

ABSTRACT

This thesis deals with the most frequent misconducts of contracting authorities in procurement process and also includes relating case law. However public procurement belongs to commercial law, its specific legislation makes it “sui generis”. It means that public procurement in the Czech Republic is to a certain extent independent. Public procurement is also very emerging field of law. Since 1995, when the first comprehensive legislation came into force, contracting authorities had to become acquainted with 4 different legislations governing public procurement. It is already known, that in 2016 a new legislation governing public procurement will come into force. Familiarization with each legislation can be, especially for less technically proficient contracting authorities, severe and leading to misconducts in procurement process.

The purpose of my thesis is to analyse the most frequent misconducts of contracting authorities in procurement process and introduce the procedure which should be govern by contracting authorities so they would proceed in accordance with the law. The reason for my research is to bring answers for complicated, but also elementary problems that contracting authorities have to deal with in procurement process.

The thesis is composed of twelve chapters, each of dealing with different aspect of misconduct in procurement process and relating case law to it. Chapter One deals with determination of the category of contracting authority. The chapter is subdivided into three parts. Part One describes process of determination of public contracting authority. Part Two deals with determination of subsidised contracting authority. Part Three explains determination of contracting authority operating in the water, energy, transport and postal services sectors.

Chapter Two describes determination of the type of public contract. The chapter is subdivided into four parts. Part One deals with parallel acquiring of supplies and services. Part Two examines parallel acquiring of works and services. Part Three describes parallel acquiring of works and supplies. Part Four deals with merging unrelated performances into one public contract.

Chapter Three concentrates on dividing the subject of public contract.

Chapter Four examines situations where additional works, supplies or services become necessary.

Chapter Five describes time limits. The chapter is subdivided into four parts. Part One deals with the beginning of time limits. Part Two concentrates on the termination of time limits. Part Three describes the modification of time limits. Part Four deals with merging the procurement time limit.

Chapter Six concentrates on the procurement documents. The chapter is subdivided into three parts. Part One deals with procurement documents of public work contracts. Part Two examines awarding part of a contract to subcontractors. Part Three describes brand specifications.

Chapter Seven describes qualifications. The chapter is subdivided into three parts. Part One deals with proving the criteria for qualification by subcontractor. Part Two examines the time limits allowed to prove the criteria for qualification. Part Three deals with proving the criteria for qualification in light regime.

Chapter Eight deals with submission of several tenders.

Chapter Nine concentrates on time limit for the opening of tenders.

Chapter Ten describes the assessment and evaluation of tenders. The chapter is subdivided into three parts. Part One deals with obvious miscalculations. Part Two examines the zero sum in tenderers tenders. Part Three deals with the evaluation criteria.

Chapter Eleven concentrates on the substantial modification of contract.

Chapter Twelve describes publication.

The main aim of my thesis is to point at the most frequent misconducts of contracting authorities and to present to them methods able to solve the situation so no violation of the law will be committed.