

Legal Alert

1/2016

New Public Procurement Act

The Chamber of Deputies is currently in the second reading of a proposal for a new Public Procurement Act (the "PPA"), which should replace the current Act no. 137/2006 Coll., on Public Contracts. The proposal builds on so-called European tender directives of the European Parliament and Council. Since it is a Government proposal, we anticipate that the PPA will be adopted unaltered. The act will come into effect three months from its publication and can be expected at the end of spring 2016. Some partial provisions (e.g. the provision about mandatory electronic communication) will come into effect in 2017 and 2018 respectively.

The purpose of the PPA proposal is specifically to reduce the administrative burden of all parties involved and to increase the transparency and efficiency of public tenders.

Below is an overview of the main points which are the subject of the PPA proposal:

Reducing the administrative burden

- simplifying the procedure for suppliers when publishing mandatory notifications
- defining exceptions for applying the PPA
- simplifying the design of tender regulations

Transparency increase

- transparent ways of limiting the number of candidates and regulating the possible disqualification of candidates from the tender
- proving the real economic power and stability of the supplier
- more transparency of the ownership structures of the suppliers
- change of the security aspects of the suppliers concept
- calculating method for suppliers' references
- conditions for the involvement of subcontractors, the possibility of direct payments and the information obligation

New procedure opportunities for the contracting authorities

- limiting the tender price as the main evaluation criteria
- broadening the offer to negotiate between the contracting authority and the supplier
- the possibility to change the concluded contract and the supplier
- the possibility for the supplier to carry out the public contract with his own resources
- setting conditions for horizontal cooperation between the contracting authorities
- the possibility of separate and independent procurement for the contracting authority's organisational units
- increasing the frequency of separating public contracts into several parts
- effective procurement of additional works
- the possibility of offsetting omitted works to additional works
- change of limits for small-scale and below-the-threshold public contracts

Contacts:

In case of any questions, please do not hesitate to contact your contact person in our office, or approach Bystrík Bugan (bystrik.bugan@bapol.cz) or Radim Polanský (radim.polansky@bapol.cz).

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