

January 2024

In focus: Law on Amendments to the Public Procurement Law

On 26 October 2023, the National Assembly of the Republic of Serbia adopted the Law on Amendments to the Public Procurement Law (“Official Gazette of RS”, no. 92/2023 – hereinafter: the “**Law**”), which entered into force on **4 November 2023**, and is in application from **1 January 2024**, except for provisions related to the registration of business entities on the Public Procurement Portal, which are applied starting from the date of entry into force of this law.

Below are several of the most significant changes foreseen by the Law which are expected to contribute to the increase in transparency, efficiency and economy of public procurement procedures, the impact on the environment, the strengthening of competition in the public procurement market, a greater degree of legal protection for participants in public procurement procedures, as well as increased control by authorized institutions.

Registration of business entities on the Public Procurement Portal

The Law has established a new method of registering business entities on the Public Procurement Portal by introducing the obligation to enter basic data, including data on users of the Public Procurement Portal, namely: name, surname, unique citizen registration number or personal identification number (for foreign business entities). The registration procedure also requires uploading of a scanned, read or photographed

identification document (identity card or passport) needed to verify the user account and, if necessary, confirmation i.e. authorization of the user for use of the Public Procurement Portal on behalf of the business entity being registered.

The new method of registration applies to business entities that register for the first time on the Public Procurement Portal starting from the day the Law enters into force, while business entities that are already registered on the Public Procurement Portal are required to, no later than within 30 days from the start of application of this Law, i.e. no later than 31 January 2024, renew their application by entering the data and uploading the evidence required by the Law.

Pursuant to the adopted amendments to the Law, the Public Procurement Office (hereinafter: the “**Office**”) has regulated in more detail the new method of registering business entities on the Public Procurement Portal by adopting the Instructions on Amending the Instructions for Using the Public Procurement Portal (“Official Gazette of RS”, no. 93/2020 and 96/2023) which entered into force on 4 November 2023.

Publication of data on the Public Procurement Portal

The contracting authority-entity publishes on the Public Procurement Portal data on all contracts concluded after the public procurement procedure has been carried out,

on all their changes, as well as data on contracts/purchase orders concluded or issued in accordance with Article 27 of the Public Procurement Law, which prescribes the thresholds up to which the provisions of this law do not apply. Pursuant to this change, the Office adopted the Rulebook on the Manner of Publishing and the Type of Data on Contracts and Contract Amendments that Contracting Authorities Publish on the Public Procurement Portal (“Official Gazette of RS”, no. 115/2023) which is in application from 1 January 2024.

Electronic communication

Applying for the protection of rights and appeals in written, as well as the delivery of decisions by the Republic Commission is no longer possible via direct submission or registered mail, but in electronic form via the Public Procurement Portal. Electronic communication is extended to other submissions in the procedure of protection of rights.

The principle of environmental protection

The principle of environmental protection is introduced in public procurement procedures, which has established the obligation for the contracting authorities to procure goods, services or works that have a minimal impact on the environment. In this regard, the Office is obliged to prescribe the type of goods, services and works for which the contracting authority is obliged to apply ecological aspects when determining technical specifications, the criteria for selecting a business entity, the criteria for awarding a contract or the conditions for execution of a public procurement contract. In accordance with this amendment, the Office adopted the Rulebook on the Types of Goods for which the Contracting Authorities are Obligated to Apply Environmental Aspects in Public Procurement

Procedures (“Official Gazette of RS”, no. 115/2023) which is in application from 1 January 2024.

Criterion for awarding contracts

Certain categories of services (computer program development, architectural services, engineering services, translation services or advisory services) are now obliged to apply criteria for the awarding of contracts which are not solely based on the price, but quality as well.

Changes to the structure of the for public procurement commission

One member of the public procurement commission formed in cases where the estimated value of the public procurement exceeds the amount of 3,000,000 dinars must be a public procurement officer, namely a person with a certificate of a public procurement officer.

Deadline for submitting proposals for initiation of misdemeanor proceedings and suspension of public procurement procedures

A period of 30 days has been introduced in which the contracting authority is obliged to submit to the Office a proposal for the initiation of misdemeanor proceedings in the event that the business entity with which it concluded the contract does not submit proof and a statement by the subcontractor that it has paid the subcontractor its claims within 60 days. Another period of 30 days was also introduced in which the contracting authority renders the decision to suspend the public procurement procedure, but only in the event that a longer period is not specified in the tender documentation.

New decision on awarding the contract by the contracting authority

The contracting authority renders a new decision on awarding the contract, i.e. concluding the framework agreement if the selected bidder refuses to conclude the contract on public procurement, i.e. the framework agreement.

Supervision of contract execution

The Ministry in charge of financial affairs now regulates in more detail the manner of supervision over the execution of public procurement contracts and has accordingly adopted the Rulebook on the Manner of Supervision over the Execution of Public Procurement Contracts (“Official Gazette RS”, no. 110/2023).

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