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Neophodna stručna pomoć za učešće u javnim nabavkama

- ■ ■ **Primena novog Zakona o javnim nabavkama Srbije nije donela željene efekte transparentnosti i konkurentnosti. – Uveden internet Portal javnih nabavki**

Novi Zakon o javnim nabavkama u Srbiji donet je u skladu sa direktivama Evropske komisije, ali željeni ciljevi transparentnosti i razvoja konkurencije za sada nisu ostvareni, a njegova primena nije dostigla puni kapacitet.

Zato je učesnicima postupka javnih nabavki neophodna pravna pomoć, pri čemu učesnici ovog specifičnog postupka najveći oslonac imaju u advokatskim kućama sa specijalizovanim kadrovima.

Budući da je Republika Srbija definisala, kao jedan od dva osnovna državna interesa, sticanje punopravnog članstva u Evropskoj uniji, dana 20.12.2008. godine donet nov Zakon o javnim nabavkama ("Službeni glasnik RS", br. 116/2008). Na taj način Republika Srbija je prihvatila Evropske direktive 17 i 18 koje je donela Evropska komisija 2004. godine i kojima je državama članicama i kandidatima za članstvo preporučeno načini, postupak i uslovi kako da urede oblast javnih nabavki.

Zakon uvodi da dva nova, kako ih autori zakona nazivaju, fundamentalna rešenja: Portal za javne nabavke i Službenika za javne nabavke.

Portal javnih nabavki je specijalizovani internet sajt za oglašavanje javnih nabavki na kojem se objavljuju sve vrste obavještenja o javnim nabavkama, javni pozivi, izveštaji Uprave za javne nabavke, odluke Republičke komisije za zaštitu prava i druga relevantna dokumenta. Većina podataka o javnim nabavkama, koja se po starom zakonu objavljivala putem Službenog glasnika i jednih dnevnih novina, putem Portala postala je lakše dostupna javnosti odnosno potencijalnim ponuđačima.

Janković, Popović & Mitić jedna je od vodećih advokatskih kancelarija u Srbiji, naročito u oblasti spajanja i preuzimanja kompanija, bankarstva i privatizacije, sa vrhunskom reputacijom u zemlji i inostranstvu.

Od 1991. godine, advokatska kancelarija JPM neprekidno se razvija i širi, okupljajući oko sebe mlade, dinamične i posvećene ljude. Partneri ove kancelarije, sa preko 35 starijih i mlađih advokata, i njihovo sveobuhvatno znanje, stručnost i veliko iskustvo na lokalnom i međunarodnom nivou, dokazali su sposobnost pronalaženja rešenja koja će prevazići sve teškoće, obezbediti poverenje klijenata i pružiti najkvalitetniju pravnu uslugu

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JANKOVIĆ, POPOVIĆ & MITIĆ

Assistance of Experts Necessary for Participation in Public Procurements

- ■ ■ **Implementation of the new Serbian Public Procurement Act has not provided the desired effects of transparency and competitiveness. – Internet Public Procurement Portal introduced.**

The new Serbian Public Procurement Act was passed in accordance with European Commission directives, but the desired goals of transparency and advancement of competition have so far not been achieved, and the application of the Act has not yet reached its full capacity.

Therefore participants in public procurement procedures are in need of expert assistance, and the best support for parties to this specific procedure can be found in law offices with specialized personnel.

Since the Republic of Serbia has determined that acquiring full membership in the European Union is one of the two main interests of the country, a new Public Procurement Act was enacted on December 20th 2008 ("Official Gazette of Republic of Serbia" No 116/2008). Thus the Republic of Serbia accepted EC directives 17 and 18 brought by the European Commission in 2004, recommending the manner, procedure and requirements for regulating the field of public procurements to the member states and the membership candidates. The Act introduces two new, and according to the authors' fundamental, solutions: the Public Procurement Portal and the Public Procurement Officer.

The Public Procurement Portal is a specialized Internet site for announcing public procurements, where all kinds of notifications regarding public procurements, public invitations, reports of the Public Procurement Administration, decisions of the Serbian Commission for Protection of Rights and other relevant documents are posted. Most of the information on public procurements, which under the old Act was published in the Official Gazette and one daily paper, has now, through the Portal, become more accessible to the general public and so to potential bidders.

The other significant solution of the new Act is the public

procurement officer. Namely, the Act stipulates that the ordering party must define an officer to handle public procurements. Such officer is, under the provisions of the Act, obliged to undergo the appropriate training, and after successfully passing the relevant tests he is awarded a certificate. However, although a by-law was passed in mid-2009 – Rules on the procedure for issuing certificates to public procurement officers, unfortunately the integrated training program for officers has not yet commenced, and therefore this part of the Act has not yet been implemented in practice.

One year into the implementing of the new Public Procurement Act we now face the issue of the effects of such implementation, and also of the problems and deficiencies that have been observed so far.

Public procurements are by nature a developmental issue of utmost significance for any country, particularly in conditions of recession in which countries face decrease of business volumes, unemployment, budgetary deficits and negative effects on the balance of payments. In this context public procurements are a key instrument through which the Government achieves some of its primary goals, such as, first and foremost, savings, i.e. optimization in the spending of budgetary resources, since through these resources the state, public companies and local self-government bodies determine what is to be purchased, how and at what price. The achievement of this strategic role of forming an efficient and transparent public procurement system is facilitated by specialized law offices through their active participation in such procedures, monitoring the conducting thereof, and initiating procedures for reviewing the regularity of conducted public procurement procedures.

Janković, Popović & Mitić is one of the leading law offices in Serbia, especially in the field of mergers and takeovers, banking and privatization, with an excellent reputation both at home and abroad.

Since 1991 the JPM Law Office has continued to develop and grow, gathering young, dynamic and dedicated people in its midst. The partners of this law office, with over 35 senior and junior attorneys, and their comprehensive knowledge, expertise and great experience both on the local and international level, have proven their capability to find a solution to overcome all difficulties, ensure client confidence and provide top quality legal services.

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