



European Union
European Social Fund Operational
Program Employment



MINISTRY OF LABOUR
AND SOCIAL AFFAIRS



SOCIALLY RESPONSIBLE
PUBLIC PROCUREMENT

Socially Responsible Public Procurement in the Czech Republic

SELECTION OF BEST PRACTICE CASE STUDIES



Socially Responsible Public Procurement in the Czech Republic





SELECTION OF BEST PRACTICE CASE STUDIES

This collection of case studies is showing the best practice in socially responsible procurement in the Czech Republic. This is a selection of examples, that have been gathered by the team of the project “Promoting the Implementation and Development of Socially Responsible Public Procurement”. This project has been/realized by the [Ministry of Labour and Social Affairs \(MoLSA\)](#) since March 2016 and runs until June 2020.

The project “Promoting the Implementation and Development of Socially Responsible Public Procurement”

The objective of the project is to include the principles of responsible public procurement in everyday practice and thus ensure public money is spent more efficiently, particularly with respect to needs concerning employment, social inclusion, and environmental sustainability as such whenever necessary, i.e., including the impact on the environment.

The project is about to create a long-term consultation and expert platform to develop the concept of responsible public procurement and offers advice and consultations in the area of applying responsible public procurement, and represents source of information, examples of good practice, sample texts, activities supporting exchanging and support of the tenderers when gaining experience, etc.

THE TOPICS



The project team focuses on other areas as well. Attention is also paid to the institutes of the law on public procurement and other tools, which make it easier for contracting authorities to promote the concept of responsible public procurement in practice. For instance:

- C Promoting communication between contracting authorities and suppliers during public procurement (with particular respect to the socially responsible public procurement)
- C Implementation of the Responsible Public Procurement in institutions
- C Responsible Public Procurement control mechanisms during performance
- C Measuring impact of the Responsible Public Procurement in practice

The legal framework

The legal framework governing responsible public procurement in the Czech Republic is based upon and fully corresponds to the European legislation. The public procurement in the Czech Republic is regulated by [Act No. 134/2016 Coll.](#), on public procurement, which transposes the Directive 2014/24/EU into the Czech law. Following the model of the Directive on the award procedure, the Public Procurement Act allows (and supports) socially responsible public procurement. Using socially responsible public procurement, contracting authorities may attain desirable societal objectives in several ways, most frequently by making use of a special condition for participation using labels to have environmental or social criteria proven, or by using a quality evaluation criteria.

Based upon the developments in public procurement and the demand on the part of the Public Administration and regional authorities for methodical support in the area of socially and environmentally responsible public procurement, the Czech government adopted a [resolution No. 531 dated 24 July 2017](#). The Resolution comprises [Guidelines for the Application of Responsible Public Procurement and Commissioning Applied by the Public Administration and Local Authorities](#).

Current situation

Although responsible public procurement has not been used among contractors frequently, there are several dozens of examples of good practice carried out by contractors that avow the concept of responsible public procurement. The project team at MoLSA believes the approach of socially responsible public procurement can be adopted by every public authority in the Czech Republic to get the most positive impact on society, economy and environment.

This collection of case studies has been prepared for foreign readers, just to get a glimpse of the Czech practice in the socially responsible public procurement. For more information visit www.sovz.cz/en. You can also follow us on www.facebook.com/odpovedneverejnezakazky or contact us via sovz@mpsv.cz.

Issued in September, 2018



Supply of Food and Material Aid



Contracting Authority:

Czech Republic

- MINISTRY OF LABOUR AND SOCIAL AFFAIRS

Name of procurement:

SUPPLY OF FOOD AND MATERIAL AID FUNDED FROM THE FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (FEAD)

- II., Lot of public contract No. 4: Textile

PUBLIC PROCUREMENT

- Wider societal interests:**
The Contracting Authority required that ethical production of textile is ensured.
- Evaluation:**
Aspects related to socially responsible public procurement were not subject of evaluation. They were used as conditions for participation in procurement procedure and as contractual conditions relating to the subject-matter
- Anticipated value of the Lot No. 4:**
CZK 14,000,000 excluding VAT
- Legal regulation:**
ABOVE-THRESHOLD REGIME OPEN PROCEDURE in accordance with Act No. 134/2016 Coll.on Public Procurement, as amended (hereinafter PPA)

EXAMPLE OF GOOD PRACTICE (2016/2017)

The Ministry of Labour and Social Affairs (hereinafter "MoLSA" or "Contracting Authority") has been an active promoter of responsible public procurement for several years. It adopted the responsible public procurement principles and included them in its internal governing documentation to continuously and systematically take them into account in its public procurement contracts.

SECTION I HEAD III Part 3 Par. 3) of the Principles for Public Procurement at the Ministry of Labour and Social Affairs: *"Throughout the public procurement process, emphasis must be placed on the selection of the most economical solutions that, in addition to price, take into account technical and qualitative aspects, sustainability, and life cycle costs, as well as social and employment benefits."*

MoLSA carefully considers each and every public contracts for suitable support of individual objectives defined under responsible public procurement. In terms of objectives, the ministry does not exclusively focus on its own agenda, i.e., social or employment issues, but accepts its part of responsibility for the natural environment, too.

As part of this public procurement contract, the Contracting Authority set its goal to purchase products whose manufacture did not entail breach of selected work-related principals (there is a risk of „Misconclusion“ - no conclusion on valid employment agreements).The Contracting Authority made this decision because it was aware of the fact that textile is merchandise usually manufactured in geographical areas where basic human rights are being breached. If the sole evaluation criterion were the lowest bid price, it may be expected that low-price performance would be provided. However, the Contracting Authority wished to avoid any purchase of goods where it might be content with the bid price but the price itself was very likely a result of problematic working conditions.

Before the Contracting Authority applied the approach presented above, it had carefully examined individual conditions, methods of demonstrating that these conditions have been met, and the system of monitoring whether they have been respected throughout the performance.

Before the procurement procedure was initiated, the Contracting Authority had carried out preliminary market consultations. The purpose of the preliminary market consultations was to acquire information necessary to properly set up procurement conditions. The Contracting Authority published background materials for the preliminary market consultations along with information on the public procurement contract in the Official Journal of the European Union (through the operator of the Tenders Electronic Daily), at Contracting Authority profile and at the MoLSA website. In addition to basic organization information, the Contracting Authority indicated the purpose of the public procurement contract, and a brief description of the performance subject matter and scope. Further, the Contracting Authority pointed out that an independent report will be drawn of the procedure and results of the preliminary market consultation. This report then become part of the award criteria. Among other things, as part of the preliminary market consultations, the Contracting Authority pointed out that it was mandatory to meet its requirements for ethical production of the performance. Namely, the requirements are: prohibition of forced labour, prohibition of child labour, and safe working conditions without any detriment to human health.

In accordance with Art. 37 Par. 1 Letter d) of the PPA, the Contracting Authority requested that the following conditions were met throughout the manufacturing process:

"In accordance with EP and Council Directive no. 2014/24/EU, in particular its Annex X, as well as standards dictated by the International Labour Organization, the Contracting Authority requires that the manufacturer of the goods offered and delivered maintains the following minimal standards throughout the manufacturing process: prohibition of forced labour, prohibition of child labour, safe working conditions without any detriment to human health, and valid employment contracts. The manufacturing process is understood to mean each individual phase of the production process of the textile goods offered (i.e., sewing, knitting, and other modifications to fabrics and other materials used that are necessary for the final product to be supplied). These requirements do not apply to the production of the fabric used."

The definition of the "manufacturing process" was created for the purposes of this procurement procedure. It is not a definition indicated in any legal regulation, or a definition generally used in any other way. It was born from the necessity to define the scope of the manufacturing process since understanding of the scope of 'manufacturing process' may vary.

The Contracting Authority requested that the requirements defined must be met in the following manner:

- a document demonstrating membership in Fair Wear Foundation, or
- an affidavit drawn by a particular bidder, in which it confirms that it maintains the conditions required (prohibition of forced labour, prohibition of child labour, safe working conditions without any detriment to human health, and valid employment contracts) throughout all phases of the manufacturing process during which the textile products offered are being made (hereinafter "Affidavit").

It was permitted to demonstrate the fulfilment of individual portions of the performance under the contract by presenting a combination of the documents above.

If the Contracting Authority's request is met by presenting an Affidavit, it was necessary for each individual item included on the Affidavit indicate the manufacturer, label, and address of the factory where the manufacturing process actually takes place (or several factories if several locations are used for various production phases). Information in the Affidavit was *considered to be trade secret and handled as such*.

Monitoring Whether Ethical Production Requirements Are Met and Sanctions in Case of Noncompliance

*"Buyer shall be entitled to carry out—even via an authorized third party—an **audit of the supplier factory** that takes part in the manufacturing process of the Goods to be supplied, to assess whether the requirements specified in the ethical production declaration are met in accordance with Annex No. ... to this Contract (a document testifying membership in Fair Wear Foundation / a document testifying membership in World Fair Trade Organization / affidavit of conformance with the conditions required are met). Seller shall be obligated to provide any assistance necessary. The same applies to his subcontractors.*

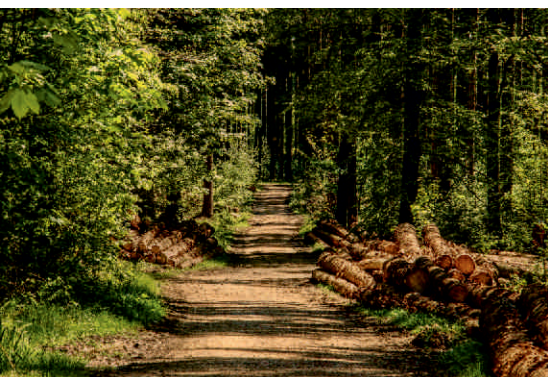
*Buyer shall be entitled to **withdraw** from this Contract in case of a substantial breach on the part of Seller."*

Performance Obtained – Conclusion:

The contract went to business company KORAKO plus s.r.o., Most of the production comes from Slovakia, an EU Member state. Supplier presented an affidavit to demonstrate that it met the ethical production requirements, part of which was identification information of the manufacturer and the address of the factory, in which production actually takes place (or factories in case of several locations for various phases of production).



Forestry Work Including the Sale of Wood



Contracting Authority:

LESY ČESKÉ REPUBLIKY, s. p.

Name of procurement:

**FORESTRY WORK
INCLUDING THE SALE OF WOOD
"CLOSE TO THE TRUNK" — 2017+**

PUBLIC PROCUREMENT

Wider societal interests:
The Contracting Authority required that decent and fair working conditions are ensured along with occupational health and safety.

Evaluation:
Aspects related to socially responsible public procurement were not subject of evaluation. They were used as conditions for participation in procurement procedure and as contractual conditions relating to the subject-matter of the public contract.

Anticipated value of the public procurement contract:
CZK 2,806,610,000
excluding VAT

Legal regulation:
ABOVE-THRESHOLD
REGIME
Open procedure
In accordance with Act No. 137/2006 Coll., on Public Procurement, as amended (Act is not in force any more)

EXAMPLE OF GOOD PRACTICE (August 2016)

Lesy ČR, s. p. (hereinafter "Lesy ČR") has been applying socially responsible public procurement over a long period of time and thus contributes to resolving issues frequently faced by state-owned companies. Public procurement contracts for forestry work including the sale of wood have been evaluated based upon the lowest bid price over a long period of time. However, this long-term pressure on prices does not contribute to the maintenance and development of decent working conditions for forestry workers. For this reason, increasingly fewer people are interested in working in forests. Responsible public procurement represents an appropriate tool to change this trend because it supports decent working conditions and occupational health and safety of people taking part in implementation of public procurement contracts and **creates conditions for the maintenance of labour law regulation, regulations on employment and occupational health and safety.**

Lesy ČR continues in its good practice. In the published public procurement contract entitled **Forestry Work Including the Sale of Wood "Close to the Trunk" – 2017+**, the company made contractor conditions stricter. Each quarter, contractors regularly submit an Affidavit indicating a list of all their employees, agency employees, freelancers, and other persons who have taken part in the implementation of the contract. In it, they declare that all these persons are registered in the corresponding registers, in particular, in the Trade Register and the Register of the Czech Social Security Administration and possess all the necessary permits to stay and work in the CR. Included must also be information that these people have been trained in OSHA and have received personal protection aids in accordance with the law. There has been a new addition in the tender dossier, and, especially, in the contract: contractors are now obligated to notify the Contracting Authority of the fact that public authority body (Labour Inspection Authority of the CR or regional labour inspection authorities, Regional Hygiene Authority, etc.) initiated a proceeding against them concerning a breach of labour law (remuneration, working hours, periods of rest between shifts, and paid overtime), or regulations on employment and OSHA, i.e., Act No. 435/2004 Coll., on Employment, as amended, and Act No. 262/2006 Coll., Labour Code, as amended. The reporting obligation also concerns any results of such proceedings. Contractors must present Lesy ČR with a copy of the final decision within 7 days from the day it came into effect, at the latest. Any breach of these obligations will be sanctioned by Lesy ČR: contractual fines will be imposed, and, in some cases, the company may withdraw from the contract.

Lesy ČR is convinced that proper setup of public procurement contracts may bring desired results and, in addition to quality performance, required social objectives will be attained, i.e., the conditions of people working in the forest will be improved.

SAMPLE TEXTS USED IN TENDER DOCUMENTATION - FOR YOUR INSPIRATION

Tender documentation

The Contracting Authority is interested in awarding this public contract in accordance with the principle of socially responsible public procurement. In addition to purely economic parameters, socially responsible public procurement takes the related impact into account, in particular related to employment, social and labour rights, and the environment. The Contracting Authority requires that Contractors ensure legal employment, fair working conditions, and satisfactory level of occupational health and safety for all persons taking part in the contract performance of the public contract throughout its duration. Applicants must ensure that this Contracting Authority's requirements are met by its subcontractors, as well. Aspects related to socially responsible public procurement are included in the text of the binding draft contract in question (hereinafter the "Binding Draft Contract").

Contract

1. *The Contractual Partner declares that it is aware of the fact Lesy ČR is interested in implementing the Public Procurement Contract in keeping with the principles of socially responsible public procurement. The Contractual Partner pledges to ensure all legal regulations are fulfilled throughout the duration of the contract, specifically labour law regulations (on remuneration, working hours, periods of rest between shifts, and paid overtime) and OSHA regulations, i.e., Act No. 435/2004 Coll., on Employment, as amended, and the Labour Code, vis a vis all persons who take part in the contract performance of the public procurement contract, whether the Forestry Work concerned is carried out by the Contractual Partner or its Subcontractor.*
2. *Throughout the contractual relationship under the Contract, the Contractual Partner shall be obligated to submit an affidavit including a list of names of all its employees, agency employees, freelancers, and other persons taking part in the contract performance of the public contract. This affidavit must be submitted by every 20th day of the calendar month which follows the calendar quarter in question. It must include information that all the listed persons have been registered in the corresponding registers, especially in the Trade Register and the Register of the Czech Social Security Administration, and that they have relevant residence permits and permits to work in the CR. Further, the affidavit shall indicate that such persons have received OSHA training and personal protective equipment in keeping with the law. The Contractual Partner acknowledges that Lesy ČR is entitled to provide its affidavit to the relevant public administration authorities of the CR. This obligation applies whether Forestry Work is carried out by Contractual Partner or its Subcontractor. Draft affidavit is annexed hereto as: Draft Affidavit.*
3. *Lesy ČR shall be entitled to regularly check whether Contractual Partner fulfils its obligation under Par. 1 and Par. 2 of this Section of the Contract by directly asking the workers carrying out Forestry Work. The Contractual Partner must enable the company to carry out such checks, allow them, and provide Lesy ČR with all the necessary assistance.*
4. *The Contractual Partner shall be obligated to notify Lesy ČR of the fact that proceedings were initiated against it or its Subcontractor by a public administration authority (Labour Inspection Authority of the CR or regional labour inspection authorities, Regional Hygiene Authority, etc.) as a result of its breach of legal regulations subject to Par. 1 or Par. 2 of this Section of the Contract, which occurred during the performance of the contract or in relation therewith, and to do so within 10 days from the day such proceedings were initiated. The Contractual Partner's notification must also include information on the date on which the notification of the fact such proceedings were initiated was received.*
5. *The Contractual Partner shall be obligated to present Lesy ČR with a copy of the final decision terminating any proceedings concerning the subject matter of the preceding paragraph of this section, and to do so within 7 days from the day on which the decision takes effect. Together with the copy of the final decision, the Contractual Partner must provide Lesy ČR with information on the date on which the decision took effect.*
6. *Should the proceedings initiated in accordance with Par. 4 of this section of the Contract result in the Contractual Partner (or its Subcontractor) being convicted—by a judgement which has the force of res judicata—of committing a general offence, administrative offence, or any other illegal action, the Contractual Partner shall be obligated to take remedial measures and notify Lesy ČR, in writing, of such measures and how they are implemented. The Contractual Partner must do so within a reasonable period of time designated by Lesy ČR.*
- +
7. *Further, Lesy ČR shall be entitled to require that the Contractual Partner pay a contractual fine of up to: a) CZK 5,000 if—based upon the final decision issued by the relevant authorities—falsity of information included in the affidavit in accordance with Par. 2 of the Contract is proven; b) CZK 1,000 should the Contractual Partner fail to fulfil its obligation to present Lesy ČR with a copy of a final decision which terminates the proceedings, and indicate a date on which it came into effect in accordance with Par. 4 of the Contract and to do so in a timely manner; c) CZK 1,000 should the Contractual Partner fail to fulfil its obligation to present Lesy ČR with a copy of the final decision and indicate the date on which it came into effect, in accordance with Par. 5 of the Contract in a timely manner; this applies to each individual case and even for a single day of delay commenced. Should there be a breach of obligations in accordance with Letter b) or Letter c), the total amount of the contractual fine for each individual case may not exceed CZK 60,000.*
8. *Lesy ČR shall be entitled to withdraw from the Contract if: a) the Contractual Partner—despite a repeated call to do so—breaches its obligation to present an affidavit in accordance with Par.2 of the Contract, or if the affidavit in accordance with this Paragraph of this Contract is, or proves to be false; b) the Contractual Partner or its Subcontractor is repeatedly (2x or more times) convicted by a judgement which has the force of res judicata of committing a general or administrative offence or any similar illegal action, in a proceeding in accordance with Par.4 of the Contract.*



Letovice Reservoir



PUBLIC PROCUREMENT

- Wider societal interests:**
Support for student professional experience
- Evaluation:**
The evaluation concerned no aspects related to socially responsible public procurement.
- Anticipated value of the public procurement contract:**
CZK 1,510,000 excluding VAT
- Legal regulation:**
BELOW-THRESHOLD REGIME
Open procedure In accordance with Act No. 137/2006 Coll., on Public Procurement, as amended (Act is not in force any more)

Contracting Authority:
POVODI MORAVY, S. P.

Name of procurement:
**LETOVICE RESERVOIR – RECONSTRUCTION:
PROJECT DOCUMENTATION FOR TERRITORIAL
PLANNING PROCEDURE**

EXAMPLE OF GOOD PRACTICE (April 2015)

Povodí Moravy, s.p. (hereinafter "PM") is a state-owned company controlled by the Ministry of Agriculture that ensures administration, operation, and maintenance of water ways and water structures within the Morava river basin. Since 2014, PM has strived for socially responsible public procurement. Therefore, the company's selected contracts include a condition requiring support for integration of "individuals with limited access to the labour market". For the purposes of PM, the term refers to both persons who are registered with the Labour Office for at least 5 months, as well as unemployed graduates. For project documentation contracts PM imposes an obligation to involve a student whose participation in the project allows him or her to gain professional experience. To this end, the company has been working closely with Brno Technical University.

The contract was carried out as a 'below-threshold regime' in an open procedure in accordance with Act No. 137/2006 Coll., on Public Procurement (hereinafter "PPA"). The subject matter consisted in the preparation of project documentation for the reconstruction of the Letovice Reservoir. Based upon the documentation, a territorial planning decision was to be issued for the construction project.



Within the meaning of Art. 44 Par. 10 of the PPA, the Contracting Authority formulated its requirement for student participation in the project.

"The Contractor shall be obligated to ensure that at least one Master's-level student takes part in the project work in the form of a traineeship. For instance, students from water management and related fields of study are among suitable candidates."

The Contracting Authority simultaneously included this condition in the Contract for Work, along with an obligation on the part of the Contractor to demonstrate that student participation has been ensured, an opportunity for inspection, and sanctions should the Contractor fail to meet the obligation.



"The Contractor shall be obligated to ensure that at least one Master's-level student takes part in the project work in the form of a traineeship. For instance, students from water project and related fields of study are among suitable candidates." The Contractor shall demonstrate that this condition has been met by presenting a written confirmation from the corresponding institute or university department. It must include the name of the student involved and his or her field of study, and be presented on the day of the hand-over of the project, at the latest."



Interior Furnishings for a Company Kindergarten



PUBLIC PROCUREMENT

- Wider societal interests:**
Requirement for an environment-friendly solution
- Evaluation:**
The evaluation concerned no aspects related to socially responsible public procurement.
- Anticipated value of the public procurement contract:**
CZK 950,000 excluding VAT
- Legal regulation:**
Small-scale public contract

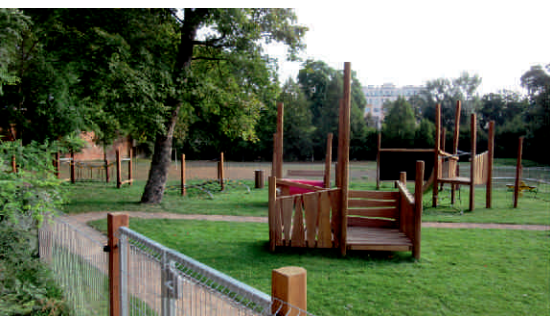
Contracting Authority:
LUŽÁNKY - STŘEDISKO VOLNÉHO ČASU BRNO,
příspěvková organizace
(LUŽÁNKY LEISURE TIME CENTRE)

Name of procurement:
INTERIOR FURNISHINGS FOR A COMPANY
KINDERGARTEN AT KOUNICOVA 16, BRNO

EXAMPLE OF GOOD PRACTICE (May 2016)

Lentilka is a company kindergarten established by the South Moravian Region. For four years, it has been operated by the Lužánky Leisure Time Centre, an organization cofinanced by the state budget. In 2016, the school capacity was increased by additional three classrooms. Before they could be used, though, it was necessary to furnish them.

The Contracting Authority was aware of the fact that the application of responsible public procurement is often more complex than the commonly used assessment of bids based upon the lowest price. To prepare the public procurement contract, the Contracting Authority therefore worked together with the school founder, i.e. the South Moravian Region, and the Ministry of Labour and Social Affairs, to maximise benefits attainable under the concept. At the time period when tender documents were being prepared, the Contracting Authority was not familiar with a similar example of good practice in the Czech Republic which concerned socially responsible purchasing of furniture. Therefore, in general terms, the Contracting Authority found inspiration in a handbook published by its founder, i.e., the South Moravian Region, entitled "Responsible Purchasing: Basic Principles" (prepared by Nová ekonomika, o. p. s., 2015) and in a number of methodology handbooks available online.



Pertinent information on and methodology approaches used for furniture procurement are available, e.g., at <http://sovz.cz/predmety/nabytek-a-vybaveni-interieru/>.

This public procurement contract was carried out as a small-scale contract outside the scope of Act No. 137/2006 Coll., on Public Procurement (while respecting the Contracting Authority's methodology principles). It comprised interior furnishing and equipment, including outdoor play structures in the garden area of the kindergarten. Having considered its option to apply the principles of responsible purchasing, the Contracting Authority decided to request that the impact made by the order on the environment be minimized.



In the tender documents, the Contracting Authority had to differentiate its requirements for products made of wood or wood-based materials from those made from metal, e.g., coat hangers. For furniture and other interior furnishings made of wood or wood-based materials, it required that the products be abrasion-resistant, washable, combustion resistant, and that the joining mechanisms guaranteed sturdiness and stability. Moreover, the products had to comply with detailed technical specifications indicated in the tender documents, which concerned the following:

- A) hazardous substances,
- B) content of formaldehyde and volatile substances,
- C) composition of any plasticizers used,
- D) content of volatile organic compounds,
- E) and packaging materials.



Furniture featuring an eco-label (e.g. which bears the label Environmentally friendly product or "The Flower" (European ecolabel), and fulfils requirements A) through D), was considered satisfactory.

Details are available in the tender documents at <https://zakazkv.kraibezkorupce.cz/contractdisplay8012.html>



The Contracting Authority received five bids. In them, bidders took various approaches to demonstrate that they had fulfilled the contract requirements specified. Some offered furniture featuring an ecolabel, others provided affidavits and certificates for individual technical requirements. One of the bids failed to fulfil the technical requirements of the Contracting Authority. Of the remaining bids, the bidder offering the lowest bid price was selected, which, however, subsequently refused to implement the order. As a result, the bidder who ranked second (MY DVA group a. s.) was contacted to provide furniture made of wood and wood-based materials featuring an ecolabel.

From the Contracting Authority's point of view the contract was carried out without any problems and all the deadlines were met. Especially appreciated was the preparation undertaken by the winning bidder prior to meetings where the procedure to implement the contract was negotiated.

The Contracting Authority would certainly recommend that other contracting authorities insist on the minimum impact on environment as part of their purchase of furniture and interior equipment. Whenever appropriate in the future, the Contracting Authority will certainly require the same measures.



"Be Responsible" Sweatshirts from Natural Materials for Masaryk University



Contracting Authority:
MASARYK UNIVERSITY

Name of procurement:
**"Be Responsible" SWEATSHIRTS
FROM NATURAL MATERIALS FOR MU**

PUBLIC PROCUREMENT

Wider societal interests:
Ethical purchasing and environment-friendly solutions, support for small and medium-sized enterprises

Evaluation:
Specification of textile fabric being organic cotton was designated as the minimum standard.

In addition, the evaluation focused on the bid price which was weighted with 45%, quality of the goods weighted with 40%, and the manufacturing process (fulfilling requirements of ethical purchasing) weighted with 15%.

Anticipated value of the public procurement contract:
CZK 287,600 excluding VAT

Legal regulation:
Small-scale public contract

EXAMPLE OF GOOD PRACTICE (June 2017)

Masaryk University (MU) decided to make use of a framework contract to purchase promotional items—sweatshirts—aimed at the presentation of the university, and increasing its visibility. Simultaneously, these items will be used as part of the "Be Responsible" campaign organized to support responsible consumer behaviour. Masaryk University considers the impact made by its public procurement in general. It takes a strategic approach to the concept of responsible public procurement and therefore strives to fully implement it within its structure.

Public procurement preparation matters!

- During the preparatory phase for the tender dossier, MU made use of the information collected at www.sovz.cz, as well as criteria defined by the EU for green public procurement available at http://ec.europa.eu/environment/gpp/eu_gpp_criteria-en.htm.
- The Contracting Authority initiated collaboration with a forensic expert in textile fabrics already during this phase to help it define the necessary requirements for quality and aesthetic properties of the desired products (subjective requirements) and ensure feasibility of such requirements.

The preparatory phase also saw MU significantly streamline the public procurement administration by making use of the so-called bid form, which maximally supports the participation of small and medium-sized enterprises in the tender. It is, in fact, a sample bid provided by the Contracting Authority along with the tender dossier to contractors to be filled in. The bid form is to minimize the difficulties related to contractors' bid preparation. This is appreciated by small-scale suppliers with no independent procurement department, as well as any other entity preparing its bid. The bid form is also to minimize any potential administrative mistakes which consequently prolong the tender procedure, or those that cannot be remedied and result in applicants' disqualification. Another significant advantage they bring lies in the fact that the process of checking applicants' bids by the Contracting Authority's Public Procurement Department is made easier and speedier.

Tender Dossier

In the tender dossier, MU requested that the sweatshirts be made from 95 % organic cotton. The volume of the order was specified as 300 - 600




sweatshirts. To ensure what MU understands by 'organic cotton', the tender dossier included a list of properties required by MU for the fabric used. The bid form formulated the requirements and the manner in which it is to be demonstrated as follows:

TECHNICAL QUALIFICATION - a document demonstrating the conformity of the product required with the technology norm or technical sheet.

Applicants must provide an affidavit stating that they fulfil the following requirements:
The cotton used in the manufacture of the subject of the public procurement performance must be produced in accordance with the following conditions:

- no use of genetically modified cotton,
- environment-friendly production,
- controlled use of pesticides and other agrochemicals,
- respect for conventions of the International Labour Organization (ILO) indicated in Annex X to Directive 2014/24/EU




Along with the bid form, applicants must provide the documents below as an independent annex*:
(Note: Applicants must check at least one of the strategies indicated below by which they demonstrate that they fulfil the requirements concerning cotton and fill in the corresponding column on the right).

 products must feature the blue-green Fairtrade registered certification label	Name of certification annexed to the bid
 products must bear a certification label evidencing organic production (e.g., GOTS)	Name of certification annexed to the bid
 other evidence (e.g., other certifications or confirmations)	Name of the document annexed to the bid

* The document must be annexed to the bid form (a simple copy) as an independent annex

In the tender dossier, Masaryk University further designated quality criteria which served as the basis to assess the economic benefit of individual bids. In the bid form, the quality criteria were formulated as follows:

The applicant declares that it considers the following information to be decisive for evaluation.

BID PRICE		
	Weight	Applicant's bid
Bid price	45 %	CZK 0000 excluding VAT per sweatshirt
MANUFACTURING QUALITY OF GOODS OFFERED		
	Weight	Applicant's bid
Manufacturing quality of the goods offered	40 %	Sample of the goods offered in accordance with conditions designated in the Tender Dossier, Par. 5.6.
MANUFACTURING PROCESS		
	Weight	Applicant's bid
The following criteria must be met while manufacturing the product: transparent supplier chain; fair wages; safe working conditions (maintaining relevant norms); prohibition of forced and child labour; maintaining working hours (overtime does not exceed the maximum limits stipulated by law); valid employment contracts.	15 %	 membership of the manufacturer in Fair Wear Foundation
		 products imported and distributed by a membership organization of the World Fair Trade Organization
		 evidenced by other trustworthy sources, e. g. other certifications and confirmations.

Along with the figures indicated above, applicants must submit the following as independent annexes to the bid form:

C	Sample of the goods offered in accordance with the Tender Dossier (Par.5.6.) may be sent to Contracting Authority either as an annex to the bid or separately in keeping with the conditions designated in the Tender Dossier in Par. No. 6.
C	A scan confirming that the criterion C. Manufacturing process is in accordance with the manner demonstrated in the table above.

The manner in which the Manufacturing Processing of the goods offered is evaluated was detailed in the Tender Dossier:

C	The Manufacturing Quality of the goods offered will be evaluated based upon a sample. Requirements concerning the sample are designated in Art. 5.6 of the Tender Dossier. Applicants submit their samples knowing that their quality, technical properties, functionality, and the degree of manufacturing quality must correspond to the goods the Applicants are going to provide under the framework agreement.	
	Manufacturing Quality of the goods offered will be assessed as follows:	
	1. Properties related to Usability and the Materials used <ul style="list-style-type: none"> - colour fastness - flexibility and elasticity - pleasant to the touch - shape stability - crease resistant - overall aesthetic look 	
	2. Manufacturing method <ul style="list-style-type: none"> - cut and cut symmetry - overall quality of sewing and garment production - structure of the knitwear - surface treatment 	
C	Best evaluation will be given to the manufacturing quality of the goods offered which will maximally comply with or correspond to the purpose of the framework contract in accordance with Subparagraph 1 of this Letter in all the aspects indicated above.	
C	The evaluation will be carried out using the scale below:	
	Verbal evaluation of the degree, to which the sample complies with or corresponds to the purpose of the framework agreement	POINTS
	maximally complies with or corresponds to the purpose of the framework agreement	100
	complies with or corresponds to the purpose of the framework agreement very well	99 - 75
	complies with or corresponds to the purpose of the framework agreement well	74 - 50
	sufficiently complies with or corresponds to the purpose of the framework agreement	49 - 25
	minimally complies with or corresponds to the purpose of the framework agreement	24 - 1
	cannot be assessed	0

Inspection and Sanction Mechanisms

The framework agreement includes standard provisions concerning the hand-over of the subject of the performance and checks for defects, as well as provisions concerning the rights following from defected performance, and quality guarantee. The framework agreement also includes a contractual fine should the deadline for satisfaction of customer's (Contracting Authority's) rights following from defected performance during the warranty period failed to be met.

Procurement Procedure

Within the deadline for bid submission, the Contracting Authority received 2 bids, neither of which fulfilled the requirement to use material containing **minimally 95% of organic cotton**. After the tender procedure was cancelled, the Contracting Author-

ity tried to determine why contractors were unable to fulfil the requirements stated in its public procurement contract. The Contracting Authority contacted the bidders in the cancelled procurement procedure and learned that it was possible to provide goods with such a high content of organic cotton. However, because such material is manufactured only abroad, the companies need enough time (approximately 2 months) to conclude contracts with foreign manufactures and prepare their bids. Because the Contracting Authority was under time pressure, it preferred to modify its requirements concerning the percentage of the organic cotton used. Masaryk University then published a new call, in which it requested the use of such a material which included **at least 80 %** of organic cotton; other requirements remained unchanged.

Two bids were submitted in the new tender procedure. A bid evaluation (sample assessment) was carried out in the presence of a textile forensic expert. Because both the offers were almost identical in terms of fulfilling the requirements for the goods to be provided, the bid price was the decisive factor. The contractor selected offered CZK 389 per sweatshirt, excluding VAT, i.e., a price quite comparable to that of regular sweatshirts (whose purchasing does not comply with the aspects of socially responsible public procurement).

Masaryk University intends to continue in this trend when purchasing promotional textile items and, in future, it would like to purchase products containing **at least 95 % of organic cotton** or those **made from other natural fabrics in addition to cotton (which might expand the circle of potential bidders)**. MU also acknowledges that the use of preliminary market consultations prior to its first call for tender might have provided it with information on a realistic deadline for the performance required, which, in turn, might have prevented the cancellation of the first call for tender.



Ministry of Labour and Social Affairs: Environmentally-Friendly Clean-Up



Contracting Authority:

Czech Republic

- MINISTRY OF LABOUR AND SOCIAL AFFAIRS

Name of procurement:

**MINISTRY OF LABOUR AND SOCIAL AFFAIRS:
ENVIRONMENTALLY-FRIENDLY CLEAN-UP**

PUBLIC PROCUREMENT

- Wider societal interests:**
The Contracting Authority requests employment of the long-term unemployed, and environmentally-friendly performance

Evaluation:

- Aspects related to socially responsible public procurement were not evaluated.

Anticipated value of the public procurement contract:

CZK 10,000,000 excluding VAT

Legal regulation:

ABOVE-THRESHOLD
REGIME

Open procedure

In accordance with Act No. 137/2006 Coll., on Public Procurement, as amended (Act is not in force any more)

EXAMPLE OF GOOD PRACTICE (September 2014)

The Ministry of Labour and Social Affairs (MoLSA) adopted the concept of responsible public procurement (RPP) in April 2014. One of the first contracts where aspects of responsible public procurement were used was "Ministry of Labour and Social Affairs: Environmentally-Friendly Clean-Up" published in accordance with the PPA in September 2014 as an open above-the-threshold public contract. Within this single contract, MoLSA decided to support a combination of RPP aspects. In its instructions to bidders, it requested employment of minimally two persons from the long-term unemployed target group. In addition, measures were taken to support the protection of the environment: the cleaning services, detergents used, and supplies of consumables for the building that houses MoLSA had to be environmentally friendly. The objective of the public contract was transparent from its very title that pointed to the environmentally-friendly nature of the clean-up to be provided.

The requirement for employment of minimally two long-term unemployed persons had been used in the Czech Republic before. This time, however, since the focus of the contract was on the use of environmentally-friendly detergents and consumables that are not injurious to human health it deemed it necessary to consult experts to formulate a definition of "environmentally-friendly clean-up".

Requests for the use of both these environmentally-friendly product groups (detergents and consumables) were presented as special performance conditions to be delivered and were communicated to suppliers at the very beginning of the procurement procedure.

From document provisions:

All bids must include an affidavit in which bidders claim:

- *that minimally two persons of those participating in the performance of the public procurement contract come or will come from the ranks of the long-term unemployed, and that the bidder has concluded or will conclude employment contracts (primary employment) with them. Whenever applicable, bidders must submit an affidavit stating their subcontractors have done or will do so, and indicate identification information of such a subcontractor.*

- That they have a definite intention to respect the requirement of the Contracting Authority to use environmentally-friendly cleaning procedures and detergents that are not injurious to health, and ensure supplies of environmentally-friendly consumables that are not injurious to health, as well as environmentally-friendly waste sorting, all of which must apply throughout the duration of the Bidder's performance of the public procurement contract.

Note: Failure to submit an affidavit represents grounds for the potential exclusion of a bidder from the public procurement procedure and grounds for the exclusion of the selected bidder.

The Contracting Authority reserves in the contract the right to continuously monitor whether the Supplier fulfils his obligations under the Contract, and may do so even without prior notification. To monitor the fulfilment of the Supplier's obligation under the prior sentence, the Supplier pledges to provide the Contracting Authority with all the assistance necessary. Should the Supplier fail to fulfil his obligation, it pledges to pay the Contracting Authority a contractual fine.

The contract includes also a mechanism for employee replacement. It is important to set such a mechanism in place for all types of contracts. Employment contracts are terminated for various reasons and the Supplier must be able to deal with such changes. To make this information complete: in terms of employing the long-term unemployed, one person has held the job since the beginning of the contract, and the other person had to be replaced.

In principle, the Contracting Authority has had a positive experience with the performance of requirements concerning the employment of the long-term unemployed and environmentally-friendly cleaning services. In future, when publishing a call for tenders concerning cleaning services, it is going to, once again, make use of these aspects of responsible public procurement.

Recommendations and Tips:

- We consider timely and open informing of the Supplier to be of key importance. This is especially true if a Contracting Authority uses a contract as a pilot project in which the RPP aspects are applied. It might be beneficial to organize preliminary market consultations during which the contracting authority draws bidders' attention to its requirements and explains its objectives and expectations.
- During a time period of low unemployment rates the requirement for employment of the long-term unemployed may not seem appropriate. However, the Contracting Authority may support another target group, e.g., it may support persons with disabilities or social enterprises.
- This type of contract is also well suited for supporting decent working conditions.

Definition of Environmentally-Friendly Cleaning:

"The definition was formulated by a non-governmental organisation Network of Ecoconsultancy Services (Sít ekologických poraden) in close collaboration with Czech Association of Cleaning (Česká asociace úklidu a čištění). 'Environmentally-friendly cleaning' is cleaning during which—to reduce negative impact on the environment and health of the cleaning staff and persons spending time in the rooms cleaned—the use of chemical and disinfectants is reduced to the minimum level necessary to meet hygienic standards, and emphasis is placed on the use of temperature, mechanical methods, and application time.

Main features of environmentally-friendly cleaning are:

- **Preventative measures** - Making use of preventative measures (e.g., mats and cleaning zones at busy locations, such as building entrance points, locations in front of beverage machines, transition points between individual spaces, e.g., a production floor and an administration area, entrance to bathrooms, etc.), which reduces the cleaning frequency and the need for the use of chemicals. An emphasis on mechanical methods, application time, and temperature which leads to the reduction of the use of chemicals. Detergents must be used according to correctly selected active ingredients and the soil score. Reducing the scale of detergents used, central storage, and precise instructions provided to staff as to how to use detergents efficiently and effectively (including the corresponding documentation, and proper dosage, as well as checks of the actual consumption).
- **Detergents (when used) that maximally fulfil environmentally-friendly criteria are given preference** - Among these criteria is the absence or low concentration of substances harmful to health and the environment in diluted state (in accordance with the regulations governing eco-labelling), higher concentration of active ingredients in the concentrate designated to be diluted, and recyclability of packaging. Criteria of environmental friendliness are met by products bearing the "Environmentally-Friendly Product (CZ)", The Flower (EU), or another independent system for eco-labelling. Such preferred detergents include pure water, 8% acetic acid solution (kitchen vinegar), or citric acid solution.
- **Avoided is the use of products that are not absolutely necessary** - (e.g., special disinfectants, especially those based upon sodium chlorate and WC deodorants). Precise dosage of the detergents used: only absolutely necessary amount to ensure adequate cleaning effect and maintain hygienic standards. This relates to the use of exact dosing tools (dosing bottles, bottle caps, closed dosing systems).
- **Use of tools that help reduce the consumption and need for detergents** - e.g., microfiber dish towels and mops. Also, pores in materials should be closed on a regular basis, i.e., the use of waxing, impregnation, crystallisation, and pore fill-up is encouraged. This will result in reduced need for deep-impact and radical detergents for regular maintenance, and just a minimal amount of chemicals may be used. Cleaning staff must be acquainted with the impact of various active ingredients and additives on the environment and human health (both that of the cleaning staff, as well as other persons, including the cleaning staff management). During all activities, detergents must be used efficiently (including the environmentally-friendly detergents), and preference must be given to physical and mechanical cleaning tools (microfiber dish towels and mops, hot water) before the use of chemicals. Optimal dosage must be determined for all detergents and appropriate dosing tools must be used. Imprecise dosing by rough estimate is impermissible.

All detergents must be purchased preferentially in large quantity packaging (canisters, bags) or in replacement fill-up containers from which they will be poured into the regular-use containers that must be re-filled from time to time. Detergents must be preferentially purchased in returnable packaging or packaging that may be re-filled. If such detergents are not available, preference is given to products in packaging from recyclable materials (polyethylene, polypropylene, paper, etc.). PVC packaging is impermissible. The Bidder must ensure proper sorting of any generated waste.

Cleaning staff must be duly trained in matters to do with environmentally-friendly cleaning, proper dosing, and occupational health and safety. The staff must have the necessary protective equipment continuously at their disposal."



Servicing and Operation of Printers and Multi-Functional Devices

PUBLIC PROCUREMENT

- Wider societal interests:**
Requirement formulated by Contracting Authority to employ persons with disabilities.
- Demonstrating principles of socially responsible public procurement:**
Reservation of the public procurement contract in keeping with Art. 101 of Act No. 137/2006 Coll., on Public Procurement, as amended, in relation to the Tender Dossier, including any checks and enforcement mechanisms.
- In this case, the environmental aspect was not among the tender requirements or evaluation criteria. Contracting Authority only allowed the use of refurbished toner cassettes and cartridges as a full-fledged alternative to new goods.
- Anticipated value of the public procurement contract:**
CZK 13 700 000 excluding VAT (CZK 17 800 000 excluding VAT, including an option contract)
- Legal regulation:**
ABOVE-THRESHOLD REGIME
Open procedure
In accordance with Act No. 137/2006 Coll., on Public Procurement, as amended (Act is not in force any more)

Contracting Authority:

Czech Republic

- MINISTRY OF LABOUR AND SOCIAL AFFAIRS

Name of procurement:

SERVICING AND OPERATION OF PRINTERS AND MULTI-FUNCTIONAL DEVICES

EXAMPLE OF GOOD PRACTICE (June 2016)

The Ministry of Labour and Social Affairs (hereinafter "MoLSA" or "Contracting Authority") has been in favour of socially responsible public procurement for several years. It adopted the underlying principles of socially responsible public procurement in its governing documentation and has been continuously and systematically applying them.

SECTION I TITLE III Part 3 Par. 3) of the Public Procurement Principles at the Ministry of Labour and Social Affairs:

"Throughout the public procurement process, emphasis must be placed on the selection of a solution with best economic results which considers—in addition to price—technical and qualitative aspects, sustainability, and the costs of the life cycle, along with any other benefits concerning the social areas and employment".

The MoLSA carefully considers specific public procurement contracts in which individual partial objectives of socially responsible public procurement should be supported. In terms of focus, the ministry does not consider exclusively social issues or those related to employment. It accepts its portion of responsibility for the state of the environment, too.

An example of the MoLSA's principles of socially responsible public procurement put into practice—while combining several generally beneficial objectives—is a public procurement contract for services entitled **"Servicing and Operation of Printers and Multi-Functional Devices" (hereinafter "Public Procurement Contract")**. The tender procedure for the Public Procurement Contract in the form of an above-limit procedure (anticipated value exceeds CZK 13 million excluding VAT) in accordance with Act No. 137/2006 Coll., on Public Procurement, as amended (hereinafter "Public Procurement Act" or "PPA") was initiated in June 2016; the performance is to be provided for the subsequent 3 years.

The public procurement contract aimed at "ensuring the serviceability of the existing printers and multi-functional devices of the Contracting Authority necessary to create its written documentation, and to allow its employees to carry out their duties; this objective is to be achieved in accordance with the principles of socially responsible public procurement, i.e., (note: in this particular case) the contract is to be awarded with the proviso that persons with disabilities be employed."

Specifically, the MoLSA used this Public Procurement Contract to demand a set of the following services and related deliveries: Repairs and maintenance of reprographic devices (CPV: 50313000-2), Repairs and maintenance of peripherals (CPV: 50323000-5), Office machine parts and accessories (CPV:

301240004), Photocopier parts and accessories (CPV: 30125000-1). Contractors were required to ensure regular checks, maintenance, and comprehensive check-ups; comprehensive servicing and repairs, including elimination of any repairs, tuning up, and putting any piece of equipment into operation; delivery and exchange of original replacement parts or electronics; work of a servicing technician, including transportation charges; consumables – toners, photoconductors, waste containers, fixation and transfer units, staples for finisher units featured in machines with stapler finishers, etc., all the above must include any transportation charges (fully compatible alternative toners were allowed for the performance as were alternative cartridges); regular monthly readings of meters built-in individual devices and the subsequent recapitulation and monthly settlement of the number of copies made; recall of used consumables and defective spare parts with the understanding that the contractor shall dispose of them in an environment-friendly manner.

The MoLSA made use of an option provided under Art. 101 Par. 1 of the Public Procurement Act and reserved the contract only to contractors which employed *"more than 50 % of persons with disabilities, in accordance with a special regulation [...] of the total number of their employees"*. Each such contractor had to evidence the above in its bid in accordance with Art. 101 Par. 1 of the Public Procurement Act and submit a confirmation from the *"Labour Office of the Czech Republic [...]"* or a confirmation or a decision from a *"social security authority concerning persons with disabilities"*.

Based upon Art. 44 Par. 10 of the Public Procurement Act, the MoLSA reserved that *"at least 30 % of the total number of employees of the selected bidder who will take part in the performance of the public contract are persons with disabilities."* This request guarantees that an actual portion of the work contracted be carried out by persons with disabilities so that the MoLSA, via this public procurement contract, truly contributes to the activation of this population segment.

The bidders were to evidence the involvement of persons with disabilities in the performance of the Public Procurement Contract by presenting an affidavit on the total number of persons who were going to take part in the performance of the public procurement contract, and documentation testifying that the condition concerning the portion of work to be carried out by persons with disabilities under the public procurement contract was fulfilled. Both were to be provided as part of bidder's assistance prior to the conclusion of the contract in accordance with Art. 82 Par. 4 of the Public Procurement Act.

The tender specifications indicated above were defined and presented to contractors as part of a notification of the fact the tender procedure was initiated, in the tender dossier, and in the accompanying annexes. To practically implement the objectives above during the performance of the public procurement contract, it was necessary to anchor the requirements in the contract as follows: "The Contractor shall be obligated to ensure that minimally 30 % of the employees who will take part in the performance under this Contract, shall come from the ranks or people with disabilities. Based upon a request by the Contracting Authority, the Contractor shall be obligated—at any time—to demonstrate its fulfilment of the obligation on the understanding that any failure to fulfil the obligation shall justify the Contracting Authority's withdrawal from this Contract, with the exception of objective cases recognized by the Contracting Authority." For the purposes of this Contract, any breach of the obligation above shall be understood to constitute a material breach.

The obligation was also tied to a system of contractual penalties: "The Contractor shall be obligated to pay the Contracting Authority a contractual fine [...] for every breach of any obligation indicated in Art. 5 of this Contract, and for every individual case of breach."

Two persons with disabilities shall provide for the services to be carried out directly within the MoLSA premises (delivery of consumables, reading of meters built-in printers, simple on-site repairs). In addition, the Contractor shall employ other persons with disabilities with various degrees and nature of disability (sight, hearing, movement impairment) at various positions within its facilities.

In addition to the above, the MoLSA conceded (or did not exclude) the use of non-original toners. This means it indirectly allowed the use of refurbished toners. Currently, such toners make up for 40 % of the cartridges provided. Given the composition and service age of the individual devices possessed by the Contracting Authority, a greater proportion of such toners is not feasible. Compared to the use of new toner cassettes, the use of refurbished toner cassettes reduces the amount of waste.

The anticipated value of the public procurement contract was determined by calculating a price based upon the Contracting Authority's public procurement contracts whose performance was delivered at that time under a single contract. It may be carefully stated that not only did the special condition requested for the performance of the socially responsible public procurement contract cause any increase in price but rather resulted in savings.

In terms of demonstrating that the tender conditions on socially responsible public procurement have been fulfilled, it may be stated that the tender procedure took place without any deficiencies or mistakes. The performance was initiated in September 2016. The fulfilment of all the contractual requirements and conditions is carried out on an ongoing basis and will continue throughout the performance of the contract.

In the light of the above, it may be stated that the Ministry of Labour and Social Affairs will undoubtedly consider the aspects related to socially responsible public procurement in the future in such a scope which—given the specific subject of performance, the anticipated value of the contract, and the options available on the relevant market—will ensure the maximum positive added value obtained for the funds spent by the Contracting Authority.



MINISTRY OF LABOUR
AND SOCIAL AFFAIRS



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