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On the basis of Article 112, paragraph 1, item 2 of the Constitution of the Republic of Serbia, I hereby pass the

DECREE

on the promulgation of the Law on Amendments to the Law on Public Procurement

The Law on Amendments to the Law on Public Procurement, adopted by the National Assembly of the Republic of Serbia at the First Session of the Second Regular Session in 2023, on 26 October 2023, is hereby promulgated.

PR number 129

In Belgrade, dated 27 October 2023

President of the Republic,

Aleksandar Vučić, personally signed

LAW

on amendments to the Law on Public Procurement

Article 1

In the Law on Public Procurement ("Official Gazette of the Republic of Serbia", No. 91/19), the title above Article 6 is changed to read as follows: "The principle of cost-effectiveness, efficiency and environmental protection."

Article 6, paragraph 1 is amended to read as follows:

"The contracting authority/procuring entity shall procure goods, services or works of appropriate quality, taking into account the intent, purpose and value of public procurement, i.e., cost-effective spending of public funds and minimal impact on the environment."

Article 2

In Article 45, paragraph 2, item 10), the words: "and other submissions in the procedure for the protection of rights" shall be added after the words: "request for the protection of rights."

Article 3

Article 92, paragraph 4 is amended to read as follows:

"In the public procurement commission, one member must be a public procurement officer with a higher education in undergraduate academic studies in the scope of at least 240 ECTS points or master's academic studies, specialist academic studies, specialist vocational studies, i.e., undergraduate studies for the duration of at least four years or specialist studies at a university or a person who obtained a certificate for a public procurement officer by the date of entry into force of this law."

Article 4

Article 124, paragraph 1, item 3) is amended to read as follows:

“3) data on technical persons or bodies, regardless of whether the technical persons are employed or engaged in work in a business entity, i.e., whether the bodies belong to the business entity, especially in terms of responsibility for quality control, and in the case of public works procurement contracts in terms of performance of works;”.

Article 5

In Article 131, paragraph 6, the words: “within 30 days” are added after the words: “proposal for initiation of misdemeanour proceedings”.

Article 6

In Article 132, after paragraph 2, paragraph 3 is added, which reads as follows:

“In the case of awarding a contract for the public procurement of computer programme development services, architectural services, engineering services, translation services or advisory services, the contracting authority/procuring entity shall determine the most economically advantageous offer based on the criteria from paragraph 1, items 2) or 3) of this article.”

Article 7

After Article 134, Article name and Article 134a are added, which read as follows:

“Ecological aspects

Article 134a

The Public Procurement Office prescribes the types of goods, services and works for which contracting authorities/procuring entities are obliged to apply environmental aspects when determining technical specifications, criteria for the selection of an economic operator, criteria for awarding contracts or conditions for the execution of public procurement contracts.”

Article 8

In Article 147, after paragraph 1, a new paragraph 2 is added, which reads as follows:

“The contracting authority/procuring entity shall make the decision to suspend the public procurement procedure within 30 days from the expiration of the deadline for submission of bids, unless the contracting authority/procuring entity has specified a longer period in the tender documentation.”

Previous paragraphs 2–6 shall become paragraphs 3–7.

Article 9

Article 152, paragraph 4 is amended to read as follows:

“In the case referred to in paragraph 3 of this article, the contracting authority/procuring entity will make a new decision on the award of the contract, that is, the conclusion of the framework agreement.”

Article 10

After Article 152, Article name and Article 152a are added, which read as follows:

"Data on contracts

Article 152a

"On the Public Procurement Portal, the contracting authority/procuring entity shall publish the data on all contracts concluded after the public procurement procedure has been carried out, on all changes to contracts based on Art. 156 - 161 of this law, as well as data on contracts/orders concluded or issued in accordance with Article 27 of this law.

Data on contracts concluded after the implementation of the public procurement procedure and data on contracts/orders concluded or issued in accordance with the provisions of Article 27 of this law are published within the period prescribed by Article 109, paragraphs 1 and 2 of this law.

The data on amendments to the contracts on the basis of Articles 156, 159, 160 and 161 as well as on changes of contracts/orders concluded or issued in accordance with Article 27 of this Law shall be published within the period prescribed by Article 155, paragraph 2 of this Law.

The Public Procurement Office shall more closely regulate the manner of publication and the types of data, in terms of paragraph 2 and 3 of this article."

Article 11

In Article 154, after paragraph 4, a new paragraph 5 is added, which reads as follows:

"Contracted surplus works do not change the public procurement contract."

Previous paragraph 5, which becomes paragraph 6, is amended to read as follows:

"The Ministry in charge of financial affairs regulates the manner of supervision and supervises the execution of public procurement contracts."

Article 12

Article 157, paragraph 5, shall be deleted.

Article 13

In Article 183, paragraph 1, item 11) after the word: "institution", a comma and the words shall be added: "Commission for Protection of Competition".

After Article 2, paragraphs 3 to 4 shall be added, which read as follows:

"When registering business entities on the Public Procurement Portal, basic data is entered, including data on users of the Public Procurement Portal, namely: first name, last name, unique citizen registration number or personal identification number (for foreign business entities).

During registration, a scanned, read or photographed identification document (identity card or passport) required to verify the user account and, if necessary, confirmation or authorisation of the user to work on the Public Procurement Portal on behalf of the business entity being registered, is uploaded."

Article 14

Article 213 is amended to read as follows:

"Article 213

The request for the protection of rights shall be submitted electronically through the Public Procurement Portal simultaneously to the contracting authority/procuring entity and the Republic Commission, whereby the date of submission through the Public Procurement Portal is considered the date of submission."

Article 15

Article 219, paragraph 9 is amended to read as follows:

"The appeal shall be submitted electronically through the Public Procurement Portal simultaneously to the Republic Commission and the contracting authority/procuring entity, whereby the date of submission through the Public Procurement Portal is considered the date of submission."

Article 16

In Article 220, paragraphs 3) and 4) shall be amended to read as follows:

"If by the decision referred to in paragraph 1, item 1) of this article, the contracting authority/procuring entity did not evaluate as founded all the allegations of the request for the protection of rights, the applicant may within two working days from the day of receipt of the decision submit a written statement to the Republic Commission and the contracting authority/procuring entity on the continuation of the procedure before the Republic by a commission that will decide in accordance with Article 226 of this law, whereby the day of submission through the Public Procurement Portal is considered the day of receipt.

If the contracting authority/procuring entity does not act in the manner provided for in paragraph 1 of this article, the applicant may, within 20 working days from the date of submission of the request for the protection of rights, submit to the Republic Commission and the ordering party a written statement on the continuation of the procedure before the Republic Commission, whereby the day of submission through Portal of public procurement, considered as the day of receipt."

Article 17

In Article 222, after paragraph 4, paragraph 5 is added, which reads as follows:

"If the communication referred to in this article is carried out through the Public Procurement Portal, the day of sending through the Public Procurement Portal is considered the day of receipt."

Article 18

Article 227, paragraph 4 is amended to read as follows:

"The Republic Commission will deliver the decision referred to in paragraphs 1 and 2 of this article to the contracting authority/procuring entity, the applicant and the selected bidder within ten days from the date of adoption electronically through the Public Procurement Portal, whereby the day when the decision was delivered through the Public Procurement Portal to the mentioned persons is considered the day of receipt of the decision, in accordance with the Law."

Article 19

Article 236, paragraph 1, item 2) is amended to read as follows:

"2) procures goods, services or works without previously conducting a public procurement procedure, except when this is permitted by this law (Article 51);".

Items 5) and 7) shall be deleted.

Item 11) shall be amended to read as follows:

“11) fails to make or publish, that is, fails to submit decisions in accordance with the provisions of this law (Art. 146–148);”.

In item 18) the full stop at the end shall be replaced by a semicolon.

After item 18), item 19) shall be added, which reads as follows:

“19) does not act in accordance with Article 152a of this law.”

Article 20

Article 238 is amended to read as follows:

“Article 238

All state authorities responsible for controlling the legality of spending public funds submit a request to initiate misdemeanour proceedings when, acting within their jurisdiction, they determine that a violation of this law has been committed, which can be the basis for misdemeanour liability.

The statute of limitations for initiating and conducting misdemeanour proceedings shall begin three years after the date of the offense referred to in Articles 236 and 237 of this law.”

Article 21

Business entities that register for the first time act in accordance with Article 183, paragraphs 3 and 4 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19).

Business entities that are already registered on the Public Procurement Portal are obliged to renew their application by entering the data and uploading the evidence provided for in Article 183, paragraphs 3 and 4 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19).

Article 22

By-laws for the implementation of this law will be adopted by the day of the start of implementation of this law.

Article 23

This law shall enter into force on the eighth day from the date of its publication in the “Official Gazette of the Republic of Serbia”, and shall apply from 1 January 2024, except for the provision of Article 183, paragraphs 3 and 4 of the Law (provision of Article 21, paragraph 1 of this law) that is applied from the date of entry into force of this law.