

Regulation of the Prime Minister of 19 May 2006 on the types of documents that may be requested by the awarding entity from the economic operator and forms in which these documents may be submitted (Journal of Law No. 87, item 605) amended by the Regulation of the Prime Minister of 16 October 2008 altering the Regulation on the types of documents that may be requested by the awarding entity from the economic operator and forms in which these documents may be submitted (Journal of Law No. 188, item 1155).

Pursuant to Article 25 (2) of the Act of 29 January 2004 – Public Procurement Law (Journal of Law No. 19, item 177, as amended), it is decreed as follows:

§ 1. 1. In order to confirm that the economic operator is authorised to carry out specified activity or task and is not subject to exclusion under Article 24 of the Act of 29 January 2004 – Public Procurement Law, hereinafter referred to as the "Act", the awarding entity may request the following documents:

- 1) concessions, permits or licences, if acts of law impose an obligation to hold a concession, permit or licence to carry out economic activity falling within the scope of a public contract, hereinafter referred to as a "contract".
- 2) current excerpt from relevant register or current certificate of entry in the record of economic activities, if separate legal provisions require an entry in the register or in the record of economic activities, issued not earlier than 6 months before the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders;
- 3) current certificates of the head of the competent tax office and the relevant branch of the Social Insurance Institution (ZUS) or Agricultural Social Insurance Fund (KRUS) confirming respectively that the economic operator is not in arrears with the payment of taxes, fees and contributions payable towards health and social insurance, or certificates that the economic operator was legally exempted, his outstanding payments have been deferred or divided into instalments or the execution of a decision of a competent authority has been stopped in its entirety – issued not earlier than 3 months prior to the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders.
- 4) current information from the National Register of Criminal Records in the scope specified in Article 24 (1) (4)-(8) of the Act issued not earlier than 6 months prior to the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders;
- 5) current information from the National Register of Criminal Records within the scope specified in Article 24 (1) (9) of the Act issued not earlier than 6 months prior to the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders.

2. In order to confirm the requirement laid down by the awarding entity whereby the economic operator should have necessary knowledge and experience and have at its disposal technical potential and personnel capable of executing the contract, the awarding entity may request the following documents:

- 1) a list of works completed during the period of the past five years prior to the day the contract award procedure was commenced, and if the duration of economic activity is shorter – during that period, corresponding in terms of their type and value to the works being the object of a contract, with the indication of their value and date and place of execution and the enclosure of documents attesting that these works have been executed properly;
- 2) a list of supplies or services performed – and in the case of periodic or ongoing services -

also being performed during the period of the past three years prior to the day the contract award procedure was commenced, and if the duration of economic activity is shorter – during that period, corresponding in terms of their type and value to supplies and services being the object of a contract, with the indication of their value, object, dates of performance and buyers and the enclosure of documents attesting that these supplies or services have been performed properly;

3) a list of tools and equipment being or that are going to be at the economic operator's disposal necessary to execute the contract;

3a) a written declaration of other entities regarding making available of tools and equipment necessary to execute the contract, if in the list mentioned in point 3, economic operator indicated tools and equipment that are going to be at the economic operator's disposal.

4) information about the average number of employees engaged or the number of managerial staff, during the period of the past three years, and if the duration of economic activity is shorter – during that period, if a contract involves works or services;

5) a list of persons and entities that are or are going to be at economic operator's disposal and will participate in the execution of a contract, including information about their professional qualifications, experience and education necessary to execute a contract, as well as the scope of duties carried out by them;

5a) a written declaration of other entities regarding making available of persons able to execute the contract, if in the list mentioned in point 5, economic operator indicated persons that are going to be at the economic operator's disposal.

6) documents attesting that persons who will participate in the execution of a contract have the required powers, if acts of law impose an obligation to hold such powers.

3. In order to confirm the requirement laid down by the awarding entity, whereby the economic operator has to be in an economic and financial situation ensuring the execution of a contract, the awarding entity may request the following documents:

1) a financial statement or part thereof, and if it is subject to an audit by an auditor in pursuance of accounting regulations, also including an opinion regarding the audited statement or part thereof, respectively, and in the case of economic operators who are not obligated to prepare a financial statement, other documents evidencing turnover and liabilities and receivables – for the period not longer than the past 3 financial years, and if the duration of economic activity is shorter – for that period;

2) information from a bank or credit union wherein the economic operator holds an account, confirming the amount of financial resources held or the economic operator's creditworthiness, issued not earlier than 3 months before the expiry of the time limit for receipt of requests to participate in the procedure for the award of a construction contract or submission of tenders;

3) an insurance policy, and in the event of lack thereof other document confirming that the economic operator is insured against third party liability with regard to the scope of the economic operator's activity.

§ 2. 1. If the economic operator has the registered office or place of residence outside the Republic of Poland, instead of documents referred to in § 1 (1):

1) for items 2, 3 and 5 – the economic operator shall submit a document or documents issued in the country in which the economic operator has the registered office or place of residence, confirming respectively that:

a) neither winding up procedure has been commenced nor bankruptcy declared with respect to the economic operator,

b) the economic operator is not in arrears with the payment of taxes, fees, social insurance or health insurance premiums, with the exception of cases where they have been legally

exempted, their outstanding payments have been deferred or divided into instalments or the execution of a decision of a competent authority has been stopped in its entirety,

c) the economic operator has not been prohibited from competing for a contract;
2) for item 4 – the economic operator shall submit a certificate of a competent judicial or administrative authority in the country of origin or residence of a person to whom the documents refer to, within the scope specified in Article 24 (1) (4)-(8) of the Act.

2. The documents referred to in paragraph 1 (1) (a) and (c) and (2) should be issued not earlier than 6 months before the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders. The document referred to in paragraph 1 (1) (b) should be issued not earlier than 3 months before the expiry of the time limit for receipt of requests to participate in the contract award procedure or submission of tenders.

3. If the country of origin of a person or the country in which the economic operator has the registered office or place of residence does not issue documents referred to in paragraph 1, they shall be replaced by a document containing a declaration made before a notary, a competent judicial or administrative authority or a competent professional or trade body in the country of origin of a person or the country in which the economic operator has the registered office or place of residence, respectively. The provision of paragraph 2 shall apply respectively.

§ 3. 1. In order to confirm that offered supplies, services or works comply with the requirements laid down by the awarding entity, the awarding entity may request in particular:

- 1) samples, descriptions or photographs;
- 2) certificates of an entity authorised to control quality, confirming that supplied products comply with defined technical standards or specifications;
- 3) certificates of an independent entity engaging in the attestation of compliance of the economic operator's activities with quality standards, if awarding entities refer to quality assurance systems based on the relevant European standards.
- 4) certificates of an independent entity engaging in the attestation of compliance of the economic operator's activities with the European environment management standards, if awarding entities indicate environment management measures to be used by the economic operator when executing a works or services contract, referring to the Eco-Management and Audit Scheme (EMAS) or environment management standards based on European or international standards certified by entities operating in accordance with the laws of the European Union or European or international standards relating to certification.

2. In place of certificates referred to in paragraph 1 (2)-(4), the economic operator may submit equivalent certificates issued by entities established in another Member State of the European Economic Area.

3. Instead of certificates referred to in paragraph 1 (3) and (4), the economic operator may submit other documents confirming the use of equivalent quality assurance measures and the use of equivalent environment management measures, respectively.

§ 4. 1. Documents shall be submitted in the original or a copy certified by the economic operator to be a true copy of the original. When submitting electronic copies of documents, they should be signed by the economic operator using a secure electronic signature verifiable by means of a valid qualified certificate.

2. The awarding entity may request the presentation of the original or a copy certified by the notary only if a copy of a document submitted by the economic operator is illegible or raises doubts as to its authenticity.

3. Documents drafted in a foreign language shall be submitted along with their translation into

the Polish language, certified by the economic operator. A translation shall not be required if the awarding entity gave its consent, referred to in Article 9 (3) of the Act.

§ 5. To contract award procedure commenced prior to the entry into force of this Regulation, the hitherto provisions shall apply.

§ 6. The Regulation of the Prime Minister of 7 April 2004 on the types of documents confirming compliance with conditions for participation in construction contract award procedures, which the awarding entity may require from the economic operator (Journal of Law No. 71, item 645) shall be repealed.

§7. The Regulation shall enter into force on 25 May 2006.

Prime Minister