



## EUROPEAN COMMISSION

DIRECTORATE-GENERAL III  
INDUSTRY

Legislation and standardization and telematics networks  
**Standardization**

Brussels, 22 May 1995

**M/084**

**DRAFT**

### **STANDARDIZATION MANDATE TO CEN AND CENELEC**

### **FOR THE DEVELOPMENT OF EUROPEAN STANDARDS**

### **FOR THE QUALIFICATION OF CONSTRUCTION ENTERPRISES**

#### **1. BACKGROUND**

When the Directive 89/440/EEC (now replaced by 93/37/EEC) concerning the co-ordination of procedures for the award of public works contracts was approved, it was noted that the provisions of the Member states for registration and qualification of construction enterprises differed. Five different types of qualification systems were identified; centralised lists of qualified contractors; decentralised lists, official, and unofficial industry systems; and no system. Following consideration by the Commission and the Council, the Commission was invited to submit, if appropriate, proposals to deal with this divergent position in line with the objectives of transparency and non-discrimination in public procurement.

The Commission, in consultation with the Advisory Committees for Public Procurement, decided that action was needed to deal with an unsatisfactory state of affairs; that guidelines for uniform presentation of information would be insufficient; and that the institution of a centralised single Community system of qualification would impose an unacceptable administrative burden, especially in countries where no qualification systems currently exist.

The Commission intends therefore to propose appropriate European legislation laying down the requirements for qualification of construction enterprises **covered by Directive 93/37/EEC**. The system will be intended to **permit the recognition that** construction enterprises have the necessary attributes to carry out particular types of works, and to provide an assurance to procurement entities that the enterprise is appropriate to the works being procured. It **should** include assessment of the legal status of the enterprise, its financial position, the technical skills it has at its disposal and its experience in successful completion of similar work.

The system of qualification will be based on a harmonisation of criteria and the promotion of mutual recognition. There would be no imposition of requirements for

qualification systems in countries that did not want to make use of them. Member States in which systems of qualification exist will need to ensure that entities that manage such systems respect the requirements of the appropriate European legislation and of the European standards. Contracting entities will be obliged to recognise as qualified construction enterprises that are qualified in other Member States, without the need for further administrative procedures, except for a notification procedure. There will however, be no obligation on public procurement entities to operate a qualification system if they do not wish to do so.

This legislation will make reference to European Standards for the terminology, the procedure and the criteria for qualification of construction enterprises. Construction enterprises which satisfy the requirements laid down in the European standards would then be considered as meeting the **requirements for registration and qualification** in place in the Member States independent of whether the Member States in question operates qualification systems.

Following consultations with the Advisory Committees for Public Procurement and the Committee for Technical Rules and Regulations, the Commission has indeed issued a study mandate to CEN/CENELEC in April 1993, asking them to prepare a report on the extent to which a system of qualification of construction can be set in place by means of European Standards; the standards that would be required for such a system; and the time expected to be taken in drawing up such standards. The report that was delivered to the Commission in June 1994 confirmed the feasibility of setting a system in place by means of European Standards.

The Commission notes the Commitment already given by the Member States to the opening of their public procurement markets. The adoption of the European Standards requested in this mandate will contribute to the further opening of markets. The Commission envisages that Member States will give their support to the elaboration of the standards, and that Member States would take the appropriate measures to enable the system to operate effectively.

## **2. TERMINOLOGY**

Qualification of construction enterprises is a procedure based on a set of rules leading to the formal assessment against set criteria including administrative, legal, financial, human resources and technical skills.

It should be emphasised that "qualification of construction enterprises" relates to procedures for the setting up of lists of qualified contractors, on the basis of which tenders for specific contracts can be invited.

In consultation with the Advisory Committees for Public Procurement the Commission has decided that the term "qualification" covers the objectives of the exercise most adequately. In substance there is no difference between "qualification" and "pre qualification" that was the term used prior to 1993.

### **3. DESCRIPTION OF THE MANDATED WORK**

#### **3.1 Work to be undertaken**

The Commission assigns to CEN and CENELEC the task of developing and adopting European Standards (EN's) for a system of qualification of construction enterprises.

The system shall include the following essential elements:

- The elaboration of a standardised system of classification, that is, the grouping of classes of enterprises in line with the classes of construction work, so that firms may qualify for the types of public works contracts likely to be issued in practice.
- The development of a standard procedure for application, that is, the information that construction enterprises must provide in order to be considered for qualification;
- The drawing up of standardised criteria for the qualification of applicants, that is, setting out the criteria used for deciding which applicants should be judged worthy of qualification by the bodies operating the qualification system and which should not;
- The elaboration of a standardised system of notification, that is, the method used by the entities operating the qualification system to indicate that an enterprise has been admitted to the list of the qualified, and upon which an obligation to mutual recognition by other such entities can be based.

Quality assurance certification is not to be included as a criterion in the system.

The system must be flexible enough to allow for frequent updates of qualifications, so that users can have confidence that the obtained qualifications reflect the current status of the company.

#### **3.2 Aspects to be covered**

The aspects to be covered by European standards, on the basis of the above elements, shall include:

- A terminology by which construction work, construction enterprises and associated matters can be described based, as far as practically feasible, on CPA/CPV;
- A system of classifying construction work in the various ways required to operate a qualification system, e.g., by technical aspects, by size of project.

In addition to providing the type and classification required for the running of the system, the classification system should be simple to use with a relatively limited number of categories.

- The information and criteria that will enable the bodies operating the qualification system, to decide, in the context of the classes of work, if a particular enterprise can be qualified and the format in which such information should be requested.

Regarding administrative and legal information, the Standards shall include a definition of the type of documentation that can be demanded to demonstrate that the enterprise is in good standing.

Regarding financial information, the Standards shall include criteria to determine that a company is financially capable, and define the types of documentation that can be demanded to demonstrate the above.

Regarding information concerning human resources and technical skills, the standards shall include criteria to determine if an enterprise has the necessary human resources and technical capacity, and define the types of documentation that can be required to demonstrate them.

- An accreditation procedure for bodies assessing the qualification of contractors, **taking account wherever appropriate of** existing best practice.

#### 4. REFERENCES

**Reference texts may include quality assurance certification standards, financial and legal texts as well as qualification systems currently being operated in the Member States.**

#### 5. BODIES TO BE ASSOCIATED

**Representatives from organisations and entities which apply qualification systems to construction enterprises, professional associations representing the industrial sector of construction, Member States, organisations representing the central and regional contracting entities, specialists in public contracts and other professional groups.**

## **6. EXECUTION OF THE REQUEST**

1. By December 1996 CEN and CENELEC will jointly present to the Commission the draft text for publication of the European standards (EN) covered by this mandate.
2. The European standards (EN) shall be adopted by the end of June 1998. At the day of adoption, the three linguistic versions (DE, EN, FR) shall be available.
3. The European standards (EN) shall be transposed into national standards and any differing national standards will be withdrawn in the Member States of the EU within six months of their adoption.
4. CEN/CENELEC shall advise the Commission of relevant national legal requirements or regulations where action by the public authorities is necessary to secure effective opening of the market.
5. Acceptance by CEN/CENELEC of this mandate starts the standstill period referred to in Article 7 of Council Directive 83/189/EEC of 28 March 1983 (OJ No L 109 of 26 April 1983).