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’) (Text with EEA relevance)

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’)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts[(1)], and in particular Article 3a thereof,

Having regard to Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors[(2)], and in particular Article 3a thereof,

Having regard to Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities in the field of defence and security, and amending Directives 2004/17/EC and 2004/18/EC[(3)], and in particular Articles 32(1), 52(2) and 64 thereof,

Having regard to Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts[(4)], and in particular Article 33(1) thereof,

Having regard to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC[(5)], and in particular Articles 51(1), 75(3) and 79(3) thereof,

Having regard to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC[(6)], and in particular Articles 71(1), 92(3) and the first subparagraph of Article 96(2) thereof,

After consulting the Advisory Committee on Public Procurement,

Whereas:

(1) Directives 89/665/EEC and 2014/24/EU require that certain public works contracts, public supply contracts and public service contracts be advertised in the *Official Journal of the European Union*. The notices for those publications should include the information set out in those Directives.

(2) Directives 92/13/EEC and 2014/25/EU require that certain works contracts, supply contracts and service contracts in the water, energy, transport and postal services sectors be advertised in the *Official Journal of the European Union*. The notices for those publications should include the information set out in those Directives.

(3) Directive 2009/81/EC requires that certain works contracts, supply contracts and service contracts in the field of defence and security be advertised in the *Official Journal of the European Union.* The notices for that publication should include the information set out in that Directive.

(4) Directives 89/665/EEC, 92/13/EEC and 2014/23/EU require that certain works concessions and service concessions be advertised in the *Official Journal of the European Union*. The notices for those publications should include the information set out in those Directives.

(5) Commission Implementing Regulation (EU) 2015/1986[(7)] sets out the standard forms provided for by Directives 89/665/EEC, 92/13/EEC, 2009/81/EC, 2014/23/EU, 2014/24/EU and 2014/25/EU.

(6) Public procurement is undergoing a digital transformation, as described in the Communication from the Commission on Upgrading the Single Market[(8)] as well as in the Communication from the Commission on Making Public Procurement work in and for Europe[(9)]. The standard forms are instrumental in this transformation.

(7) In order to ensure the standard forms' effectiveness in a digital environment, it is necessary to adapt the standard forms set out in Implementing Regulation (EU) 2015/1986. Given the number and extent of the necessary adaptations, Implementing Regulation (EU) 2015/1986 should be replaced.

(8) As established in Article 33(2) of Directives 2014/23/EU, Article 51(2) of Directive 2014/24/EU, Article 71(2) of Directive 2014/25/EU, notices are electronic files rather than paper documents. In order to comply with the 'once only' principle in e-government, and thus reduce administrative burden and increase data reliability, and to facilitate voluntary publication of notices whose value is below the EU threshold or which are based on framework agreements, such standard forms should be established that can be automatically filled-in with information from previous notices, technical specifications, tenders, contracts, national administrative registries and other sources of data. Ultimately, such forms should no longer need to be filled-in manually, but should be automatically generated by software systems.

(9) To avoid implementation problems, standard forms should be established with consideration of the software systems in which they will be implemented. This includes data exchange systems, user interfaces that validate manual input, and publishing

websites that present information in notices. Information should be presented in a way that attracts economic operators and other users.

(10) To enable implementation tailored to national specificities, significant flexibility should be left to Member States and their authorities in setting up their software systems. In particular, it should be possible to display fields established in this Regulation in any order and under any labels, as long as the labels' meanings correspond with the descriptions established by this Regulation. In order to meet different needs at national, regional or local level, fields that this Regulation establishes as optional at the EU level, do not need to be displayed to end-users at all (e.g. buyers do not need to see them nor fill them in) or, on the contrary, may be required mandatorily at national, regional or local level.

(11) The date of application of this Regulation and the date of repeal of Implementing Regulation (EU) 2015/1986 should reflect the time required to prepare the electronic versions of the standard forms that are used for actual data exchange.

(12) To reflect developments in Member States' needs and technologies in the area of procurement data, while also ensuring compliance with Article 52(2) of Directive 2014/24/EU, Article 72(2) of Directive 2014/25/EU and Article 32(5) of Directive 2009/81/EC, optional fields should be regularly added to this Regulation. The Commission will closely follow these developments, as well as collect other feedback from users, and annually review the need for an update of this Regulation. Such updates should not, unless unavoidable, imply mandatory changes of software systems in the Member States,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

1 This Regulation establishes the following standard forms:

(1) 'Planning'

(2) 'Competition'

(3) 'Direct award prenotification'

(4) 'Result'

(5) 'Contract modification'

(6) 'Change'

2 The standard forms referred to in paragraph 1 consist of the fields set out in the Annex.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1780. (See end of Document for details)*

Article 2

Usage

The standard forms referred to in Article 1 shall be used for the publication of the following notices in the *Official Journal of the European Union*:

(1) 'Planning form': for notices referred to in Articles 27(2), 28(3) and 48(1) of Directive 2014/24/EU; Articles 45(2), 67(1) of Directive 2014/25/EU and Articles 30(1) and 33(3) of Directive 2009/81/EC;

(2) 'Competition form': for notices referred to in Articles 48(2), 49, 75(1)(a), 75(1)(b) and 79(1) of Directive 2014/24/EU; Articles 67(2), 68, 69, 92(1)(a), 92(1)(b), 92(1)(c) and the first subparagraph of 96(1) of Directive 2014/25/EU; Article 31(1) and Article 31(3) of Directive 2014/23/EU and Articles 30(2) and 52(1) of Directive 2009/81/EC;

(3) 'Direct award prenotification form': for notices referred to in Articles 3a of Directive 89/665/EEC and 92/13/EEC;

(4) 'Result form': for notices referred to in Articles 50, 75(2) and 79(2) of Directive 2014/24/EU; Articles 70, 92(2) and the third subparagraph of 96(1) of Directive 2014/25/EU; Article 32 of Directive 2014/23/EU and Article 30(3) of Directive 2009/81/EC;

(5) 'Contract Modification form': for notices referred to in Article 72(1) of Directive 2014/24/EU; Article 89(1) of Directive 2014/25/EU and Article 43(1) of Directive 2014/23/EU.

(6) 'Change form': for changing or cancelling the notices listed above.

Article 3

Repeal

Implementing Regulation (EU) 2015/1986 is repealed with effect from 25 October 2023.

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 14 November 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 September 2019.

For the Commission

The President

Jean-Claude JUNCKER