

TAX AND LEGAL HIGHLIGHTS



NOVI ZAKON O JAVNIM NABAVKAMA

U nastavku Vam predstavljamo aktuelnosti u vezi sa novodonetim Zakonom o javnim nabavkama (sl. Glasnik, RS, br. 91/19, u daljem tekstu Zakon), koji je stupio na snagu 1. januara. 2020. godine, a koji će početi da se primenjuje počev od 1. jula 2020. godine.

Zakon donosi, značajno smanjenje i pojednostavljivanje postupaka u oblasti javnih nabavki, smanjenje administrativnog opterećenja i na strani naručioca i na strani ponuđača, a naročito smanjenje troškova učešća u postupcima javne nabavke malim i srednjim preduzećima, koji često ne raspoložu odgovarajućim administrativnim i stručnim kapacitetima.

Jedan od postupaka koji se preporučuje da bude sproveden pre početka primene novog Zakona je dobijanje potvrde o nepostojanju osnova za isključenje iz postupka javnih nabavki u registru ponuđača koji vodi Agencija za privredne registre.

Naime, pravna lica upisana u registar ponuđača dužna su da podnesu zahtev za dobijanje napred navedene potvrde u periodu od 1. marta do 30. juna 2020.

Zahtev za izdavanje potvrde o nepostojanju osnova za isključenje iz postupka javne nabavke treba da podnese zastupnik pravnog lica ili lice koje je ovlašćeno od strane zastupnika da podnese zahtev.

Ukratko, pravno lice koje je već upisano u Registar ponuđača, mora pribaviti potrebnu potvrdu da ne ispunjava nijedan od zakonom predviđenih razloga /smetnji za isključenje, koji su detaljno navedeni u članu 111, stav 1, tačka 1) i 2) . Ako u datom roku ne pribavi pomenutu potvrdu, pravno lice će biti izbrisano iz Registra ponuđača po službenoj dužnosti, nakon čega će, ukoliko za tim postoji potreba morati da podnese novi zahtev za upis u registar.

Među mnogim izmenama koje će novi Zakon doneti , u daljem tekstu je navedeno nekoliko najznačajnijih koje će u velikoj meri uticati na trenutni postupak javnih nabavki:

NEW PUBLIC PROCUREMENT ACT

Following are presented novelties on the new Public procurement Act (Official Gazette of the RS, No. 91/19, hereinafter referred to as “the PPA”), which came into force on 1 January 2020, and which start to apply as of 1 July 2020.

The PPA will bring significant reduction and simplification of public procurement procedures, reduction of administrative burden on both the contracting authority and the tenderer side, and in particular reduction of costs of participation in public procurement procedures for small and medium-sized enterprises, which may not have adequate administrative and professional capacities

One of the procedures that is recommended to be carried out before implementation of the new PPA, is obtaining the certificate on the non-existence of the grounds for exclusion from the public procurement procedure in the register of bidders maintained by the Serbian Business Registers Agency

Namely, legal entities registered with the register of bidders are required to submit a request for obtaining the above-mentioned certificate in the period from 1 March to 30 June 2020.

The request for the issuance of a certificate on the non-existence of grounds for exclusion from the public procurement procedure should be submitted by the representative of the legal entity or a person authorized by the representative.

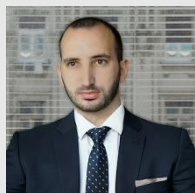
In summary, a legal entity that is already registered in the Register of Bidders, has to obtain the necessary certificates that it does not fulfil any of the law provided legal limitations, that are grounds for exclusion, listed in the detail in Article 111, paragraph 1, item 1) and 2). If the company does not obtain the mentioned certificate within the given deadline, the legal entity will be deleted from the Register of Bidders ex officio, after which, if it so wishes, it will have to submit a new request for registration into registry of bidders.

Amongst many changes that the new PPA will implement, below are stated the few most notable ones that will largely affect current public procurement procedure:

1. Skraćivanje procedure svake pojedinačne javne nabavke uz dostavljanje izjave o ispunjenosti kriterijuma za učešće u javnim nabavkama koju izdaje registar ponuđača. Tek nakon izbora najpovoljnijeg ponuđača biće potrebno dostavljati dodatnu dokumentaciju,
 2. Prilikom dodele ugovora u postupku javnih nabavki u obzir se uzima odnos cene i kvaliteta ponuđenih usluga umesto ranijeg rešenja koje je bilo zasnovano na najpovoljnijoj ceni,
 3. Propisan je novi postupak javne nabavke roba i usluga koje nisu dostupne na tržištu - partnerstvo za inovacije,
 4. Propisan je sistem dinamične nabavke - višegodišnji postupak javne nabavke koji se odigrava automatizovano, elektronskim putem kojim se određuje više ponuđača u dužem vremenskom periodu za nabavku dobara za kojima postoji kontinuirana potreba,
 5. Propisano je da se isti postupak javne nabavke primenjuje bez obzira na vrednost nabavke,
 6. Uvodi se portal javnih nabavki, u okviru procesa digitalizacije, a sva komunikacija i razmena podataka u postupku javnih nabavki, prema propisanoj dinamici, vrši se elektronskim putem.
1. Shortening the procedure of each individual public procurement with the submission of a statement on the fulfillment of the criteria for participation in public procurement issued by the register of bidders. Only after the selection of the most favorable bidder it will be necessary to submit additional documentation,
 2. On awarding the contract in the public procurement procedure, the ratio of price and quality of offered services shall be taken into account instead of the previous solution which was based on the most favorable price,
 3. New procedure has been introduced for public procurement of goods and services that are not available on the market - innovation partnership,
 4. Dynamic procurement system is prescribed - a multi-year public procurement procedure that takes place automatically, electronically by which several bidders are determined in a longer period of time for the procurement of goods for which there is a continuous need,
 5. The same public procurement procedure is applied regardless of the value of the procurement,
 6. Public procurement portal is being introduced, as part of digitalization process, and all communication and data exchange in the public procurement procedure, according to the prescribed dynamics, is carried out by electronic means.



Branka Marković
Partner, Tax&Outsourcing
branka.markovic@bdo.co.rs
+381 64 823 23 13



Uroš Preočanin
Direktor poreskog odeljenja
uros.preocanin@bdo.co.rs
+381 64 823 23 99



Dragana Simić
Poreski menadžer
dragana.simic@bdo.co.rs
+381 64 823 23 79



Bojan Stanković
Poreski menadžer
bojan.stankovic@bdo.co.rs
+381 64 823 23 15



Ivana Balandžić
Poreski menadžer
ivana.balandzic@bdo.co.rs
+381 64 823 23 86



Milan Kostić
Poreski supervizor
milan.kostic@bdo.co.rs
+381 64 823 23 64

Knez Mihailova 10
11000 Beograd
+381 11 3281 399
tax@bdo.co.rs

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