

Abstract

Public tenders procedure – a dynamic purchase system and electronic auction

The purpose of public tenders is to serve as an instrument of effective and efficient distribution of public funds, in order to acquire specific goods or services in accordance with the public interest. Therefore, the law defines the process of awarding public tenders.

The main purpose of this thesis is to explore and analyze the electronization of the public tenders procedure with an emphasis on dynamic purchase systems and electronic auction. The thesis is based on the current provisions of the Act on Public Tenders No. 137/2006 Coll., and is divided into seven chapters.

Chapter one focuses on evolution of public tenders, or public procurement, providing a brief historical outline with an emphasis on national legal regulations.

Chapter two explores public procurement law regulations in force that are significant in relation to the aim of the thesis. The first part of the chapter highlights the most important legal documents on the international level, and the second part proceeds with an overview of European Union law. Part three presents a summary of the Act on Public Tenders in force.

The third chapter contains a definition of the most essential terms of the Act. Part one deals with the instrument of the public tender itself, including its object and types, and estimated value of the tender. A public tender is primarily a contractual relation between purchasing authority and suppliers, who are described in part two. The chapter is concluded with a concise synopsis of statutory exceptions.

Chapter four is divided into two parts. The first part describes the basic principles of public procurement and the procedure of public tenders in general. The second part continues with the suppliers' defense options against any unlawful practices of the purchasing authority; the part also illustrates the main competence of the Office for the Protection of Competition in this area.

Chapter five explores the electronization of public administration and public tenders procedure in four parts. The first two parts of the chapter provide an overview of the gradual legal implementation of electronic elements into public administration on

the national and European level. The latter two parts follow with a survey of the beginning of the electronization of public tenders procedure up until the current program of complete electronization of all stages of the procedure. A definition of the electronic instrument concept according to the Act is included. The chapter creates a foundation for examination of dynamic purchase system and electronic auction as legal instruments.

Chapter six focuses on the concept of dynamic purchase system. The system enables a fully electronic public tender on the subject of commonly accessible products. The first part of the chapter outlines the legal regulation of establishment and operation of the system. The second part distinguishes the system from the framework agreements. The final part evaluates the practical application of the system with stating that it is, at present, rare.

Chapter seven examines electronic auction, which is used to evaluate offers in the public tenders procedure. Part one outlines the legal regulation of auction application and procedure. Finally part two focuses on the practical usage of the auction and provides a brief summary of the decisions of the respective authority in this area.

The process of full electronization of the tenders procedure still remains to be only a goal not yet fulfilled. Even though the Act explicitly covered electronic elements several years ago, up to the present day the purchasing authorities rarely and rather reluctantly use electronic instruments such as dynamic purchase system and electronic auction.