PUBLIC PROCUREMENT

Slovenian public procurement legislation regulates the rules governing the awarding of contracts in a similar way to the EU directives. The Public Procurement Act represents implementation of Directive 2014/24/EC and Directive 2014/25/EC. It covers construction works, supply and service contracts awarded by traditional contracting authorities (central government, regional and local authorities and entities) and by public, semi-public and private entities operating in the water, energy, transport and postal services sectors (utility sectors). The Public Procurement for Defence and Security Act represents implementation of Directive 2009/81/ES. It covers construction works, along with supply and service contracts awarded in the defence and security sectors.

Treatment of foreign bidders

The legislation strictly forbids any action by a public authority which would discriminate against foreign bidders.

Types of public procurement procedures

The Public Procurement Act provides for the following procedures:

- a low-value procedure which can be used only for public procurements up to a certain value threshold: for goods and services with an estimated value of up to EUR 144,000 and for construction works with an estimated value of EUR 40,000 to EUR 500,000 (general area) and/or EUR 100,000 to EUR 1,000,000 (infrastructure);
- an open procedure in which every bidder meeting the selection criteria can submit a tender. Most public procurements are awarded in an open procedure;
- a restricted procedure, which is a two-phase procedure: in the first phase, the capability of the bidders is known, while the second phase is reserved for commercial aspects of the bid;
- a negotiated procedure (in two forms);
- innovation partnership;
- competitive dialogue or a competitive procedure with negotiation; and
- three types of awarding contracts: framework agreements, electronic auction and a dynamic purchasing system.

The Public Procurement for Defence and Security Act has some special features regarding procurement procedures.
Information about public procurement

All public procurements whose estimated value exceeds certain thresholds must be published on the Slovenian public procurement portal (single information portal) and, in case of higher values, also in the Official Journal of the EU (TED).

The publication of a public procurement consists of information about the contracting authority, the subject of the procurement, the selection criteria, the awarding criteria, information about the tender documentation’s availability, the time and place for submitting the tender, an indicative timetable for a decision regarding the contract award and a contact person who can offer additional explanations.

Single information portal

The following must be published on the single information portal (www.enarocanje.si):

− public procurements from the general area whose estimated value exceeds EUR 20,000 (for goods and services) and/or EUR 40,000 (for construction);
− public procurements from the infrastructural area whose estimated value exceeds EUR 50,000 (for goods and services) and/or EUR 100,000 (for construction); and
− public procurements from the defence and security area whose estimated value exceeds EUR 40,000 (for goods and services) and/or EUR 80,000 (for construction).

The single information portal provides all necessary information free of charge. The information there is only in the Slovenian language but foreign bidders may also submit a bid.

The official journal of the EU

The contracting authority shall send for publication to the Office for Official Publications of the European Communities all public contracts whose value, net of value-added tax (VAT), is equal to or greater than the following thresholds:

− public procurements from the general area whose estimated value exceeds EUR 144,000 (for goods and services) and/or EUR 5,548,000 (for construction);
− public procurements from the infrastructural area whose estimated value exceeds EUR 443,000 (for goods and services) and/or EUR 5,548,000 (for construction); and
− public procurements from the defence and security area whose estimated value exceeds EUR 400,000 (for goods and services) and/or EUR 5,548,000 (for construction).

Such public procurements are published in the Official Journal of the EU (TED) and also on the Slovenian single information portal. In the Official Journal of the EU a summary of the publication is available in English and other European languages.
**Tender documentation**

Publication of the public procurement must include information stating where the tender documentation is available. The basic tender documentation is usually published on the Internet; bidders can also acquire tender documentation in person, by mail, e-mail or fax. Tender documentation is normally available free of charge.

**Submission of a bid**

Tender documentation is often only available in the Slovenian language and the contracting authority also demands the bid documentation to be submitted in the Slovenian language. Foreign bidders may translate the tender documentation from the Slovenian language and then to translate the bid documentation into the Slovenian language; connect up with a local Slovenian partner to submit a joint bid; or engage a Slovenian advisory company which prepares a bid.

Contracting authorities can demand that foreign bidders submit relevant evidential documents from competent foreign public authorities (if such documents are unavailable, a bidder can sign a statement to declare they meet certain selection criteria). Bid bond is usually demanded.

**Bid opening**

The bid opening session is public, except in the case of a public procurement procedure with negotiation and without previous publication or a competitive procedure with negotiation where the contracting authority, in compliance with the law, does not publish the notice of public procurement and negotiates only with one bidder.

**Selection**

Contracting authorities select the most advantageous offer on the basis of the awarding criteria described in the tender documentation. Awarding criteria shall not be discriminatory; they have to contribute to a non-discriminatory selection procedure. They have to be in a logical connection with the subject of the public procurement procedure.

In relatively simple public procurement procedures, the awarding criterion is normally the lowest price. In complex public procurement procedures, the awarding criteria normally reflect the most advantageous offer combined with various other criteria.

**Legal protection of bidders**

The revision procedure in Slovenia is regulated by the Legal Protection in Public Procurement Procedures Act. If a bidder believes that the awarding criteria were discriminating, there were some mistakes in public procurement procedures or the public procurement acts have not been respected, it may have recourse to the National Review Commission for Reviewing Public Procurement Procedures which is a public authority established to supervise the lawfulness of public procurement procedures in Slovenia.