

REGULATION
of 25 July 2016

on elements of the application for a prior opinion on the conclusion of a public contract
and on modification of the contractual obligation pursuant to the Act on Public Procurement

Pursuant to Section 186 (2) of Act No. 134/2016 Coll., on Public Procurement, the Ministry of Finance lays down the following provisions:

Section 1

Elements of the application for a prior opinion on the conclusion of a public contract

An application for a prior opinion of the Ministry of Finance regarding the conclusion of a public contract, submitted by a territorial self-governing unit or by a partially state budget-funded organisation founded by such unit or by another legal person specified in Section 4 (1) e) of the Act on Public Procurement, where a territorial self-governing unit founded or established such legal person or the legal person is funded mainly thereby or the self-governing unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body, shall contain the following selected elements, including an economic analysis of the contract impacts:

- a) the definition of the subject-matter of the contract,
- b) the corporate name or name, the registered office, the legal form and the identification number of the economic operator, where it is a legal person,
- c) the name, or, where applicable, the corporate name, the registered office, or, where applicable the residence where it differs from the place of business, and the identification number of the economic operator, where it is a natural person,
- d) the expected value of the concession,
- e) the amount of financial obligations of the contracting authority arising from the contract, including the amount of individual payments and their timetable, or, where applicable, the amount of security for the economic operator's obligations related to the contract with the contracting authority and manner of securing thereof,
- f) other obligations of the contracting authority arising from the performance of the subject-matter of the contract,
- g) the rights of the contracting authority arising from the performance of the subject-matter of the contract,
- h) the amount of payments made by the economic operator to the contracting authority or their limits, provided that the existence of them follows from the contract, and the manner of their determination,
- i) the amount of reimbursements paid to the economic operator directly by users or their limits, provided that the contract stipulates a right to collect such reimbursements, and the manner of their determination,
- j) the period for which the contract is being concluded,
- k) the description of how risks are spread between the contracting authority and the economic operator,
- l) the determination of the real value of assets and delimitation of the used sources, including their amount, from which individual assets are acquired, where the creation of such assets arises from the contract,
- m) the definition of legal relations of the contracting parties to the assets designated for the performance of the subject-matter of the contract throughout its expected duration,
- n) conditions for a termination of the contract, the manner of settlement of contractual obligations and the consequences that follow from the termination of the contract for the contracting authority,
- o) justification specified in Section 179 (3) of the Act on Public Procurement,
- p) the conclusions of the latest report on a review of business management, where the contracting authority is a territorial self-governing unit,
- q) aggregate basic data on revenues and expenditures, including, without limitations, data on long-term obligations and receivables, on financial resources and on the needs of long-term intentions within the scope of the budget outlook, where the contracting authority is a territorial self-governing unit,
- r) the impact of the contractual obligations on the business management of the contracting authority throughout the duration of the contract,
- s) data on the balance and movement of assets, payables including debts and other liabilities, expenditures and revenues as well as data on the business result for the accounting period preceding the date of submission of the

application for a prior opinion of the Ministry of Finance within the extent of a financial statement, where the contracting authority is a legal person specified in Section 4 (1) e) of the Act on Public Procurement and where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body.

Section 2

Elements of an application for a prior opinion on a modification of the contractual obligation

An application for a prior opinion on a modification of the contractual obligation shall contain:

- a) the proposal for the contract modification and the evaluation of the impact of such modification on the amount of the contracting authority's financial obligations,
- b) the identification of the body that has approved the concluded contract as well as the date and number of the decision by which the contract was approved,
- c) the full text of the concluded contract,
- d) the conclusions of the latest report on a review of the business management, where the contracting authority is a territorial self-governing unit,
- e) aggregate basic data on revenues and expenditures, including, without limitations, data on long-term obligations and receivables, on financial resources and on the needs of long-term intentions within the scope of the budget outlook, where the contracting authority is a territorial self-governing unit,
- f) the impact of the contractual obligations on the business management of the contracting authority throughout the duration of the contract,
- g) data on the balance and movement of assets, payables including debts and other liabilities, expenditures and revenues as well as data on the business result for the accounting period preceding the date of submission of the application for a prior opinion of the Ministry of Finance within the extent of a financial statement, where the contracting authority is a legal person specified in Section 4 (1) e) of the Act on Public Procurement and where a territorial self-government unit founded or established such legal person or the legal person is funded mainly thereby or the self-government unit exercises decisive influence over the legal person, appoints or elects more than half of the members of its governing or controlling body.

Section 3

Effect

This regulation comes into effect on 1 October 2016.

Minister:
Ing. Babiš, manu propria