



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.