

REGULATION  
of 21 July 2016

on determining detailed conditions relating to electronic tools,  
electronic actions in public procurement and the certificate of conformity

Pursuant to Section 213 (3) of Act No. 134/2016 Coll., on Public Procurement (hereinafter referred to as "the Act"), the Ministry of Regional Development lays down the following provisions:

Section 1

**Scope of regulation**

- (1) This Regulation regulates
- a) conditions for provision of documents and information by means of an electronic tool and access thereto,
  - b) conditions for delivery by means of an electronic tool,
  - c) conditions for submission, receipt and opening of tenders, requests to participate and designs in design contests by means of an electronic tool,
  - d) requirements for carrying out electronic actions when awarding public contracts,
  - e) requirements for making records on electronic actions,
  - f) conditions for issuance of the certificate of conformity,
  - g) elements and validity of the certificate of conformity,
  - h) requirements for functional characteristics of an electronic tool and environment, in which the electronic tool shall be operated in relation to the certification of the electronic tool, and
  - l) technical characteristics of the contracting authority profile.

(2) This regulation applies to legal relations which are not regulated by the directly applicable legal regulation of the European Union in respect of trust services for electronic transactions<sup>1</sup>.

Section 2

**Definitions**

- For the purposes of this Regulation, the following definitions apply
- a) 'certification audit' means a process of conformity assessment of an electronic tool performed by a conformity assessment body accredited by a national accreditation body on the basis of another legal regulation or in accordance with the directly applicable legal regulation of the European Union in the field of accreditation and surveillance<sup>2</sup> (hereinafter referred to as the 'certification body'),
  - b) 'certification rules' mean a summary of terms and conditions determined by the certification body, under which the certification audit shall be performed,
  - c) 'public key certificate' means a data message which connects the contracting authority's public key with the contracting authority in a credible manner, it serves to transmit the public key and may serve to verify the identity of the contracting authority and the address of its websites,
  - d) 'time information' means recording the date and the time of an electronic action stating the hour, the minute and the second,
  - e) 'electronic address' means the place to receive messages within an electronic tool,
  - f) 'functionality' means a summary of functional characteristics of an electronic tool which serve to carry out electronic actions that are defined in annex to this regulation,
  - g) 'environment' means conditions under which an electronic tool is operated and which are defined in annex to this regulation,

- h) 'contracting authority's private key' means unique electronic data which unambiguously corresponds to the contracting authority's public key and serves the contracting authority to decrypt the content of the tender,
- i) 'system status' means the status which the electronic tool has at a given moment and which may take the following values
1. in operation,
  2. inoperative,
  3. restriction of functionality not enabling to carry out electronic actions which otherwise may be carried out by means of the electronic tool,
- j) 'contracting authority's public key' means unique electronic data which unambiguously corresponds to the contracting authority's private key and serves the contracting authority to encrypt the content of the tender.

### Section 3

#### **Conditions for provision of documents and information on the contracting authority profile and access thereto**

(1) The contracting authority shall ensure that everyone may assure in a suitable manner of its identity within the meaning of the directly applicable legal regulation of the European Union in respect of trust services for electronic transactions<sup>3</sup>.

(2) Where the contracting authority publishes information, procurement documents or other documents on its contracting authority profile, it shall ensure that they

- a) are protected against any unauthorised change,
- b) are continuously accessible for a given period of time on the contracting authority profile, and
- c) are published without any requirements for registration or any identification of the person that accesses information, procurement documents or other documents.

### Section 4

#### **Conditions for delivery by means of an electronic tool**

(1) Delivery by means of an electronic tool means the moment of acceptance of a data message to the electronic address of the addressee or addressees of the data message in the electronic tool.

(2) Record on the electronic action pursuant to Section 7 shall be made about the delivery by means of an electronic tool.

### Section 5

#### **Encryption and submission of tenders in electronic form**

(1) Provisions of this Regulation regarding tenders apply by analogy to indicative tenders, requests to participate, requests to be admitted to the qualification system, requests to participate or designs in design contests and the submission of auction values.

(2) The contracting authority shall publish an electronic address for the submission of tenders in the form or notice, elements of which are defined in Annex No. 6 to the Act.

(3) Tenders shall be protected within an electronic tool by encryption of their content in accordance with requirements determined by this Regulation. This does not apply in case of the submission of auction values under the condition that confidentiality of the content of the tender is secured in accordance with this Regulation.

(4) The contracting authority shall secure that

- a) the contracting authority's public key designated for encryption of the content of tenders corresponds to the contracting authority's private key,

- b) it is not possible to forge the public key certificate without undue effort,
- c) it is not possible to forge the contracting authority's private key without undue effort, and
- d) the contracting authority's private key is secured against loss and unauthorised access throughout the entire validity period of the relevant public key certificate.

(5) The contracting authority shall provide economic operators with the public key certificate to encrypt the content of the tender by means of its contracting authority profile or websites of the electronic tool or it shall send it upon request.

(6) Where the time limit for the submission of tenders is set, the contracting authority shall secure that the tender submitted to the address pursuant to subsection (2)

a) prior to the expiry of the time limit is further processed in accordance with this Regulation and is saved in unaltered form until it is opened; simultaneously, information on acceptance of its tender shall be sent to the economic operator to its electronic address, and

b) after the expiry of the time limit is marked as submitted after the expiry of the set time limit and, simultaneously, the notice of this fact is sent to the electronic address of the economic operator.

(7) The submission of the tender in the electronic tool shall bear time information record pursuant to Section 8.

## Section 6

### Conditions for decryption of tenders

(1) The contracting authority or persons authorised to open tenders shall secure decryption of the content of tenders prior to the opening of tenders by using the contracting authority's private key.

(2) The contracting authority shall secure that decryption and opening of tenders by using the contracting authority's private key is carried out by authorised persons so that

a) decryption and opening is always carried out in the presence of at least two authorised persons,

b) it is not possible to use the contracting authority's private key to decrypt tenders in a different manner than in the presence of authorised persons.

(3) The contracting authority shall secure that the electronic tool does not enable decryption and opening of the tender prior to the expiry of the time limit set for its opening. Pursuant to Section 7 the time of decryption and opening of the tender shall be recorded in the electronic tool.

(4) The contracting authority shall secure that, after its opening, the tender remains saved in the electronic tool in encrypted form, in which it was delivered to the contracting authority. Simultaneously, the contracting authority shall save the tender in decrypted form or in a different manner which enables access to the content of the tender throughout the entire period determined in Section 216 (1) of the Act independently of the validity of the encryption certificate.

## Section 7

### Making records on electronic actions

(1) The contracting authority shall secure making records on the performed electronic actions, all other activities and the system status of the electronic tool. Such record shall include at least

a) the determination of the electronic action or another activity of the electronic tool,

b) the time of the performance of the electronic action pursuant to Section 8,

c) unambiguous identification of the person that carried out the electronic action,

d) unambiguous identification of the automated activity by which the electronic action was carried out,

e) the record of any potential error result of the electronic action,

f) the record of the system status of the electronic tool if the electronic tool was inoperative or any functionality was restricted resulting in impossibility to carry out electronic actions which otherwise may be carried out by means of the electronic tool.

(2) The record referred to in paragraphs e) and f) of subsection (1) shall include at least the description of the status and time information on the beginning and the end of the status pursuant to Section 8.

(3) Records shall be protected within the electronic tool against any unauthorised access, alteration and destruction.

## Section 8

### Recording of the time information

(1) The time information being recorded in the electronic tool shall be provided by an operating system tied to the source reproducing the Coordinated Universal Time UTC in the Czech Republic.

(2) Synchronization of the time being measured by the operating system pursuant to subsection (1) with the Coordinated Universal Time shall be carried out at least once in 24 hours when conducting the procurement procedure.

(3) Synchronization of the time shall be secured even in case of the occurrence of a leap second.

## Section 9

### Certificate of conformity

(1) The certification body shall assess the conformity of the electronic tool in terms of functionality of the electronic tool and in terms of environment in which the electronic tool is operated. Detailed requirements for functional characteristics of the electronic tool and environment, in which the electronic tool is to be operated, are stipulated in annex to this Regulation.

(2) For the purposes of conformity assessment of the electronic tool in terms of functionality, electronic tools shall be divided into electronic tools complying with the requirements for

- a) the contracting authority profile,
- b) the electronic conduct of procurement procedures,
- c) the electronic auction,
- d) the framework agreements,
- e) the dynamic purchasing system,
- f) the electronic conduct of the design contest,
- g) the electronic catalogue.

(3) The certificate of conformity shall contain at least

- a) the identification data of the certification body which issued the certificate of conformity,
- b) the identification data of the applicant and the identification number of the person, where it was assigned to the applicant,
- c) the business name and version of the electronic tool,
- d) the identification of groups of electronic tools as divided pursuant to subsection (2) for which the electronic tool was certified,
- e) the date of issuance of the certificate of conformity,
- f) the period of validity of the certificate of conformity, and
- g) the signature of the person authorised to act on behalf of the certification body.

(4) The certification body shall issue the certificate of conformity in paper or electronic form and in the Czech language. The certificate of conformity shall prove that the electronic tool meets the requirements determined by the Act and this Regulation to the extent of functional characteristics and data stipulated in the certificate of conformity.

## Section 10

### **Conditions for the issuance of the certificate of conformity**

(1) The applicant shall file an application for the issuance of the certificate of conformity with the certification body. In the application and the following certification audit, the applicant shall prove conformity of the electronic tool with the requirements determined by legal regulations in relation to the functionality of the electronic tool and in relation to environment in which the electronic tool is operated. The applicant shall prove the conformity of the electronic tool where the electronic tool meets at least the requirements stipulated in annex to this Regulation.

(2) Where the electronic tool has the valid certificate of conformity in relation to functionality and environment and is operated by a person different from the applicant to which the certificate of conformity was issued, such different person as an applicant shall prove to the certification body only the fulfilment of the requirements related to environment.

(3) The certification body shall issue the certificate of conformity for the electronic tool to the extent of the ascertained conformity where the conformity of the electronic tool with the requirements stipulated in annex to this Regulation has been ascertained. The certification body is not entitled to issue a certificate of conformity for the electronic tool beyond the filed application for the issuance of the certificate of conformity.

## Section 11

### **Elements of application for the issuance of the certificate of conformity**

(1) In application for the issuance of the certificate of conformity, the applicant shall state its identification data and the person's identification number, where it was assigned to the applicant.

(2) Where the applicant for the issuance of the certificate of conformity is a person that is not a producer of the electronic tool, the applicant shall state the identification data of the producer in application for the issuance of the certificate of conformity to the extent referred to in subsection (1).

(3) In application for the issuance of the certificate of conformity, the applicant shall state the business name and, in accordance with Section 9 (2), it shall state the extent of the required certification of functional characteristics of the electronic tool.

(4) In the case of the application for the issuance of the certificate of conformity in relation to functionality of the electronic tool the applicant shall submit in annex to the application the following:

a) the description of the fulfilment of the general and specific requirements for functional characteristics of the electronic tool pursuant to annex to this Regulation,

b) the user guide describing the process of implementation of individual types of procedures pursuant to the Act as they are referred to in the scheme of Certification of the electronic tool in relation to the extent of its functionality in Book II of annex to this Regulation, and

c) drafts of test scenarios to verify functional characteristics of individual types of procedures pursuant to the Act as they are referred to in the scheme Certification of the electronic tool in relation to the extent of its functionality in Book II of annex to this Regulation.

(5) In the case of the application for the issuance of the certificate of conformity in relation to environment in which the electronic tool is operated, the applicant shall submit, in annex to the application, the description of the fulfilment of the requirements for environment of the electronic tool pursuant to Book XI of annex to this Regulation.

(6) In the case referred to in Section 10 (2) a copy of the valid certificate of conformity in paper form or a counterpart of the valid certificate of conformity in electronic form, which was issued for the electronic tool, shall be enclosed to the application for the issuance of the certificate of conformity.

## Section 12

### **Validity of certificates of conformity**

(1) Where the applicant proves the conformity of the electronic tool with the requirements for functional characteristics of the electronic tool to the certification body, the certificate of conformity shall be valid to the extent of functional characteristics of the electronic tool pursuant to Section 9 (2) stated in the certificate of conformity for 6 years from the date of its issuance.

(2) Where the applicant proves to the certification body the conformity of the electronic tool with the requirements for environment, in which the electronic tool is operated, or is to be operated, the certificate of conformity shall be valid to the extent of the data stated in the certificate of conformity and related to environment for 3 years from the date of its issuance. Upon expiry of the stated period, the validity of the certificate of conformity shall not be affected to the extent of the data related to functional characteristics of the given electronic tool.

(3) Validity of the certificate of conformity certifying conformity with the requirements for functional characteristics of the electronic tool may be repeatedly extended upon request of the applicant by 6 more years and conformity with the requirements for environment may be repeatedly extended by 3 more years.

(4) Where functional characteristics or environment of the electronic tool are changed as compared to functional characteristics or environment of the electronic tool based on which the certificate of conformity was issued and this change may result in not proving conformity with the requirements stipulated in legal regulations to the prescribed extent, the applicant shall announce this fact to the certification body within 15 days from the date when the change occurred and, simultaneously, it shall submit the proposal for corrective measures. Failing that, the certification body shall withdraw the certificate of conformity or, where the change of characteristics or conditions of operation of the electronic tool enables so, it shall change the wording or extent of the certificate of conformity.

(5) Furthermore, the certification body shall withdraw or change the certificate of conformity, where the applicant  
a) does not comply with conditions for the issuance of the certificate of conformity, or  
b) has used documents or information that have proven to be incorrect or incomplete as supporting documents for the issuance of the certificate of conformity.

(6) Upon the written application of the applicant, the certification body shall withdraw the certificate of conformity also on the basis of other reasons.

(7) The applicant is entitled to file a proposal for change of the extent of the certificate of conformity. In such case the applicant shall prove to the certification body only the fulfilment of the requirements to which the change relates.

#### Section 13

#### **Transitional provision**

The certificates of conformity issued pursuant to the Regulation No. 9/2011 Coll., laying down detailed conditions relating to electronic tools and acts taken electronically in awarding public contracts and particulars concerning certificate of conformity, may be used only for the purposes of completion of the proceedings pursuant to the Act No. 137/2006 Coll., on Public Contracts, in the wording effective by the date of the entry of the Act No. 134/2016 Coll., on Public Procurement, into effect.

#### Section 14

#### **Effect**

This regulation comes into effect on 1 October 2016.

Minister:  
Ing. Šlechtová, manu propria

## SPECIFICATION OF THE REQUIREMENTS FOR PROVING CONFORMITY OF ELECTRONIC TOOLS

### I List of used abbreviations and terms

Act	Act No. 134/2016 Coll., on Public Procurement
Worker	an employee of the applicant or another person who participates in the operation of the electronic tool
Electronic action performed automatically	electronic action related to the procurement procedure and performed by the electronic tool
Open format	the format pursuant to Section 18 (2) of Regulation No. 168/2016 Coll., on publication of forms for the purposes of the Act on Public Procurement and on elements of the contracting authority profile
PKI	Public Key Infrastructure: in cryptography, designation of infrastructure of administration and distribution of public keys out of asymmetric cryptography
Secured document	restricted access document in accordance with the determined access authorization
Authorised person	governing body of the contracting authority or the person authorised thereby on the grounds of the power of attorney or internal regulations

### II Introductory provisions

In order to obtain the certificate of conformity the applicant for certification of the electronic tool shall provide information on itself and on the electronic tool pursuant to Section 11 of this Regulation and shall prove the fulfilment of

1. the general requirements pursuant to Book III regardless of for which functionalities of electronic tools the applicant applies for the issuance of the certificate of conformity,
2. the specific requirements pursuant to books IV to X to the extent of functionalities of the electronic tool pursuant to Section 9 (2) of this Regulation for which the applicant applies for the issuance of the certificate of conformity,
3. the requirements for environment pursuant to Book XI regardless of for what extent of functionalities of the electronic tool the applicant applies for the issuance of the certificate of conformity.

The extent of certification of the conformity of the electronic tool in relation to the extent of functionality of the electronic tool shall be stated in the scheme called the Certification of the electronic tool in relation to the extent of its functionality. Certification shall be always carried out for electronic actions determined by functionalities which the applicant stated in the application for the issuance of the certificate.

Certification of the electronic tool in relation to the extent of its functionality

Type of procedure pursuant to the Act	Required functionalities of electronic tools pursuant to Section 9 (2) of this Regulation	
Publication of information and documents on the contracting authority profile pursuant to Section 214 of the Act	1 - electronic tools meeting the requirements for the contracting authority profile	
Procurement procedure pursuant to Section 3 of the Act	simplified below-threshold procedure	1 - electronic tools meeting the requirements for the contracting authority profile
	open procedure	
	restricted procedure	2 - electronic tools meeting the requirements for electronic conduct of procurement procedures
	negotiated procedure with prior publication	
negotiated procedure without prior publication		

	competitive dialogue procedure	
	innovation partnership procedure	
	concession award procedure	
	procedure to award a public contract in the simplified regime	
Specific procedures pursuant to Book Six of the Act	framework agreement	1 - electronic tools meeting the requirements for the contracting authority profile 2 - electronic tools meeting the requirements for electronic conduct of procurement procedures 4 - electronic tools meeting the requirements for framework agreements
	dynamic purchasing system	1 - electronic tools meeting the requirements for the contracting authority profile 2 - electronic tools meeting the requirements for electronic conduct of procurement procedures 5 - electronic tools meeting the requirements for the dynamic purchasing system
	design contest	1 - electronic tools meeting the requirements for the contracting authority profile 6 - electronic tools meeting the requirements for the conduct of design contests
Evaluation of tenders using the electronic auction pursuant to sections 120 and 121 of the Act		3 - electronic tools meeting the requirements for the electronic auction
Submission of tender in form of the electronic catalogue pursuant to Section 215 of the Act		7 - electronic tools meeting the requirements for the electronic catalogue

After verification of the correctness of the submitted documentation the certification body shall carry out physical verification of the conformity of statements in the documentation with actual functionality of the electronic tool. In the case of any doubts about sufficiency of the submitted supporting documents the certification body carrying out the certification of electronic tools is entitled to require their supplementation.

### III. General technical requirements for functional characteristics of all electronic tools (0)

General technical requirements shall represent the minimum standard with which the electronic tool shall comply. The electronic tool may provide the fulfilment of individual requirements by solution/measure which is technically-technologically more developed. The certification body shall always carry out verification of the conformity of the electronic tool in respect of the fulfilment of the general technical requirements and, furthermore, in respect of the requirements for individual groups of electronic tools, whereas more developed solutions/measures shall be also accepted.

#### Recording of the time of the electronic action (0.A)

The electronic tool shall ensure that the recording of the time of the electronic tool is carried out by attaching the electronic time stamp to the data message.

#### Making a record of the electronic action (0.B)

The electronic tool shall ensure that all records of electronic tools contain

1. unambiguous determination of the given particular action within organisation of the contracting authority,
2. the identification of the person who carried out the electronic action where it is an action performed by the particular natural person and it is not an action performed automatically by the electronic tool (e.g. receipt of tenders),



3. the record that the performed electronic action was performed automatically by the electronic tool,
4. the record of information on irregular outcome of the action for the purpose of gathering all necessary supporting documents to seek out the reason for occurrence of the error and evaluation of its impact, where the error occurs when carrying out the action, and
5. the recording of the time of the electronic action pursuant to Section 0.A.

#### Access management within procurement processes (0.C)

The electronic tool shall ensure that access management within procurement processes is recorded and carried out pursuant to Section 7 (1) c) of this Regulation in one of the following variants:

For the contracting authority profile:

1. Requirements for access management shall be determined only for the contracting authority to the extent of making records of the electronic action pursuant to Section 0.B.

For other procurement processes:

1. authentication and authorisation of the accessing person shall be based on entering the name and the password.

Prior to the issuance of the name and the password for the accessing person, the contracting authority shall verify that the authorised person applies for them and such person shall unambiguously prove its authorisation to the applicant. The contracting authority shall not issue names and passwords for accessing persons to the person that does not prove that it is an authorised person. The contracting authority shall ensure that the distribution of the name and the password to accessing persons is carried out in adequately secure manner,

2. authentication and authorisation of the accessing person shall be based on the public key certificate of the accessing person, or

3. authentication and authorisation of the accessing person shall be based also on other technologies; however, authentication and authorisation shall always be carried out in verifiable, adequate and secure manner and they shall unambiguously identify the person who carried out the electronic action.

#### Use of open formats of data messages (0.D)

The electronic tool shall ensure that the format of data messages, which are being exchanged during procurement processes, is an open format of the data message.

#### Storage of documentation on the public procurement (0.E)

The electronic tool shall ensure that the documentation on the public procurement is stored in the data storage using controlled access. Access management shall be governed by the rules specified in Section 0.C. The electronic tool shall ensure that when saving documentation in the data storage the electronic time stamp is attached to the documentation.

Documents on the public procurement which were submitted in encrypted form or which contain confidential information shall be stored in the data storage using controlled access. Access management shall be governed by the rules specified in Section 0.C. Documents may be stored in its encrypted form. Where the documents are stored in encrypted form (on the basis of PKI technology), the contracting authority shall safely store the contracting authority's private key corresponding to the contracting authority's public key by which the document was encrypted. The time of storage of the contracting authority's private key shall correspond to the time of storage of the documents. Simultaneously, the contracting authority shall save the document in decrypted form or in a different manner which enables access to the content of the document throughout the entire period determined in Section 216 (1) of the Act independently of the validity of the encryption certificate.

In respect of the terminated public contract, the electronic tool shall enable complex export of all:

1. log files,
2. automatically generated documents,
3. manually inserted documents,
4. data messages,
5. structured data pursuant to Annex No. 8 to Regulation No. 168/2016 Coll., on publication of forms for the purposes of the Act on Public Procurement and on elements of the contracting authority profile, and
6. meta data.

The exported file regarding the terminated public contract shall have a form of one file in zip, rar or 7z format bearing the qualified electronic time stamp and it shall also include description of the exported structure to the extent necessary for further automated processing by electronic tools or information systems.

#### Ensuring the prohibition of discrimination (0.F)

The electronic tool shall be operated in such environment and in such manner that the use of the electronic tool is not conditioned by the use of generally unavailable or expensive technologies which would result in exclusion of the particular economic operator from participation in procurement processes.

#### Making information for the use of the electronic tool accessible (0.G)

The electronic tool shall enable the contracting authority to provide economic operators, who are interested in participation in procurement processes, with availability of all information of technical nature, including potential

encoding and encrypting, which are necessary for communication by electronic means, in particular, for the electronic submission of tenders throughout the entire period of the use of the electronic tool.

The contracting authority shall secure that information for the use of the electronic tool is updated and accessible from the contracting authority profile or on the contracting authority profile home page.

Securing technical support for the electronic tool and service of the electronic tool (0.H)

Technical support for the electronic tool and service of the electronic tool shall be secured to such extent that it is possible to secure proper operation of the electronic tool and the fulfilment of other requirements specified in this Regulation. Technical support and service shall be secured to the extent which is appropriate to complexity of the functionality of the electronic tool.

Control over audit trails of the tender in the electronic tool (0.1)

For the purposes of control, the electronic tool shall enable the authorised person to display, or export, or print all data acquired pursuant to Section 0.B for the given period through both individual public contracts and all public contracts of the contracting authority.

Credible delivery in the electronic tool (0.J)

For the purposes of credible delivery, the electronic tool shall meet the requirements specified in the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC to the extent of the implemented functionality.

#### IV. Requirements - contracting authority profile (1)

Making the secured document accessible by restricted remote access (1.A)

Record on the electronic action pursuant to Section 0.B shall be made when the contracting authority makes the secured document accessible by restricted remote access.

Format of the document shall correspond to the requirements specified in Section 0.D. There shall be controlled access to the document. Document access management shall be governed by the rules specified in Section 0.C.

Making the secured document accessible by unrestricted remote access (1.B)

Record on the electronic action pursuant to Section 0.B shall be made when the contracting authority makes the secured document accessible by unrestricted remote access.

Format of the document shall correspond to the requirements specified in Section 0.D.

Making the document accessible by unrestricted remote access (1.C)

Record on the electronic action pursuant to Section 0.B shall be made when the contracting authority makes the document accessible by unrestricted remote access.

Format of the document shall correspond to the requirements specified in Section 0.D.

Elements of the contracting authority profile (1.D)

The contracting authority profile shall meet the requirements specified in Section 17 et seq. of Regulation No. 168/2016 Coll., on publication of forms for the purposes of the Act on Public Procurement and on elements of the contracting authority profile.

Furthermore, the contracting authority profile shall meet the requirements defined in Regulation No. 64/2008 Coll., on forms of publication of information related to the execution of public administration by means of websites for disabled people (regulation on accessibility).

The contracting authority profile shall make basic information on public contract accessible by unrestricted and direct access to the extent and in the structure pursuant to Annex No. 8 to Regulation No. 168/2016 Coll., on publication of forms for the purposes of the Act on Public Procurement and elements of the contracting authority profile.

#### V. Requirements - electronic conduct of procurement procedures (2)

Sending of an encrypted data message (2.A)

The contracting authority shall determine admissible formats of a data message being sent. Format of the document shall correspond to the requirements specified in Section 0.D. The contracting authority shall determine an electronic protocol used for the data message transmission. Data message addressee shall provide the sender with the public key certificate. Data message shall be encrypted with the addressee's public key. Where the contracting authority sends a message, the record on the electronic action shall be made pursuant to Section 0.B.

Sending of an open data message (2.B)

The contracting authority shall determine admissible formats of a data message being sent. Format of the document shall correspond to the requirements specified in Section 0.D. The contracting authority shall determine an electronic protocol used for the data message transmission. Where the contracting authority sends a message, the record on the electronic action shall be made pursuant to Section 0.B.

Receipt of an open data message (2.C)

When receiving data message the contracting authority shall respect the format and electronic protocol of the incoming message. Where the contracting authority receives a message, the record on the electronic action shall

be made pursuant to Section 0.B.

Sending of a data message within the contracting authority organisation (2.D)

Format of a data message being sent within the contracting authority organisation shall be chosen in accordance with the contracting authority needs. The contracting authority shall always choose such format which protects the document against any unauthorised change. Electronic protocol used for the data message transmission shall be chosen in accordance with the contracting authority needs. The contracting authority shall determine whether the data message will be encrypted and it shall determine the rules for what key will be used for encryption. The record on the electronic action pursuant to Section 0.B shall be made about sending a data message.

Receipt of a data message within the contracting authority organisation (2.E)

In the case of an encrypted data message the contracting authority shall determine the rules stipulating whether the data message will be decrypted. The record on the electronic action pursuant to Section 0.B shall be made about receipt a data message.

Receipt of an encrypted data message (2.F)

Where the data message is decrypted the record on electronic action shall be made about decryption pursuant to Section 0.B. Simultaneously, the contracting authority shall save the message in decrypted form or in a different manner which enables access to the content of the message throughout the entire period determined in Section 216 (1) of the Act independently of the validity of the encryption certificate.

Receipt and saving of the tender (2.G)

The data message shall not be decrypted until the moment of the opening of tenders. The record on the electronic action pursuant to Section 0.B shall be made. No copies of the tender data message shall be made during the conduct of the receipt of the tender.

The electronic tool shall ensure that secure saving of the tender data message immediately follows after receipt of the tender data message. Secure saving of the tender data message shall be made in such manner that the contracting authority's access to the encrypted tender saved in the data storage is not possible prior to the expiry of the time limit for the submission of tenders.

The electronic tool shall ensure that the tender data message is saved in such manner that an attempt to access the saved tender prior to the date of the opening of tenders is ascertainable. The record on the electronic action pursuant to Section 0.B shall be made about any such attempt to access the tender prior to the date of the opening of tenders.

Opening of tenders submitted by electronic means (2.H)

The electronic tool shall ensure that the opening of tenders submitted by electronic means is carried out by one of the following options:

1. opening of the tender submitted by electronic means shall be carried out in the manner following the receipt of the tender pursuant to Section 2.H. Encrypted tender saved in the data storage shall be accessed in cooperation of at least two persons having incomplete rights of access to the saved tender, or even more persons having these rights, as the case may be, if the contracting authority stipulates so. Access to the saved tender shall be enabled by combination of access rights of these persons. The tender shall then be decrypted by the contracting authority's private key related to the contracting authority's public key which was used to encrypt the tender data message, or

2. opening of the tender submitted by electronic means shall be carried out in the manner following the receipt of the tender pursuant to Section 2.H. Encrypted tender data message shall be decrypted by cooperation of persons having access to the contracting authority's private keys related to the contracting authority's public keys which were used for encryption of the tender data message.

Where the electronic tool automatically saves an encrypted tender with the contract after the opening of the tender, it shall make a record thereon pursuant to Section 0.B. Simultaneously, the electronic tool shall save the tender in decrypted form or in a different manner which enables access to the content of the tender throughout the entire period determined in Section 216 (1) of the Act independently of the validity of the encryption certificate.

Negotiation of the committee / contracting authority (2.I)

The electronic tool shall enable that the contracting authority inserts a document containing negotiation meeting minutes as a part of the record on negotiation of the committee / contracting authority. The record on the electronic action pursuant to Section 0.B shall be made.

## VI. Requirements - electronic auction (3)

Identification of participants in the electronic auction (3.A)

During the procurement procedure until the closing of the electronic auction, the electronic tool shall not enable that its participants identify each other. The record on the electronic action pursuant to Section 0.B shall be made about assignment of an anonymous identifier to the participant in the electronic auction.

Invitation to submit new auction values (3.B)

The contracting authority shall determine admissible formats of an invitation being sent. Format of the document shall correspond to the requirements specified in Section 0.D. The contracting authority shall determine an electronic protocol used for the invitation transmission. The record on the electronic action pursuant to Section 0.B shall be made about sending a notice to participants.

Mathematical formula for calculation of the ranking of participants (3.C)

Electronic tool shall continually provide the contracting authority with information about the used mathematical formula that shall be used in the electronic auction to determine the automatic re-rankings on the basis of the submitted new auction values. This formula shall include all criteria for evaluation of tenders determined by the contracting authority in the electronic tool.

Making information available during the electronic auction (3.D)

The electronic tool shall make information on its updated ranking available to the participant in electronic auction throughout the entire period of the electronic auction. The electronic tool shall also enable provision of other information on auction values provided that the contracting authority reserved so in the award criteria or it determined the manner of its provision. The electronic tool shall enable the contracting authority to display the number of participants in an electronic auction to the participants at any time during the electronic auction.

#### VII. Requirements - framework agreements (4)

Single records (4.A)

The electronic tool shall keep single records of framework agreements in relation to the performance of these framework agreements and display them to the contracting authority. The record on the electronic action pursuant to Section 0.B shall be made about each change in the records.

Accumulation of performance (4.B)

The electronic tool shall enable individual accumulation of a partial public contract after its awarding for each particular framework agreement. The record on the electronic action pursuant to Section 0.B shall be made about each accumulation.

The contract based on the framework agreement (4.C)

The electronic tool shall enable the contracting authority to award individual contracts based on the chosen framework agreement. The record on the electronic action pursuant to Section 0.B shall be made about the tender.

#### VIII. Requirements - dynamic purchasing system (5)

Single records (5.A)

The electronic tool shall keep single records of established dynamic purchasing systems in relation to the performance under these dynamic purchasing systems and display them to the contracting authority. The record on the electronic action pursuant to Section 0.B shall be made about each change in the records.

Accumulation of performance (5.B)

The electronic tool shall enable individual accumulation of a partial public contract after its awarding for each particular dynamic purchasing system. The record on the electronic action pursuant to Section 0.B shall be made about each accumulation.

Category (5.C)

The electronic tool shall enable the contracting authority to divide the upcoming dynamic purchasing system into categories. The record on the electronic action pursuant to Section 0.B shall be made about defined categories and their changes.

Contract under a dynamic purchasing system (5.D)

The electronic tool shall enable the contracting authority to award individual contracts under the chosen dynamic purchasing system. The record on the electronic action pursuant to Section 0.B shall be made about the tender.

Records of economic operators under the dynamic purchasing system (5.E)

Within individual dynamic purchasing systems, the electronic tool shall enable the contracting authority to keep and display records of economic operators that:

- a) submitted the request to participate,
- b) were excluded from participation from the dynamic purchasing system,
- c) were admitted to the dynamic purchasing system.

The record on the electronic action pursuant to Section 0.B shall be made about each change in the records.

#### IX. Requirements - electronic conduct of design contests (6)

Making a design in the design contest available to the jury (6.A)

The electronic tool shall enable the contracting authority to make a design in the design contest available to the jury in such manner that persons who are members of the jury may not identify the economic operator that submitted the design on the basis of information provided by the electronic tool (hereinafter referred to as 'anonymisation of design'). The design shall be anonymised after the opening of the tender and its decryption. The contracting authority shall make the anonymised design available to the jury in decrypted form. The record on the electronic action pursuant to Section 0.B shall be made about opening, decryption and anonymisation of the tender.

The electronic tool shall provide the contracting authority with information about the economic operator that submitted the design even after anonymisation of the design.

Record on the electronic action pursuant to Section 0.B shall be made about making a design in the design contest available to the jury.

## X. Requirements - electronic catalogue (7)

Technical characteristics of the electronic catalogue (7.A)

One of the following formats shall be used to create the electronic catalogue:

- a) pdf (Portable Document Format),
- b) PDF/A (Portable Document Format for the Long-term Archiving),
- c) xml (Extensible Markup Language Document),
- d) fo/zfo (602XML Filler document),
- e) html/htm (Hypertext Markup Language Document),
- f) odt (Open Document Text),
- g) ods (Open Document Spreadsheet),
- h) rtf (Rich Text Format),
- i) doc/docx (MS Word Document),
- j) xls/xlsx (MS Excel Spreadsheet),
- k) other professional standard formats using supported browser available free of charge and editor of the given format.

The contracting authority shall define the format (including used technical means), content and structure of the electronic catalogue in the procurement documents and it shall determine the data to be filled in by the economic operator. The electronic catalogue inserted by the contacting authority into the electronic tool shall enable editing by the economic operator and its sending by electronic means in encrypted form as a tender or a part of the tender.

## XI. General requirements for environment, in which the electronic tool is operated

### 1. Quality of operation of the electronic tool

The basic qualitative requirement for operation of the electronic tool shall be proving of credibility of its operation. Such credibility shall be measured through confidentiality, accessibility and integrity of information which is processed by means of the electronic tool in given environment. Quality measurement shall be carried out according to the following requirements for the system of management of the electronic tool operation for which the applicant is responsible. For the purposes of certification of environment, the applicant shall prove the fulfilment of the requirements defined in this Regulation.

### 2. Declaration of the system of management

The applicant shall determine the policy of the electronic tool operation, which shall include at least:

- Determination of the procedure to secure adequate resources for the electronic tool operation by the management of the applicant's company;
- Extent of functional characteristics of the electronic tool which are being operated;
- List of the requirements determined in the Act, regulatory and contractual requirements applied to the electronic tool operation;
- Determination of roles responsible for the electronic tool operation, including their powers and responsibilities;
- Determination of the process of management of other parties' services, which influence the electronic tool operation;
- Determination of the process of periodical evaluation and assets and risk management connected to the electronic tool operation;
- Determination of control mechanisms to monitor the electronic system operation and the manner of securing of timely and effective identification of new threats and risks.

### 3. Requirements for resources management

The applicant shall determine and secure sufficient resources necessary for the efficient and effective electronic tool operation. For the purposes of this standard the following constitute resources:

1. environment, in which the electronic tool is operated, and which includes hardware, operating systems and other system software and premises necessary for ensuring of the required parameters of the electronic tool, and
2. human resources that are necessary for the electronic tool operation (administration and service) to the intended extent and for compliance with the determined requirements for the electronic tool. The applicant shall specify the requirements for resources management (operational environment and human resources)

and its part so that it is secured that the electronic tool fulfils the determined requirements for its operation in the operating environment to the intended extent.

#### 3.1. Requirements for environment

The applicant shall determine in a documented manner the requirements for environment, in particular, hardware, software and premises necessary for operation of the electronic tool to the intended extent. It shall keep records that these requirements are met during the electronic tool operation. Extent of the requirements shall depend on complexity of the electronic tool (i.e. compatibility of functionality).

#### 3.2. Requirements for processes of human resources management

The applicant shall apply such measures in the area of human resources management which minimize a negative impact of workers on the electronic tool operation to the determined extent whilst complying with all determined requirements. The manner of fulfilment of the following requirements shall be documented and records shall exist as evidence of the fulfilment of the requirements.

The applicant shall at least:

- Determine roles, their description, working obligations, responsibilities and powers;
- Determine the requirements for professional qualification of a worker for the given role;
- Determine the way of appointment of the worker to the role and the way of the worker's training;
- Plan educational activities at regular intervals and then carry them out according to the plan;
- Determine the rules for enforcement of liability and imposing of sanctions for a breach of determined obligations during the electronic tool operation;
- Determine the rules for termination of the work of the worker in the role.

Prior to the start of working with the electronic tool or in the operational environment of the electronic tool the applicant shall carry out selection of suitable workers for roles in accordance with the requirements for the role, determined professional qualification and other characteristics determined by the applicant in respect of the given role.

Prior to start of working with the electronic tool or in the operational environment of the electronic tool and prior to the appointment of the worker to the role, the applicant shall verify qualification and training of new workers for roles necessary for the electronic tool operation, their responsibilities, powers and the requirements for professional qualification.

During the work with the electronic tool or in the operational environment of the electronic tool, the applicant shall plan and secure educational activities by means of which it secures that the workers continually fulfil the requirements for professional qualification determined in respect of the occupied role. Where activities are secured by a contracting party the applicant shall require the fulfilment of this requirement by the contracting party.

The applicant shall solve cases of a breach of the determined obligations in respect of the electronic tool operation with the worker in compliance with the determined rules of enforcement of liability and imposing of sanctions.

At termination of work with the electronic tool or in the operational environment of the electronic tool

The applicant shall determine a specific time plan for a duly conduct of termination of work of a worker with the electronic tool (including termination of potential contractual relationships) which includes, in particular, handover of assigned assets and deprivation of assets rights to the electronic tool.

### 4. System requirements for an electronic tool

By means of the system requirements for electronic tools the applicant shall ensure the fulfilment of the requirements defined in law even during design and development of an electronic tool and throughout the entire period of the electronic tool operation.

#### 4.1. Requirements for operations management

The applicant shall secure, in a documented manner, accessibility, integrity and confidentiality by application of selected processes of international standards in the area of security of information and quality of IT services which establish a standard for the fulfilment of the following requirements.

At regular intervals, at least once a year and when each major change occurs, the applicant shall:

- Perform, manage and evaluate assets and risks;
- Prepare and fulfil the risk management plan;
- Revise already accepted measures;
- Perform control and evaluation of processes and activities carried out by other parties and influencing the electronic tool operation;
- Create, maintain and manage documents and records necessary for the electronic tool operation;
- Plan, implement, monitor and review processes for management of the electronic tool operation;
- Perform internal audits and revisions by management including revisions of compliance with the requirements stipulated by the Act and its implementing regulations and other regulatory and contracting obligations.

Furthermore, it shall:

- Manage the process of planning of modifications of the electronic tool operation;
- Manage the process of the electronic tool operation and provide the contracting authority with both operational and regular monthly information on an operation status including all anomalies, inaccessibilities and other information which are important for the contracting authority in respect of the electronic tool operation;
- Have prepared functional plans of continuity and accessibility;

- Manage means and capacities in respect of time and place so the electronic tool operation is not endangered;
- Provably acquaint the contracting authority's workers with changes in the electronic tool operation;
- Manage relationships with both contracting authorities and participants to the extent of the operated electronic tool;
- Manage incidents, problems, configurations and changes and keep provable records thereon.

#### 4.2. Requirements for quality of solution

For the purposes of certification the acceptable level of the electronic tool operation shall be set as follows:

- Total yearly accessibility of the electronic tool shall be at least 98% whereas individual failure of operation shall not exceed 3 hours during working days and 12 hours during weekends and bank holidays;
- Backup plan shall be set so that when complying therewith in the case of an incident, data in the electronic tool are lost for the maximum of one calendar day.

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<sup>1</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

<sup>2</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

<sup>3</sup> Article 45 of the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.