Pursuant to Article 180, paragraph 7 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19),

The Public Procurement Office enacts the following

Rulebook on monitoring the implementation of public procurement regulations

The Rulebook was published in the “Official Gazette of the Republic of Serbia”, no. 93/2020 of 1 July 2020, when it came into force.

Article 1

This Rulebook regulates in more detail the manner of monitoring the application of public procurement regulations.

Article 2

The entities subject to monitoring are: state administration bodies, autonomous province bodies and local self-government units, other state bodies, as well as other contracting authorities (hereinafter referred to as: monitored entities).

Article 3

Monitoring by type can be: regular, extraordinary, control and supplementary.

Regular monitoring is carried out according to the adopted annual monitoring plan and in the case referred to in Article 6 of this Rulebook.

Extraordinary monitoring shall be conducted upon receipt of the notification referred to in Article 7 of this Rulebook.

Control monitoring is carried out in order to determine the implementation of the recommendations sent by the Public Procurement Office (hereinafter referred to as: the Office) in its report on the conducted monitoring to the monitored entity.

Additional monitoring is carried out ex officio in order to establish facts of importance for monitoring, which are not established in regular, extraordinary or control monitoring.

Article 4

The monitoring procedure is initiated ex officio or upon the received notification of a legal or natural person, state administration body, autonomous province body and local self-government unit and other state bodies.

The monitoring procedure is carried out:

1) based on the annual monitoring plan;

2) in the case of conducting a negotiated procedure without publishing a public invitation referred to in Article 61, paragraph 1, items 1) and 2) of the Law on Public Procurement (hereinafter referred to as: the Law);

3) on the basis of a notification from a legal or natural person, state administration body, autonomous province body and local self-government unit and other state bodies.

Article 5

The annual monitoring plan is adopted by the end of the current year for the following year.

The annual monitoring plan is prepared on the basis of the established situation in the field of public procurement and risk assessment.

The annual monitoring plan must contain: overview of monitored entities, time period of monitoring implementation, seats of monitored entities, data on the resources of the Office that will be allocated for monitoring and other data of importance for monitoring.

The annual monitoring plan also contains data on the expected scope of control monitoring that the Office will conduct on the basis of recommendations on how to prevent and eliminate the observed irregularities, listed in the report on the conducted monitoring.

Article 6

The monitoring procedure is carried out ex officio in the case when the contracting authority intends to conduct a negotiated procedure without publishing a public invitation, as follows:

1. if only a certain economic operator can deliver goods, provide services or perform works, for any of the following reasons:

1) the purpose of the procurement is to create or purchase a unique work of art or artistic performance;

2) lack of competition for technical reasons;

3) for the protection of exclusive rights, including intellectual property rights;

2. to the extent necessary, if due to extreme urgency caused by events which the contracting authority could not have foreseen, it is not possible to act within the deadlines set for open procedure or restrictive procedure or competitive negotiated procedure or negotiated procedure with publication, provided that to which the contracting authority justifies extreme urgency must not in any case be caused by its actions.

Article 7

The notification referred to in Article 4, paragraph 2, item 3) of this Rulebook shall contain the following information:

1) name and seat of the monitored entity;

2) subject matter of procurement and type of procurement procedure;

3) value of the procurement, if known;

4) factual basis of the indicated irregularity;

5) evidence supporting the stated facts, in case of possession;

6) legal qualification of the indicated irregularity;

7) data on the submitter of the notification.

In the process of monitoring, the applicant may be required to clarify or provide additional explanations regarding the allegations from the submitted notification, as well as to supplement the notification.

Article 8

In the process of conducting monitoring, the monitored entity may be required to submit data and documents that are important for conducting monitoring, as follows:

1) data on the responsible person of the monitored entity (name and surname, personal ID number, address of residence);

2) procurement documentation;

3) public procurement contract or framework agreement, if concluded;

4) statement of the monitored entity;

5) internet address where the documentation or its part is available;

6) other documentation and data related to the monitored entity.

The monitored entity shall submit the requested data and documents within 15 days from the day of receipt of the request referred to in paragraph 1 of this Article.

The data and documents referred to in paragraph 1 of this Article shall, as a rule, be submitted in an uncertified copy, unless the request does not explicitly require delivery in the form of an original or a certified copy or in electronic form.

If free, unrestricted and unhindered access to the documentation or its part is provided by electronic means of communication, the inspection of the documentation may be performed without inviting the monitored entity to submit it.

After the monitoring, the documentation submitted in the original form is returned to the monitored entity.

Article 9

After the monitoring, a report on the conducted monitoring is prepared (hereinafter referred to as: the report), which contains the following information:

1) name, seat and identification number of the monitored entity;

2) name and surname of the responsible person of the monitored entity;

3) basis for conducting monitoring;

4) a description of the irregularities pointed out by the notifier;

5) subject matter of procurement and type of procurement procedure, if conducted;

6) description of actions carried out during monitoring;

7) list of documentation that is important for conducting monitoring;

8) factual basis in case of established irregularity;

9) evidence on the basis of which decisive facts have been established;

10) legal qualification of the identified irregularity;

11) opinion on identified irregularities or a statement that no irregularities have been identified in the implementation of monitoring;

12) a recommendation on the manner of preventing or eliminating irregularities, if applicable;

13) other necessary data, which are important for the conducted monitoring;

14) place and date of preparation of the report;

15) signature of the Director of the Office and signature of the official of the Office who conducted the monitoring and prepared the report.

Article 10

In the event that monitoring is not carried out on the basis of Article 180, paragraph 5 of the Law, an official note shall be drawn up in which the following data shall be entered:

1) name and seat of the monitored entity indicated in the notification, if known;

2) information on the notifier for monitoring, if known;

3) subject matter of procurement and type of procurement procedure, if known;

4) grounds for non-monitoring and statement of reasons;

5) place and date of drawing up the official note;

6) signature of the Director of the Office and the official who made the official note.

The notifier shall be notified of the official note without delay, if known.

Article 11

Business and official data are kept confidential in the performance of monitoring activities.

Article 12

The Office prepares an annual report on the conducted monitoring, which is submitted to the Government and the National Assembly no later than 31 March of the current year for the previous year.

The annual report on the conducted monitoring must contain the following:

1) statistical data on monitoring conducted in the reporting period;

2) data on the most common causes of incorrect application of laws and bylaws regulating the field of public procurement;

3) average duration of the monitoring procedure;

4) the number of prevented or eliminated probable occurrences of harmful consequences under legally protected goods, rights and interests;

5) data on measures taken in the prevention, detection and reporting of corruption, conflicts of interest and other irregularities in the application of laws and other bylaws regulating the field of public procurement;

6) proposal of measures for suppression of irregularities in public procurement;

7) data on the outcomes of the actions of monitored entities in accordance with the recommendations;

8) data on the outcomes of the actions of the competent authorities upon the requests of the Office for the Initiation of Misdemeanour Proceedings, requests for protection of rights or other appropriate proceedings;

9) data on measures and checks undertaken for the purpose of completeness and up-to-datedness of data on the Public Procurement Portal;

10) data on the situation in the field of public procurement;

11) other data of importance for monitoring public procurement.

Article 13

This Rulebook shall enter into force on 1 July 2020.

No. 110-00-11/2020-01

In Belgrade, dated 1 July 2020

Acting Director,

**Sandra Damčević**, personally signed