

(Published in “Official Gazette BiH” no. 53/06 on July 13th 2006)

Pursuant to Article 47 of the Law on Public Procurement of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no 49/04, 19/05 and 52/05, 8/06 and 24/06), the Director of Public Procurement Agency, with prior consent of the Board of the Agency, hereby establishes

THE RULEBOOK ON DIRECT AGREEMENT PROCEDURE

Article 1

(Purpose and scope of the model rulebook)

- (1) The rulebook on direct agreement procedure that represents a model (henceforth: the Rulebook) defines the preparation and conduct of the direct agreement procedure.
- (2) The contracting authorities as defined in Article 3 (1) of the Law on Public Procurement of Bosnia and Herzegovina (henceforth “the Law”) are obliged to elaborate an internal rulebook on direct agreement procedure that shall be in accordance with this Rulebook.

Article 2

(Definitions and conditions of application of direct agreement procedure)

- (1) Direct agreement procedure is allowed for procurement of supplies, services or works the value of which is estimated by the contracting authority to an amount equal to or lower than 3000 KM.
- (2) Direct agreement procedure is a procedure in which the contracting authority solicits a price proposal or quotation from a single supplier, service provider or works contractor (henceforth “supplier”) and negotiates or accepts that price as a condition for the final agreement.
- (3) The total annual value of all purchases made under the direct agreement procedure may not exceed 10 % of the total annual procurement budget of the contracting authority.

Article 3

Principles of awarding direct agreement

- (1) Direct agreement procedure may not be conducted by the contracting authority with the intention of discriminating against or favoring any supplier.
- (2) Direct agreement procedure shall be conducted in such way as to ensure respecting of the principles from Article 1 of the Law.

Article 4

(Preparation of the procedure)

- (1) The estimation of the value of procurement awarded under the direct agreement procedure shall be done in accordance with Article 6 (5), (7) and (8) of the Law and Article 8 of the

Decision on implementation of Public Procurement Law BiH (Official Gazette of Bosnia and Herzegovina 03/05).

(2) The estimation of the value of procurement may be based either on prices of recent similar purchases, from suppliers' catalogues, or from a market research done recently or at the time of such (direct agreement) procurement.

(3) The estimation of the value of procurement must be valid at the moment when the contracting authority solicits a price proposal or quotation from a single supplier.

Article 5

(Decision on application of direct agreement procedure)

(1) After receiving a quotation from one supplier and before taking a decision on direct agreement procedure the contracting authority shall consider, by taking into account the principle of the most effective use of public funds, whether:

- to accept the price proposal or to negotiate about it, or
- in case the price is not acceptable or result of negotiations is unfavorable, the contracting authority shall contact other supplier to submit price proposal or quotations, or
- to choose one of the procedures defined in the Law.

Article 6

(Defining the needs of the contracting authority)

(1) The contracting authority shall carefully consider its requirements concerning supplies, services or works.

(2) Request for a price proposal or quotation shall contain a detailed description of the supplies, services or works required including relevant factors such as quantity, quality, technical description, aesthetic and functional requirements, environmental characteristics, place, time and deadline for delivery and /or similar factors relevant to the procurement subject.

Article 7

Selection of supplier

(1) Taking into account Articles (2) and (3) of this Rulebook the contracting authority shall select the supplier to be contacted and otherwise conduct the procurement activity.

(2) Before taking a decision about inviting a particular supplier the contracting authority shall check the situation on relevant market of supplies, services or works, and in particular the market price of concerned supplies, services or works.

(3) The contracting authority shall select the supplier in a manner that guarantees the best value for money.

Article 8

(Conduct of the procedure)

- (1) The contracting authority shall inform selected supplier about all requirements concerning supplies, services or works intended to be purchased.
- (2) When soliciting a price proposal or quotation the contracting authority shall give the supplier sufficient time to prepare price proposal or quotation taking into account the complexity of procurement.
- (3) Following the principle of good procurement practice the contracting authority shall select supplier that is sufficiently qualified to perform the contract properly.
- (4) The contracting authority shall carefully assess offered supplies, works or services against the requirements established by itself.
- (5) When conducting negotiations concerning proposal or quotation the contracting authority shall act in accordance with good commercial practice.

Article 9

(Acceptance of the proposed or agreed price and conclusion of the direct agreement procedure)

- (1) The contracting authority shall ensure that the agreed or accepted price is not higher than the concerned market price.
- (2) The contracting authority may conduct procurement applying direct agreement procedure by concluding a specific contract in writing.
- (3) Direct agreement is considered concluded even when the contracting authority accepts a bill or any other basis for payment in the following cases:
 - procurement with value of 500,00 KM or less - the direct agreement shall be considered concluded when appropriate documentation is attached;
 - procurement with value of more than 500,00 KM – the direct agreement procedure shall be proven by order form of the contracting authority or by a contract in writing.
- (4) The contracting authority may, in its internal rulebook, differently define the value limit for paragraph (3) item 1 of this Article, but that value may not be higher than 500,00 KM.
- (5) The contracting authority must be able to prove that the public procurement principles are respected in a certain direct agreement procedure.

Article 10

(Right to complaint)

In the direct agreement procedure the supplier shall have a right to complain, but appeals are not allowed.

Article 11

(Final and transitional provisions)

- (1) The contracting authorities are obliged to elaborate and make compliant the existing Rulebooks on Direct Agreement Procedure within 3 (three) months from the day this Rulebook

enters into force.

(2) This Rulebook shall enter into force on the 8th (eight) day from the day of publication and it shall be published in the “Official Gazette BiH”.

No: 01-02-868-2_____/06

DIRECTOR

Dineta Fočo

Day: July 6th 2006

Sarajevo