK 1.13, specifies that Change Notices are mainly two-fold, and their scope is mainly the correction / changes to the:

- Original Notice or Previous Notice/s²¹
- Information/Documentation ancillary²² to the published Notices

For avoidance of doubt, it is being clarified that an Extension to the Procurement / Concession Call Submission Date is deemed as requiring the compilation of a Change Notice (vis-à-vis the Original/Previous Notice) and accordingly published on TED website.

¹⁵ Commission Implementing Regulation (EU) 2019/1780 of 23 September 2019 establishing standard forms for the Publication of Notices in the field of Public Procurement and repealing Implementing Regulation (EU) 2015/1986 (‘eForms’).

¹⁶ Pursuant to Article 1 of the eForms Regulation EU 2019/1780 establishes 6 Standard Form Categories: Planning Forms, Competition Forms, Direct Award Pre-Notification (DAP) Forms, Result Forms, Contract Modification Forms and Change Forms.

¹⁷ Procurement / Concession Document means any document produced or referred to by the Contracting Authority / Entity to describe or determine elements of the Procurement / Concession or the Procedure, including the Contract Notice, Concession Notice, the Prior Information Notice where it is used as a means of Calling for Competition, Periodic Indicative Notice or the Notices on the existence of a Qualification System where they are used as a means of Calling for Competition, the Technical Specifications, the Technical and Functional Requirements, the Descriptive Document, proposed conditions of Contract / Concession, formats for the presentation of documents by candidates and tenderers, information on generally applicable obligations & any additional documents including clarifications.

¹⁸ <https://docs.ted.europa.eu/eforms/latest/schema/documents-forms-and-notices.html>

When affecting Amendments / Changes, Contracting Authorities / Entities are responsible to ensure that such Amendments / Changes are not deemed as Major and / or Substantial and thus a new Public Procurement / Concession Procedure would be required.

¹⁹ For Change Notices, the required Schema is that of the notice subject to changes (ex: A Change Notice for a change applied to an existing CN shall comply with the CN schema).

²⁰ <https://docs.ted.europa.eu/eforms/latest/schema/all-in-one.html>

The eForms Schemas and the documentation can still be subject to changes. Thus, they should therefore be considered as provisional.

²¹ Correcting a value reported in the previous Change notice, or if this is the first Change notice, the Original Notice.

²² Inform about changes to information/documentation not inside the published Notice.

The ‘eForms Schema Usage’ Document²³ also states that ‘Changes may apply to notices of any form type²⁴. A Change notice contains all the information from the initial notice with integrated changes (i.e. consolidated text), as well as information on applied changes. When a change is applied to a previous change notice, it must integrate all changes from all previous change notices, and only have the latest changes described in the change section’.

Further to the above, it is important to highlight that any adopted changes shall not require the start of a new Procurement / Concession Procedure. In addition, Contracting Authorities / Entities are also duty-bound to check that the applied changes do not (i) impact the Time Limits and / or (ii) advantage Economic Operators.

Content of Notices

The Content of Notices depends on the Type and Scope of the relevant Notice, the Legislation under which the Procurement / Concession Call is being undertaken as well as other specific requirements.

Public Procurement Regulations

The Notices of S.L. 601.03 are detailed in Schedule 9 as follows:

- Part A: Information to be included in PINs on a Buyer Profile.
- Part B: Information to be included in PINs²⁵.
- Part C: Information to be included in CNs²⁶.
- Part D: Information to be included in CANs²⁷.
- Part E: Information to be included in Design Contest Notices²⁸.
- Part F: Information to be included in Design Contest Result Notices²⁹.
- Part G: Information to be included in Modification Notices³⁰.
- Part H: Information to be included in CNs for Social and Other Specific Services³¹.
- Part I: Information to be included in PIN for Social and Other Specific Services³².
- Part J: Information to be included in CAN for social and Other Specific Services³³.

²³ <https://docs.ted.europa.eu/eforms/latest/schema/all-in-one.html>

²⁴ The Change Notice Form Type and Notice Type values must be identical to the ones of the Original Notice. A Change Notice may only concern a single notice and contains all the information from that Initial Notice with applied changes in addition to the information on those changes.

²⁵ Information to be included in Prior Information Notices (as referred to in Regulation 41).

²⁶ Information to be included in Contract Notices (as referred to in Regulation 42).

²⁷ Information to be included in Contract Award Notices (as referred to in Regulation 43).

²⁸ Information to be included in Design Contest Notices (as referred to in Regulation 46).

²⁹ Information to be included in Notices of the Results of a Contest (as referred to in Regulation 46(3) and (4)).

³⁰ Information to be included in Notices of Modifications of a Contract during its Term, as referred to in Regulation 246(1) & 246(2) of S.L. 601.03.

³¹ Information to be included in Contract Notices concerning Contracts for Social and Other specific Services, as referred to in Regulation 163(1) of S.L. 601.03.

³² Information to be included in Prior Information Notices for Social and Other Specific Services, as referred to in Regulation 163(1) of S.L. 601.03.

³³ Information to be included in Contract Award Notices concerning Contracts for Social and Other Specific Services, as referred to in Regulation 163(2) of S.L. 601.03.

Utilities Procurement Regulations

The Notices of S.L. 601.05 are detailed in Schedules as follows:

- Schedule 8 Part A: Information to be included in the PIN³⁴.
- Schedule 8 Part B: Information to be included in PIN on a Buyer Profile³⁵.
- Schedule 11: Information to be included in CNs³⁶.
- Schedule 12: Information to be included in the CANs³⁷.
- Schedule 15: Information to be included in Modification Notices³⁸.
- Schedule 17: Information to be included in Notices for Social & Other Specific Services³⁹ [Part A: Contract Notice, Part B: Periodic Indicative Notice, Part C: Notice on the Existence of a Qualification System, Part D: Contract Award Notice]
- Schedule 18: Information to be included in Design Contest Notices⁴⁰.
- Schedule 19: Information to be included in Design Contest Result Notices⁴¹.
- Schedule 20: Information to be included in the Qualification System Notice⁴².

Concession Contracts Regulations

The Notices of S.L. 601.09 are detailed in Schedules as follows:

- Schedule 7: Information to be included in Concession Notices⁴³.
- Schedule 8: Information to be included in PIN concerning Concessions for Social and other Specific Services⁴⁴.
- Schedule 9: Information to be included in Concession Award Notices⁴⁵.
- Schedule 10: Information to be included in Concession Award Notices concerning Concessions for Social and Other Specific Services⁴⁶.
- Schedule 13: Information to be included in Modification Notices of a Concession⁴⁷.

³⁴ PIN means Periodic Indicative Notice. Information to be included in the Periodic Indicative Notice (Regulation 63).

³⁵ Information to be included in Notices of Publication of a Periodic Indicative Notice on a Buyer Profile not used as a means of calling for Competition (Regulation 63).

³⁶ Information to be included in Contract Notices (Regulation 64).

³⁷ Information to be included in the Contract Award Notice (Regulation 65).

³⁸ Information to be included in Notices of Modifications of a Contract during its term (Regulation 177(1)).

³⁹ Information to be included in Notices concerning Contracts for Social and Other Specific Services (Regulation 135).

⁴⁰ Information to be included in the Design Contest Notice (Regulation 68(1)).

⁴¹ Information to be included in the Results of Design Contest Notices (Regulation 68(1)).

⁴² Information to be included in the Notice on the Existence of a Qualification System (as referred to in Regulations 89(2)(b) and 169(10)).

⁴³ Information to be included in Concession Notices (Regulation 95).

⁴⁴ Information to be included in Prior Information Notices concerning Concessions for Social and Other Specific Services Regulation 95(3).

⁴⁵ Information to be included in Concession Award Notices (Regulation 96).

⁴⁶ Information to be included in Concession Award Notices concerning Concessions for Social and Other Specific Services (Regulation 96).

⁴⁷ Information to be included in Notices of Modifications of a Concession during its term (Regulation 85).