**How does the contracting authority act in case of surplus works?**

The notion of surplus works is defined by the Special Practices on Construction (“Official Gazette of the SFRY”, No. 18/77), and Article 9, paragraph 1, item 5) defines surplus works as quantities of work performed that exceed the agreed quantities of works.

In this regard, the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19, hereinafter referred to as: PPL) prescribes the manner of treatment of the contracting authority with the contracted surplus works.

Namely, if surplus works are contracted, i.e., if the public procurement contract regulates the procedure in case of surplus works, the contracting authority applies the provision of Article 157, paragraph 5 of the PPL, which stipulates that contracted surplus works do not change the public procurement contract. In that case, the quantities of performed works are considered as the execution of the contract, regardless of the value of the surplus works.

On the other hand, if surplus works are not contracted, i.e., if the public procurement contract does not regulate the procedure in case of surplus works, the contracting authority applies the provisions of Article 160 of the PPL and in that case the restrictions prescribed by this article apply.

Namely, Article 160, paragraph 1 of the PPL stipulates that a public procurement contract may be amended in such a way as to increase the scope of procurement, if all the following conditions are met:

1. the value of the change must be less than 10% of the original value of the contract on public procurement of goods or services, or less than 15% of the original value of the contract on public procurement of works and
2. the value of the change must be less than RSD 15,000,000 in the case of a public procurement contract for goods or services, or less than RSD 50,000,000 in the case of a public procurement contract.

Paragraph 2 of the same article stipulates that the restriction referred to in paragraph 1 of this Article refers to the total value of all changes, if the contract is changed several times.

At the same time, we note that the contracting authority is not obliged to publish a notice of contract change, both in case of occurrence of contracted surplus works, because in this case no contract modification was performed, and in case of surplus of contracted works, i.e., increase of procurement volume. in accordance with Article 160 of the PPL. Namely, the obligation to publish a notice on the change of the contract exists only in the case of changing the contract on the basis of Articles 157 and 158 of the PPL.