Regionalne prakse naročanja javnih gradenj

PUBLIC PROCUREMENT OF CONSTRUCTION AND ENGINEERING WORK AND SERVICES IN SERBIA
PUBLIC PROCUREMENT LAW IN SERBIA

- PUBLIC PROCUREMENT LAW ("Official Gazette of RS" no. 116/2008)
- This Law regulates the conditions, the manner and procedure for the procurement of goods, services, and awarding work assignments when the procuring entity is a government body, organization, institution or other legal person determined by this Law;

THE MOST IMPORTANT INNOVATION IN PUBLIC PROCUREMENT LAW

- Anti-Corruption Rules
- Establishes the Republic Commission for the Protection of Rights in Public Procurement Procedures
- Certification for public procurement officers
Article 20 of the “Law on Public Procurement” provides for the following public procurement procedures:

1) open procedure;
2) restricted procedure;
3) negotiated procedure with a prior notice;
4) negotiated procedure without a prior notice;
5) design contest;
6) low-value public procurement procedure.

Procuring entities for such procurements are: state authorities, organizations, institutions and other direct or indirect budget beneficiaries; compulsory social insurance organizations; public undertakings; legal persons also involved in activities of general interest; and legal persons founded by procuring entities that also perform activities of general interest, under the conditions prescribed by the Law.
"Article 5"

- 1) the execution of works;
- 2) the design and execution of works linked to the specific activities listed in Annex II, attached to this Law and forming an integral part hereof;
- 3) construction works on a facility taken as a whole which meet all the economic and technical requirements of the procuring entity.
### ANNEX II

<table>
<thead>
<tr>
<th>Class</th>
<th>Group</th>
<th>Sub-group</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>500</td>
<td>1.</td>
<td>General construction and civil engineering works (without special specifications) and demolition</td>
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<td></td>
<td>500.1</td>
<td></td>
<td>General construction and civil engineering works (without special specifications)</td>
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<td>500.2</td>
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<td>Demolition</td>
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<td>501</td>
<td>501.1</td>
<td></td>
<td>General construction works</td>
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<td></td>
<td>501.2</td>
<td></td>
<td>Construction of eaves and roofs</td>
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<td>501.3</td>
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<td>Construction of chimneys, furnaces and fireplaces</td>
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<td>501.4</td>
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<td>Protection against water and damp</td>
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<td></td>
<td>501.5</td>
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<td>Renovation and maintenance of external walls (refilling brick contacts with mortar, cleaning, etc.)</td>
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<td></td>
<td>501.6</td>
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<td>Erecting and dismantling scaffolding</td>
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<td>501.7</td>
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<td>Other specialized activities in connection with construction works, including carpentry</td>
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<td>502</td>
<td>502.1</td>
<td></td>
<td>General civil engineering works</td>
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<td></td>
<td>502.2</td>
<td></td>
<td>Earthworks</td>
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<td></td>
<td>502.3</td>
<td></td>
<td>Building bridges, tunnels and shafts; drilling</td>
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<td></td>
<td>502.4</td>
<td></td>
<td>Hydraulic engineering and water management (rivers, channels, ports, inflows, dams, etc.)</td>
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<td></td>
<td>502.5</td>
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<td>Building roads, railway lines, airports and sports facilities</td>
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<td></td>
<td>502.6</td>
<td></td>
<td>Specialized civil engineering works connected with water (irrigation, drainage, water supply, waste water removal, sewage, etc.)</td>
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<td>502.7</td>
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<td>Other types of civil engineering works, including specialized activities in other civil engineering sectors</td>
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<td>503</td>
<td>503.1</td>
<td></td>
<td>General industrial works</td>
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<td></td>
<td>503.2</td>
<td></td>
<td>Installations for supplying gas and water, and sanitary equipment installations</td>
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<td></td>
<td>503.3</td>
<td></td>
<td>Installation of heating and ventilation appliances (district heating, air conditioning, ventilation)</td>
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<td>503.4</td>
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<td>Insulation works</td>
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<td>Electric installations</td>
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<td></td>
<td>503.6</td>
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<td>Installation of aerials, lightning conductors, telephones, etc.</td>
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<tr>
<td>504</td>
<td>504.1</td>
<td></td>
<td>General finishing construction works</td>
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<td></td>
<td>504.2</td>
<td></td>
<td>Facade and stucco work</td>
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<td>504.3</td>
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<td>Interior woodwork (including laying parquet floors)</td>
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<td>504.4</td>
<td></td>
<td>Painting, glazing and wallpapering</td>
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<td></td>
<td>504.5</td>
<td></td>
<td>Laying tiles and other floor and wall coverings</td>
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<tr>
<td></td>
<td>504.6</td>
<td></td>
<td>Other types of finishing and additional construction works (installation of fireplaces, etc.)</td>
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</tbody>
</table>
Annex IA:
“11) management consulting services (other than arbitrage, settlement and related services)
12) architectural, engineering, urban planning and landscape architecture services; technical testing and analyses”

PROCUREMENT EXEMPT FROM THE LAW

Article 7
The provisions of this Law shall not apply to the procurement:
“2) to which different procurement rules apply and which is conducted:

a) based on of an international agreement pertaining to the supply of goods, performance of works, provision of services or design contests,

b) from the proceeds of foreign credits (loans) in accordance with special procedures of international organizations;”

…
The Minister in charge of financial activities shall define the list of the international organizations referred to in paragraph 1 item 2) indent b) of this Article whose special public procurement procedures may be applied instead of the provisions of this Law.”
1) **World Bank Group** (International Bank for Reconstruction and Development and International Development Association);

2) **European Bank for Reconstruction and Development** (EBRD);

3) **European Investment Bank** (EIB);

4) **Council of Europe Development Bank** (CEB);

5) **Development banks, or other financial institutions of donor countries** where bilateral financial cooperation is based on the principles of the **OECD Development Committee**.

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**CRITERIA FOR THE SELECTION OF THE MOST ADVANTAGEOUS BID**

- **Types of Criteria:**
  - 1) The economically most advantageous bid
  - 2) The lowest price offered
DIFFERENCES BETWEEN DOMESTIC AND FOREIGN CRITERIA

- **The economically most advantageous bid:**
The procuring entity must select the bid of the most advantageous domestic bidder provided that the difference in the final sum of weighted points between the most advantageous bid of the foreign bidder and the most advantageous bid of the domestic bidder is **NOT HIGHER THAN 20** in favor of the bid of the foreign bidder.

- **The lowest price offered:**
The procuring entity must select the bid of the domestic bidder provided that its price offered is **NOT MORE THAN 20 %** higher compared to the lowest price offered by the foreign bidder.

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DIFFERENCES BETWEEN DOMESTIC AND FOREIGN CRITERIA

- The priority given to domestic bidders in public procurement procedures in which bidders from the signatories of the Central Europe Free Trade Agreement (CEFTA 2006) participate is completely abolished since 1 May of 2010.

- After the Stabilization and Association Agreement concluded between the European Communities and their member states, on the one side, and the Republic of Serbia, on the other side, comes into effect, the advantage given to domestic bidders shall become an advantage expressed in the price and shall gradually decrease **over a five-year period (completely abolished)** in accordance with the schedule specified in that Agreement.
According to rules of EIB, EBRD and WB

### FOREIGN AND DOMESTIC RATIO OF AWARDED CONTRACTS IN 2010

- **97%** for Serbia
- **1%** for EU
- **2%** for Non EU

### MOST IMPORTANT CONTRACTS AWARDED TO BIDDERS

- **New Bridge over River Sava**
  - Contractors: Consortium: Austria’s PORR Technobau und Umwelt AG, Slovenia’s SCT dd. and German DSD Bruckenbau GmbH
  - Total cost: €160 million
- **“Gazela” Bridge – Reconstruction**
  - Contractors: STRABAG, Austria
  - Total cost: €58 million
- **Corridor X**
  - Contractors: KORIDOR 10, Serbia
  - Total cost: €1.3 billion
**Most Important contracts awarded to foreign bidders**

- The Sava’s Bridge
- Corridor X
- Gazela Bridge over Sava river

**Preparing technical documentation for the construction for foreign entities**


Article 126

“§ 9 A foreigner can prepare the technical documentation under conditions of reciprocity and other conditions prescribed by this Law.

§ 10 The person referred to in paragraph 9 of this Article can prepare the technical documentation if he obtained the right to complete competition work in the Republic of Serbia on and international competition and if he is member of the engineering chamber in his own country.

§ 11 The engineering chamber of Serbia determines the fulfillment of conditions referred to in paragraphs 9 and 10 of this Article.”