



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.*
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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.*

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