Pursuant to Article 38, Para 1, of the Law on the Planning System of the Republic of Serbia (“Offical Gazette of the RS”, No. 30/18),

The Government adopts this

PROGRAMME

OF THE DEVELOPEMNT OF PUBLIC PROCUREMENT IN THE REPUBLIC OF SERBIA FOR PERIOD 2019-2023

1. INTRODUCTION

Public procurements are a significant component in each contemporary country. In a well-regulated public procurement system, free competition enables the state to procure goods, services and works of required quality under most favourable conditions, and also enables economic operators an opportunity to do business with the state on equal terms.

The share of public procurement in gross domestic product in 2017, according to the Annual Report on Public Procurement in the Republic of Serbia, compiled by the Public Procurement Office (hereinafter: PPL)1 was 7.68%, whereas 2018 saw a minor increase (7.98%). The volume of public procurement share in gross domestic product indicates that public procurement have an important influence on overall economic growth, based on developed market competition. Public procurement is an instrument capable of contributing significantly to the achievement of a smart and sustainable economic growth programme, by means of ensuring efficient use of public funds, competition development, and by improving preconditions for innovations in running businesses. Public procurement efficiency also exerts its direct or indirect influence on other public policies such as fiscal discipline, modernisation of public administration, stimulating small and medium enterprises, innovations, environmentally and socially sustainable growth, combating corruption, etc. Beginning with the above, it i necessary to continue with the improving of the national public procurement system.

Public policies reflect the direction of future action of the Republic of Serbia in given area, aimed at achieving the intended goals at the level of the society. Public policy documents such as: programmes, strategies, actions plans, etc., are used to design public policies in any given area. The implementation of this programme is intended to help the functioning of the common contemporary public procurement system in the Republic of Serbia. The achievement of this vision should be furthered by defined general and specific objectives, with the pertinent implementing measures.

Having in mind that the Republic of Serbia is in the process of accession to the European Union, the baseline for modernisation of the public procurement system will comprise the priorities in public procurement established by the European union in its Public Procurement Strategy2. These are as follows:

* Ensuring broader acceptance of innovative, green, and social procurement,
* Professionalisation of public purchasers,
* Increasing access to procurement markets,
* Improving transparency, integrity, and availability of data,

1 The new Public Procurement Law provides that the Public Procurement Office continues its work under a slightly different name, which remains the same in English translation).

2 <https://ec.europa.eu/growth/single-market/public-procurement/strategy_en>

* Increasing digital transformation of procurement,
* Cooperation in joint procurement.

Over the previous period, the system development was carried out in line with the Public Procurement Development Strategy in the Republic of Serbia for 2014-2018 (“Official Gazette of the RS” No. 122/14). During the course of implementing a part of the measures envisaged under this Strategy there came about certain changes in their dynamics, aimed at quality adjustment of the overall system, yet it can be said that a substantial progress was made.

The key indicator of progress achieved in this area is the opening of negotiations with the European Union in Chapter 5 - Public procurement, in December 2016. At the opening of negotiations, it was ascertained that there existed a high level of alignment with the European Union’s *Acquis* *Communautaire*, an institutional framework, and the mechanisms for implementation.

The entire process of the system’s further improvement will also be determined by the content of benchmarks defined by the European Union for the closure of Chapter 5 - Public procurement.

Hence, in the defining of the overall and the specific objectives of this programme, great importance was attached to the elements wherein the European Union had identified the need for improvement through the benchmarks for the closure of Chapter 5.

Chapter 5 - Public procurement will be closed after certain benchmarks have been met, most notably the following:

1. It is necessary to fully harmonise legal framework with the European Union *Acquis* in all areas of public procurement, including legislation on concessions and international agreements exempting certain works from the public procurement rules;
2. It is necessary to establish adequate administrative and institutional capacities, at all levels, and to take appropriate measures to ensure timely and proper implementation and application of legislation in this domain, prior to accession to the European Union, including in particular: a) carrying out the remaining capacity reinforcing activities; b) preparing various practical tools for implementation and monitoring (including administrative rules, manuals, and standard contractual documentation); c) strengthening control mechanisms, including detailed monitoring and increased transparency at the stage of public procurement contracts implementation, and systematic risk assessment together with prioritisation of controls in sensitive areas and procedures; d) efficient functioning of the legal remedies system; e) measures of prevention and combating corruption and conflict of interest in the domain of public procurement, at both central and local levels;
3. It is necessary to establish a fair and transparent public procurement system that ensures the application of the basic principles in public procurement, application of the contract award criteria, competition, and strict anti-corruption measures.

Simultaneously with the legal framework harmonisation, and with a view to meeting the above benchmarks, measures and activities will be aimed at establishing adequate administrative and institutional capacities at all levels, at ensuring the proper enforcing and implementation of legislation, and at establishing a fair and transparent public procurement system.

Activities in public procurement are also related to the EU *Acquis* included in Chapter 22 - Regional Policy and Coordination of Structural Instruments, and Chapter 23 - Judiciary and Fundamental Rights.

This programme stems from, and is associated with, horizontally and vertically, other national strategic documents such as: The Strategy for Public Administration Reform in the Republic of Serbia (“Official Gazette of the RS” No. 9/14, 42/14 – corrigendum, and 54/18), Action plan for the implementation of the Strategy for Public Administration Reform in the Republic of Serbia for 2018-2020 (“Official Gazette of the RS” No. 54/18), Strategy for Development of Internal Financial Control in Public Sector in the Republic of Serbia for 2017-2020 (“Official Gazette of the RS” No. 51/17), National Anti-Corruption Strategy in the Republic of Serbia for 2013-2018 (“Official Gazette of the RS” No. 57/13), Strategy for the Information Society Development in the Republic of Serbia until 2020 (“Official Gazette of the RS” No. 51/10), Fiscal Strategy for 2019 with Projections for 2020 & 2021 (“Official Gazette of the RS” No. 92/18), Strategy for Regulatory Reform and Improving the Public Policies Management System for 2016-202 (“Official Gazette of the RS” No. 8/16), National Programme for Combating Informal Economy for the period 2019-2020 with the Action plan for Implementation of the National Programme for Combating Informal Economy for 2019-2020 (“Official Gazette of the RS” No. 27/19), Strategy for E-Governance Development in the Republic of Serbia for 2015–2018 and the Action Plan for Implementation of the Strategy for 2015-2016 (“Official Gazette of the RS” No. 107/15), Strategy to Support Development of Small and Medium Enterprises, Entrepreneurship and Competitiveness for 2015-2020 (“Official Gazette of the RS” No. 35/15), etc.

The adoption of this strategic document was foreseen by the Action Plan for the Implementation of the Strategy for Public Administration Reform for 2018-2020, under Measure 3.5 “Improving the public procurement system”. The developing of this Programme has been supported by IPA 20133 Project “Support to Further Improvement of the Public Procurement System in the Republic of Serbia”.

On the basis of analysis of implementation of the Public Procurement Development Strategy for 2014 – 2018, one may conclude that majority of defined activities has been conducted in accordance with the prescribed manners and time lines. The pending activities, most notably the adoption of the new Public Procurement Law and the Law on Public-Private Partnerships and Concessions, will be implemented under this strategic document, adopted for the period from 2019-2023. The principal reason due to which certain activities remained unimplemented is the modified dynamics for the adoption of the new Public Procurement Law (hereinafter: New PPL) and legislation governing public-private partnerships and concessions, which has been planned under the Action Plan for the Implementation of the Public Procurement Development Strategy in the Republic of Serbia for 2018. Likewise, the time line for the adoption of the new PPL, set under the National Programme for the Adoption of EU *Acquis* for 2018-2021, was Second Quarter of 2018. The identified pending activities will be implemented in line with the timetable for the adoption of cited laws and relating by-laws, within the framework of implementation of this programme for the development of public procurement in the Republic of Serbia for the next five-year period.

3 Project “Support to Further Improvement of the Public Procurement System in the Republic of Serbia” was funded under the European Union IPA 2013.

2. THE REVIEW AND ANALYSIS OF THE CURRENT SITUATION

2.1. Legal framework of the public procurement system in the Republic of Serbia

* + 1. Public procurement

The domain of public procurement in the Republic of Serbia is governed by the Public Procurement Law (“Official Gazette of the RS” No. 124/12, 14/15 and 68/15, hereinafter: PPL), whose application began as of April 2013.

When compared to the previously applicable law, the PPL provides for greater transparency in public procurement procedures, regulates the procurement planning, simplifies the proving of mandatory eligibility requirements in public procurement procedures, foresees the introducing of the common registry of bidders, reduces likelihood for refusal of bids due to formalities, provides for duty to register and monitor the implementation and modifications of public procurement contracts, regulates the conducting of centralised public procurements, introduces option to conclude framework agreements, and introduces competitive dialogue as a new type of public procurement procedure. It also significantly expands competences of both the PPO and the Republic Commission for the protection of rights in public procurement procedures (hereinafter: the Republic Commission), with a view to a more efficient application of the Law. Under a special chapter the PPL regulates public procurements in the areas of water management, energy, transport and postal services and, for the first time, procurements in the area of defence and security in the Republic of Serbia.

On the basis of the PPL, the Government has passed the following by-laws:

1. Decision on Establishing the List of Contracting Authorities under Article 2, Para 1, Point 1, of the Public Procurement Law (“Official Gazette of the RS”, No. 97/15);
2. Regulation on the Subject, Conditions, Way of Planning of Centralised Public Procurement and on Conducting Public Procurement Procedures by the Administration for Joint Services of Republic Bodies as the Body in Charge of Centralised Public Procurement (“Official Gazette of the RS”, No. 93/15);
3. Decision on Establishing the List of Contracting Authorities, for whose needs the Administration for Joint Services of Republic Bodies conducts centralised public procurements (“Official Gazette of the RS”, No. 12/15);
4. Regulation on Public Procurement Procedure in the area of defence and security (“Official Gazette of the RS”, Nos. 82/14 and 41/15;
5. Regulation on establishing the Common Procurement Vocabulary (“Official Gazette of the RS”, No. 56/14),

The PPO has passed the following by-laws:

1. Rulebook on the form of public procurement plan and the manner of publishing public procurement plans on the Public Procurement Portal (“Official Gazette of the RS”, No. 83/15);
2. Rulebook on mandatory elements of tender documents in public procurement procedures and way of proving compliance (“Official Gazette of the RS”, No. 86/15);
3. Rulebook on the form and contents of request to issue opinion on justification of the application of negotiated procedure (“Official Gazette of the RS”, Nos. 29/13 and 83/15;
4. Rulebook on contents of legal act regulating in detail the public procurement procedures within contracting authority (“Official Gazette of the RS”, No. 83/15);
5. Rulebook o contents of decision on conducting public procurement procedure by several contracting authorities (“Official Gazette of the RS”, No. 83/15);
6. Rulebook on the manner and programme of vocational training and the manner of taking expert exam for public procurement officer (“Official Gazette of the RS”, Nos. 77/14 and 83/15;
7. Rulebook on Civil Supervisor (“Official Gazette of the RS”, No. 29/13),
8. Rulebook on the content of reports on public procurement and on the manner of keeping records on public procurements (“Official Gazette of the RS”, No. 29/13).

The Ministry in charge of economy has passed the following by-laws:

1. Rulebook on the way of proving compliance with requirements that the offered goods are of domestic origin (“Official Gazette of the RS”, No. 33/13);
2. Rulebook on the contents of the Registry of Bidders and on documentation to be supplied with the application for regulation of a bidder (“Official Gazette of the RS”, No. 75/13).

The Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2023 defines two phases in the process of harmonisation of legislation of the Republic of Serbia with the EU *Acquis*. The first phase, lasting until end-2015, resulted in a partial harmonisation with the new EU Directives endorsed in 2014, by means of adopting the Law on Amending the Public Procurement Law (“Official Gazette of the RS”, No. 68/15). On the basis of the previously conducted analyses, a new Public Procurement Law was scheduled to be adopted during the second phase, with the purpose of full harmonisation with the EU *Acquis*.

During the previous period, indicators demonstrating quality of the public procurement system in the Republic of Serbia have been monitored through the annual reports on public procurement in the Republic of Serbia compiled by the PPO, involving primarily indicators of transparency, competition, duration and efficiency of the procedure. According to the annual reports on public procurement covering period from 2015 through 2018, those indicators varied.

The first indicator of public procurement performance “Average number of bids per concluded contract” had the following values, per year: 2.9 (in 2015); 2.6 (in 2016); 3 (in 2017); 2.5 (in 2018).

The second indicator of public procurement performance “Share of cancelled procedures” had the following values, per year: 11% (in 2015); 10% (in 2016); 10% (in 2017); 9% (in 2018).

The third indicator of public procurement performance “Share of procurement values concluded in open procedures” had the following values, per year: 89% (in 2015); 93% (in 2016); 93% (in 2017); 91% (in 2018).

The fourth indicator of public procurement performance “Share of the most economically advantageous tender in awarding contracts” had the following values, per year: 19% (in 2015); 12% (in 2016); 10% (in 2017); 11%

(in 2018).

The fifth indicator of public procurement performance “Average duration of open procedure” had the following values, per year: 61 days (in 2015); 61 days (in 2016); 63 days (in 2017); 65 days (in 2018).

In addition to the above indicators, annual reports on public procurement also monitored other indicators, such as the following: 1) the share of public procurement in GDP; 2) the share of procurement formulated in lots; 3) the share of values of procurement concluded in negotiated procedure without prior call for competition; 4) total number of bidders registered in the Registry of Bidders; 5) average daily visits on the Public Procurement Portal; 6) number of public procurements published on the Public Procurement Portal; 7)

the share of value of procurement exempted from the application of the Public Procurement Law in the total procurement value.

The purpose of the new PPL is to ensure that in the forthcoming period, once the full application of the new PPL has begun, all public procurement procedures are conducted electronically, to increase transparency of public procurement, number of bids per public procurement procedure, number of suspended public procurement procedures, reduce the duration of public procurement procedures, etc. Those indicators will be measured and presented in annual reports of the PPO.

* + 1. Concessions and public-private partnerships

A part of the legislative framework governing public procurement in the Republic of Serbia is the Law on Public-Private Partnerships and Concessions (“Official Gazette of the RS”, Nos. 88/11, 15/16 and 104/16, hereinafter: the LPPPC). The LPPPC prescribes the principles in this area, sets forth a limited number of exceptions, defines the concept of public-private partnership and determines the essential elements thereof. Public bodies have duty to conduct transparent tender procedures, to ensure legal security and certainty for participants, as well as to ensure competition. The LPPPC explicitly excludes the application of preferential position of domestic bidders over the foreign ones. The protection of rights is facilitated before the Republic Commission. The matters concerning public contracts and oversight are regulated in great detail.

Within the previous period and in line with the Public Procurement Development Strategy in the Republic of Serbia for 2014-2023, the LPPPC was amended in 2016 due to the need for further regulation and refining certain provisions of this Law, and also for the purpose of setting up a better control of the financial impact of public-private partnership and for the sake of harmonisation with the international standards in this area. Also, for the purpose of implementing the provisions of the LPPPC and of the related by-law regulating the keeping of the Register of Public Contracts, during 2017 the Public Procurement Portal was upgraded with a new functionality, thus enabling the publication of the Register of Public Contracts as a single electronic database on concluded public procurement contracts.

At the level of the European Union, the area of concessions was regulated in 2014 by separate Directive 2014/23/EU on awarding concession contracts.

For the purpose of its full alignment with Directive 2014/23/EU, during 2018 were undertaken activities to amend the LPPPC, most notably, to set a clear distinction between concession and public-private partnership without elements of concession. For the compliance with this EU Directive is vital that all matters concerning the procurement process and other issues covered by the Directive on Concessions, including legal remedy, are subject to the rules on public procurement.

* 1. Institutional Framework

The principle institutions in the public procurement system are the Ministry of Finance, the PPO, and the Republic Commission.

The Ministry of Finance, pursuant to the Law on Ministries (“Official Gazette of the RS”, Nos. 44/14, 14/15, 54/15, 96/15 - other law, and 62/17), performs a share of state administration tasks covering, among other ones, public procurement. Within this Ministry, the Department of Budgetary Inspection performs tasks concerning the oversight of application of laws and related regulations governing financial and material operation

and the intended and lawful use of funds by all beneficiaries of the funds specified under the law governing the budgetary system.

The PPO is a special organisation which supervises the application of the PPL, takes part in the drafting of legislation governing public procurement, adopts by-laws and performs expert tasks in the area of public procurement, monitors the application of certain public procurement procedures, manages the Public Procurement Portal, compiles reports on public procurement, proposes measures for improvement of public procurement system, provides expert assistance to contracting authorities and bidders, contributes to the creation of conditions for economic, efficient and transparent utilisation of public funds in public procurement procedures. The PPO is authorised to file requests for the protection of rights, requests for initiating misdemeanour proceedings and procedures to establish public procurement contracts null and void. The PPO is the institution which, pursuant to the law and with the Government’s consent, takes part in the negotiations on accession to the European Union for the area of public procurement, drafts plans and normative acts related to public procurement.

Having in mind the PPO’s significantly extended competences and in line with the Public Procurement Development Strategy in the Republic of Serbia for 2014-2023, in the previous period the conditions were created for enhancing the PPO’s personnel capacities, that is, for increasing the number of its employees.

The Republic Commission is an autonomous and independent body who reports for its work to the National Assembly. Within its prescribed competences, it decides on requests for the protection of rights in all public procurement procedures, monitors the enforcement of its decisions, cancels public procurement contracts, imposes fines to contracting authorities and their responsible persons, and files motions to dismiss contracting authorities’ managers or responsible persons, imposes fines to claimants for abusing the request for the protection of rights, conducts the first-instance misdemeanour proceedings for minor offences as prescribed by the law, initiates proceedings to declare public procurement contracts null and void, and also performs other tasks in accordance with the law.

The activities of the Republic Commission over the previous period have introduced additional improvements. Among other things, it introduced a system for continuous informing the actors in the public procurement system (bidders, contracting authorities, representatives of expert public and associations and the relevant international organisations) about the Republic Commission’s legal practice, its landmark decisions, and adopted principled legal positions. Further, it enabled the search of passed decisions pursuant to the criterion of legal basis, thus helping interested persons to identify more specific items of relevance for their operation. This strengthened legal certainty and transparency in the work of the Republic Commission.

Also vital for the area of public procurement are the State Audit Institution, the Ministry of Economy, the Public-Private Partnership Commission, the Anti-Corruption Agency, the Commission for Protection of Competition, and the Administration for Joint Services of Republic Bodies.

Within the scope of its competences, the State Audit Institution as the highest body in auditing public funds, performs audits of financial reports, audits of regularity of operation involving the examination of financial transactions and decisions concerning public procurement, as well as audits of appropriateness of business involving the examination of spending of budgetary and other public funds, in order to establish whether the funds were spent in line with the principles of viability, efficiency and effectiveness, and in line with the planned objectives. The Public Procurement Law also defines certain obligations that contracting authorities have towards the State Audit Institution, notably, to submit report in the case of contract awarded to a bidder whose bidding price exceeded the estimated value of public

procurement, to submit decision on awarding contract or decision on cancelling procedure wherein certain information is a business secret, and to submit decision on amending contract. The State Audit Institution is authorised to file requests for the protection of rights and requests to initiate misdemeanour proceedings for minor offences provided for under the PPL.

The Ministry of Economy performs the state administration tasks related to the concessions and public-private partnerships.

The Public-Private Partnership Commission is an inter-departmental public body which is operationally independent in its work. Pursuant to the LPPPC, the Public-Private Partnership Commission provides expert assistance in implementation of projects of public-private partnerships and concessions, assists in drafting proposals for public-private partnerships, gives opinions in the process of approving draft projects of public-private partnerships without elements of concessions, and in the process of proposing concession acts to the competent authorities.

Within the scope of its competences, the Anti-Corruption Agency oversees the implementation of the National Anti-Corruption Strategy and the Action plan for Implementation of the National Anti-Corruption Strategy, with a special part concerning public procurements

The Commission for Protection of Competition is an autonomous and independent organisation which reports for its work to the National Assembly. Within the scope of its competences, the Commission for Protection of Competition decides on rights and duties of participants in the market. The activities of the Commission for Protection of Competition involve establishing of breaches of competition rules, ordering measures for competition protection, and ordering measures for remedying the violations of competition.

The Administration for Joint Services of Republic Bodies is the body for centralised public procurement for the needs of state bodies and organisations, including the Judiciary. The Government regulates in more detail the conditions and way of conducting public procurement procedures by the Administration for Joint Services, the list of contracting authorities on whose behalf are conducted centralised public procurements, and the list of items which are the procurement subjects in centralised public procurements.

In the previous period, coordination and cooperation among the institutions within public procurement system got improved by means of regular meetings and workshops on the basis of Memorandum on Cooperation of 2014, for the sake of adjusting positions on the application of legislation governing public procurement, for exchange of information, lectures and trainings, and for upgrading measures to control lawful and designated use of public funds in public procurements.

* 1. Electronic public procurement

Over the previous period, certain solutions under EU Directives of 2014 in the area of electronic public procurement have been transposed in the Republic of Serbia. These are primarily electronic publication of procurement notices and electronic availability of tender documents. During 2017-2018 was conducted a large number of preparatory activities for introducing additional mechanisms of electronic public procurement.

Under IPA 2013 Project “Support to Further Improvement of the Public Procurement System” was developed the concept of technical specification for new Public Procurement Portal as the single national platforms for conducting electronic public procurement. The development of new Public Procurement Portal commenced pursuant to this specification, in parallel with the drafting of the new PPL, so to ensure in good time the full application of e-procurement.

Additional activities were taken to upgrade the PPO’s website as the key point for information about the public procurement system, for making available all advanced tools for application of legislation, for information about training, etc.

* 1. Administrative capacities

In terms of the necessary strengthening of administrative capacities for ensuring proper implementation of legislation governing public procurement, the previous period was marked by intense implementation of measures in line with the Public Procurement Development Strategy in the Republic of Serbia for the period 2014-2023. On its website, the PPO has posted a large number of tender documentation templates, guidelines and instructions, opinions and clarifications, as well as notices on organising trainings and workshops for contracting authorities and bidders, and on other topical issues in the public procurement system.

The PPO has organised and conducted a great number of trainings for bidders and contracting authorities. In the previous period, the PPO has been intensively certifying public procurement officers. From 2014 to 2018, 2382 persons acquired certificates of public procurement officer.

In addition to trainings for bidders and contracting authorities, the PPO has in the previous period also taken part in trainings intended for officials of courts, prosecutor’s offices and the police, aimed at informing them about legislation governing the area of public procurement.

All those activities have contributed to reducing the risk of irregularities in public procurement procedures and to the prevention thereof, including irregularities stemming from corruption.

* 1. Negotiations on EU accession under Chapter 5 - Public procurement

Negotiations with the European Union under Chapter 5 - Public procurement, opened on 13 December 2016 at the Intragovernmental Conference between the Republic of Serbia and the European Union, in Brussels. In her Negotiating Position, the Republic of Serbia endorsed European Union’s *Acquis* in Chapter 5 - Public procurement, and declared she would be in the position to fully implement those in good time before accession.

In its Common Position, the European Union stated that the Republic of Serbia had to pursue progress in alignment with EU *Acquis* and in the implementation of EU *Acquis* covering the Chapter on public procurement. Consequently, it was concluded that this Chapter could only be provisionally closed once the European Union was satisfied that the three stipulated closing benchmarks were met.

1. OBJECTIVES OF IMPROVING PUBLIC PROCUREMENT SYSTEM

This programme sets the overall goal, notably; Further development of a modern and efficient public procurement system.

The expected indicator of this objective’s achievement is further modernisation of public procurement procedures through full application of electronic methods of communication, with the resulting improvement of their efficiency, transparency and the diminished risk of irregularities. Also planned is a substantial progress in negotiations with the European Union under Chapter 5 - Public procurement, primarily in meeting the closing benchmarks.

The achievement of this overall goal is anticipated through the establishment of four specific objectives:

1. Increasing efficiency and cost-effectiveness of public procurement procedures,
2. Strengthening competition at the public procurement market,
3. Reducing risks of irregularities in the public procurement system,
4. Promoting and stimulating environmental and social aspects in public procurements and innovations.
   1. Increasing efficiency and cost-effectiveness of public procurement procedures, Ensuring efficient conducting of public procurement procedures, without unnecessary

administrative requirements coupled with ensuring as much cost-effectiveness as possible, make the foundation for a proper application of legislation with reduced risk of irregularities.

Free competition enables the state to procure goods, services and works of required quality under most favourable conditions, and thus spend the taxpayers’ money in most cost-effective way (“best price / quality ratio”). This way creates significant savings and allows such savings to be utilised to increase quantity and quality of services that the state provides to citizens, thus improving the standard of living.

The achievement of this objective will be based primarily on the introduction of mandatory electronic communication in public procurement procedures.

* 1. Strengthening competition at the public procurement market

The new PPL will simplify the procedures in public procurements and reduce the costs of preparing bids, which will result in a heightened interest of economic operators, most notably of small and medium enterprises, in taking part in the public procurement market, which in turn should contribute to a higher market competition and a higher average number of bids in public procurements procedures.

Greater transparency, together with open and strong competition in the area of public procurement also contribute to the strengthened competitiveness of domestic companies, which is a key engine for an accelerated economic growth, and increased employment and the citizens’ standard of living.

In addition, at all steps in the development of the public procurement system, one should pay particular attention to potential effects on participation of small and medium enterprises and undertake all measures to facilitate their access to the public procurement market.

* 1. Reducing risks of irregularities in the public procurement system

All activities aimed at developing a more contemporary and efficient public procurement system must also be viewed in the context of reducing the risks of irregularities. Public procurement is one of key areas in which both the public and the private sectors engage in substantial financial interaction, and therefore also is one of the most critical economic activities in terms of generating the risks of irregularities and corruption.

The achievement of this objective will be primarily based on the strengthening of legal framework, then on the improvement of coordination and cooperation of competent institutions and, lastly, on the strengthening of their administrative capacities as well as of capacities of contracting authorities and bidders. Accordingly, confirmation of the achievement of this objective will be based on an increased number of coordination meetings, trainings, issued instructions, guidelines, etc., and on improvement of the system for overseeing the application of legislation governing public procurement.

* 1. Promoting and stimulating environmental and social aspects in public procurements and innovations

Environmental protection is an important element of the Government’s policy. In addition to direct measures implementing the environment protection policy’s objectives, the state can also contribute indirectly, through public procurement. Increasingly integrated in the conducting of public procurement procedures are the social criteria which take into account issues such as opportunities for employment of specific categories of persons, compliance with the labour and social rights, social inclusion and equal opportunities, as well as observing the accessibility standards for all users.

Further, “Strategy Europe 2020 - European Strategy for Smart, Sustainable and Inclusive Development” identifies research and development as priorities in public procurement, too, given that the purchase of innovative products, services and works is vital for improving efficiency and quality in providing public services.

The achievement of this objective will be based on an increased use of environmental and social aspects in public procurements and on stimulating innovations by means of legislative improvements (introducing a new public procurement procedure - partnership for innovations).

1. MEASURES TO ACHIEVE THE OVERALL GOAL AND THE SPECIFIC OBJECTIVES
   1. Improving the legal framework

As a candidate country, the Republic of Serbia is obliged to fully align her legislation in the area of public procurement with EU *Acquis*. Full legislative alignment has to be completed in good time before the accession of the Republic of Serbia to the European Union, in order to ensure its full application at all levels, from the state to the local levels.

During the period covered by this programme will be conducted alignment of the national legislation with EU directives and other legal acts governing public procurement. Within the process of accession of the Republic of Serbia to the European Union, the alignment with EU Acquis governing public procurement is foreseen under Negotiation Chapter 5 - Public procurement. As a candidate country, the Republic of Serbia is obliged to fully align her legislation in the area of public procurement with EU *Acquis*, including concessions and public-private partnerships, prior to the accession.

* + 1. Public procurement

The procedure of adopting the new PPL, which will contain provisions aligned with the following European Union law:

* Directive of the European Parliament and of the Council 2014/24/EU of 26 February 2014 on Public Procurement and Repealing Directive 2004/18/EC;
* Directive of the European Parliament and of the Council 2014/25/EU of 26 February 2014 on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC;
* Directive of the European Parliament and of the Council 2007/66/ EC of 11 December 2007 Amending Council Directives 89/665/EEC and 92/13/EEC with Regard to Improving the Effectiveness of Review Procedures Concerning the Award of Public Contracts;
* Directive of the European Parliament and of the Council 2009/81/EC of 13 July 2009 on the Coordination of Procedures for the Award of Certain Works Contracts, Supply Contracts and Service Contracts by Contracting Authorities or Entities in the Fields of Defence and Security.

Adoption of the new PPL was scheduled by the Public Procurement Development Strategy in the Republic of Serbia for period 2014-2023, as a strategic goal of the public procurement reform in the Republic of Serbia.

On 3 November 2016, a special working group for drafting the new PPL was established, comprising representatives of the Ministry of Finance, the Republic Commission, the PPO, and the Serbian Chamber of Commerce.

While drafting the new PPL, the Ministry of Finance in cooperation with the PPO and the Serbian Chamber of Commerce conducted the public debate on the draft wording of the new PPL, from 3 through 22 October 2018. Within the public debate organised by the Serbian Chamber of Commerce several round tables were held in Novi Sad, Belgrade and Niš, on October 8, 10, and 12, 2018, to discuss the draft of the new PPL.

The key changes introduced by the new PPL are as follows:

* New thresholds for the application of the Law, i.e., thresholds below which the Law does not apply, and the introduction of European thresholds;
* A way of proving the criterion for qualitative selection of economic operator - by means of mandatory statement on a standard form, in all procedures, given by economic operator and stating therein they meet all required criteria and they are not in any of situations due to which is, or may be, excluded from given public procurement procedure, in lieu of extracts and/or confirmations issued by competent authorities;
* Communication by electronic means - communication and data exchange in public procurement procedure by electronic means on the Public Procurement Portal;
* Partnership for innovations - a new type of public procurement procedure aimed at developing and procuring innovative goods, works or services;
* Use of electronic catalogue;
* A special regime for procuring social and other special services;
* New grounds for modification of public procurement contract, and defining the reasons for its termination;
* Establishing the authority of the Ministry of Finance to control the execution of public procurement contracts;
* Monitoring the application of legislation governing public procurement by the

PPO;

* New way of organising and performing the tasks of centralised public

procurements, auxiliary works in public procurements, and other tasks;

* The single deadline for the submission of bids of ten days, irrespective of the type of procedure;
* Establishing the jurisdiction of Misdemeanour Courts to conduct misdemeanour proceedings for minor offences set forth by the provisions of the PPL.

The envisaged dynamics for the adoption and the application of the new PPL is as follows:

* Adoption - 4th quarter of 2019
* Beginning of application - 2020.

The new PPL will provide for the adoption of new by-laws before the date of the beginning of its application.

* + 1. Concessions and public-private partnerships

In line with Negotiating Chapter 5 - Public procurement, a comprehensive amending of laws governing public-private partnerships and concessions ought to be completed, so to enable full alignment of this important segment of legislation with EU *Acquis*, most notably, with Directive on Concessions 2014/23/EU. To this end, a working group was established and tasked with drafting Law on Amending the Law on Public-Private Partnerships and Concessions (hereinafter: the new LPPPC). The principal objective of amendments will be to set a clear distinction between concessions and public-private partnerships without elements of concessions, so to meet requirements under Directive 2014/23/EU. For such compliance is vital that all matters concerning the procurement process and other issues covered by the Directive on Concessions, including legal remedy, are subject to the rules on public procurement.

*Effect of Measure 4.1. to Specific Objective – 3.1. Increasing efficiency and cost-effectiveness of public procurement procedures*

The application of the new PPL will result in simplified public procurement procedures, reduced administrative burden on contracting authorities and the bidders alike, together with reduced costs of participation in public procurement procedures. The efficiency of procedures will be induced by introducing obligatory electronic public procurement (to be elaborated under Measure 4.3).

The new PPL will introduce mandatory use of the common, and in all procurement procedures mandatory, statement on compliance with criteria for qualitative selection of economic operator. Namely, the statement on compliance with criteria will be a formal declaration of an economic operator that it meets all requested eligibility criteria for given public procurement procedure. This statement will be supplied with the bid or application, and will serve as a preliminary evidence in lieu of extracts and/or confirmations issued by competent authorities. The purpose of introducing mandatory statement is to reduce administrative burden generated from request to provide a significant number of confirmations and other documents related to the reasons for exclusion and the criteria for selection of economic operator. Upon introduction of this statement, it will suffice that economic operators, for the sake of proving absence of grounds for exclusion in given public procurement procedure and compliance with the selection criteria, simply supply with their bids or request for participation a filled-in standard form, to be developed by the PPO, as the statement of meeting the above criteria. At the end of the procedure, only the bidder with most economically advantageous bid is going to be required to supply the updated supporting documents, i.e., confirmations and other documentation proving compliance with the stipulated criteria.

The new PPL also provides for a new solution in terms of the award criteria. To this end, the contract is going to be awarded to most economically advantageous bid based on price or costs by applying the cost efficiency approach, or based on the best price/quality ratio, which is expected to contribute to a greater cost-effectiveness of public procurement.

*Effect of Measure 4.1. to Specific Objective – 3.2. Strengthening competition at the public procurement market*

The new PPL will simplify the procedures in public procurements, and the reduction of costs of preparing bids will promote not only cost-effectiveness but also increased competitiveness in procedure, since it will undoubtedly influence a heightened interest of economic operators, most notably of small and medium enterprises, in taking part in the public procurement market, which in turn should contribute to a higher level of market competition, and to increase of the average number of bids in public procurements procedures.

The new PPL will introduce novelties intended to facilitate easier participation in public procurement procedures, which is particularly important for small and medium enterprises. This primarily has to do with introducing the mandatory statement on compliance with criteria for qualitative selection of economic operator.

Novelties concerning division of procurement into lots will be introduced, too, with an option for contracting authorities to limit the number of lots to be awarded to a single bidder, which may enable an easier access to public procurement contracts for small and medium enterprises. Introduction of duty to enter information on contracts awarded to small and medium enterprises into contract award notices will also improve the monitoring of the level of participation of such enterprises in public procurements. The collected data will help articulate further activities aimed at improving the level of their participation. The new Public Procurement Portal will allow the PPO to collect data on participation of micro, small and medium enterprises in public procurement procedures, on contracts awarded in public procurement procedures to micro, small and medium enterprises, and on other parameters in line with the new functionalities of this Portal

*Effect of Measure 4.1. to Specific Objective – 3.3. Reducing risks of irregularities in the public procurement system*

The mechanism for the protection of rights in public procurement procedures will be additionally enhanced by the adoption and application of the new PPL. The provisions of the new PPL will keep the existing two-instance legal protection system, which means that the Republic Commission will exercise prescribed competence as the second-instance body, with the possibility for its decisions to be challenged by initiating administrative dispute pursuant to the provisions of the new PPL. There will also be the single deadline for the submission of requests against decision terminating a public procurement procedure.

In addition, contracting authorities and in particular economic operators and their expert and professional associations have warned of a large number of requests whose actual intention was not to seek protection of rights enjoyed by economic operators, but instead solely to obstruct public procurement procedure, often with a view to eventually have an unlawful contract award In order to prevent this phenomenon, the new PPL will set forth duty to submit evidence of paid fee for initiating the review procedure together with pertinent request, without an option of subsequent payment.

The new PPL will have a special chapter with provisions involving measures on preventing corruption and conflict of interest in public procurements. Contracting authorities will be obliged to take any necessary measure to prevent corruption in planning public procurement, in public procurement procedure, or during the execution of public procurement contracts, in order to detect corruption in a timely fashion, and to eliminate or mitigate adverse consequences of corruption and punish participants in corruption Contracting authorities will have to regulate in greater detail the manner of conduct; the rules, duties and responsibilities of persons and organisational units in procedure procedures (planning, preparing, conducting, contracting, and monitoring the execution of contracts); manner of communication; the conducting of procurement exempt from the law, and of procurement of social and other special services.

Contracting authorities will also have duty to take all measures to identify, prevent and remove conflict of interest concerning the public procurement procedure, in order to avoid violation of the principles of ensuring competition and of equality of economic operators.

The new PPL will regulate the monitoring of public procurement and the classification of minor offences in public procurements, so to enable establishment of the grounds for cancellation of public procurement contracts.

*Effect of Measure 4.1. to Specific Objective – 3.4. Promoting and stimulating environmental and social aspects in public procurements and innovations*

The new PPL, just like the applicable one, enables the purchase of goods, services and works involving environmental and energy specifications and marking, and the determination of the elements of criterion for awarding contracts relating to environmental advantages, environmental protection, energy efficiency, and the total life cycle costs of the procurement subject. The new PPL will also ban participation in public procurement procedure where established that an economic operator has violated obligations in term of environmental protection within a specified previous period of time.

Further, the new PPL provides for duty of economic operators to observe obligations concerning the environmental protection, social and labour law, obligations stemming from the collective agreements, and the provisions of international law concerning the environmental protection, the social and labour law, while implementing public procurement contracts.

The new PPL will introduce a fresh new public procurement procedure titled partnership for innovations. Contracting authorities will be able to conduct this procedure if they have the need for innovative goods, services or works, which cannot be met by procurement of products, services or works currently available on the market. Partnership for innovations contributes to the development of innovative goods, services and works and their subsequent procurement, provided those were procured in accordance with the design requirements and within the limits of costs agreed upon by contracting authority and participant in partnership. In the case of need for innovative goods, services or works, contracting authorities will conduct this type of procedure, because the same result cannot be achieved by conducting another type of procedure, given that such goods, works or services are not available on the market.

Development and integration of energy, transport, information, communication and other technologies in certain sectors and the promotion of knowledge and technologies is one of basic goals of the sustainable growth and development.

During the application of new legislation there will be intensified activities expected to contribute to sustainability of public procurement. Among priorities of the EU “Strategy Europe 2020 - European Strategy for Smart, Sustainable and Inclusive Development” the accentuated ones are “green” public procurements, inclusive development that implied increased social cohesion and decreased poverty, facilitating participation of small and medium enterprises in public procurement procedures, and the purchase of innovative products, services and works. In addition to direct measures implementing the environment protection policy’s objectives, the state can also contribute indirectly to those objectives, through public procurement, hence the “green” public procurements are gaining increasing importance.

Also, increasingly integrated in public procurements are the social criteria which take into account employment opportunities of specific categories of persons such as youth, unemployed and persons with disabilities; compliance with the labour and social rights; social inclusion and equal opportunities; observing the accessibility standards for all users, and the sustainable development criteria such as ethical trade.

Therefore, the new PPL will prescribe the option to conduct public procurement procedures wherein only participate economic operators whose primary goal is professional rehabilitation and employment of persons with disabilities, or social and professional integration of disadvantaged persons (so-called

“reserved procurements”). Contracting authorities will remain obliged, while determining technical specification, to stipulate mandatory observance of technical accessibility standards for persons with disabilities, i.e., to apply such technical solution which is accessible for all users.

The promotion of the social criteria in taking decisions on public procurement means new formats of cooperation between the private, public and civil sectors, which also contributes to the development of entrepreneurship, especially the small, the medium, and the social ones.

* 1. Strengthening of the institutional framework

The Republic of Serbia is intent to keep developing an institutional framework which will ensure the implementation of a unified policy in all public procurement-related areas, including concessions and public-private partnerships.

A special attention will be given to the coordination of the operation of institutions, especially when adopting legislation in other areas. What is necessary is to further enhance cooperation between relevant institutions to improve their work and maximise the outcomes of their activities.

The new PPL will define new competences of institutions which will take part in the application of the new PPL and whose activities are aimed at the application of legislation governing public procurement.

Accordingly, the new PPL defines the activities of the PPO aimed at:

* Participating in the drafting of laws and other regulations governing public procurement, and at adoption of by-laws for the area of public procurement;
* Issuing opinions on application of provisions of the new PPL and of other regulations governing public procurement;
* Providing expert assistance; developing guidelines, manuals, and other publications in the area of public procurement, and striving to make them equally available to contracting authorities and economic operators, free of charge;
* prescribing the procedure and conditions for acquiring certificate of public procurement officer and for maintaining the Register of public procurement officers;
* Managing the Public Procurement Portal;
* Monitoring the application of legislation governing public procurement, and at compiling annual reports on the conducted monitoring;
* Filing requests for initiating misdemeanour proceedings for minor offences provided for under the new PPL, filing requests for the protection of rights, and initiating the conducting of other appropriate procedures before the competent authorities when, on the basis of monitoring, are detected irregularities in the application of legislation on public procurement;
* Collecting statistical and other data on conducted procedures, concluded public procurement contracts, and drafting special annual report on public procurement;
* Taking necessary measures in relation with negotiations on EU accession, for the area of public procurement;
* Cooperation with domestic and foreign institutions and experts for public procurement, with a view to improving the public procurement system;
* Cooperation with other state bodies and organisations, bodies of territorial autonomy and of local self-government.

The new PPL provides for the following competences of the Republic Commission:

* Adjudicating in the procedures for the protection of rights;
* Imposing fines;
* Cancelling public procurement contracts;
* Filing requests for the initiation of misdemeanour proceedings;
* Cooperation with domestic and foreign institutions and experts for public procurement, with a view to improving the public procurement system, and in particular the protection of rights and other procedures from the scope of competences of the Republic Commission.

At the same time, the Ministry of Finance will be overseeing the execution of public procurement contracts.

Intense exchange of data and cooperation with other relevant institutions will be continued, focusing on activities aimed at the prevention and combating irregularities.

In order to realise the objectives of the operation of those institutions, their capacities will be reinforced, most notably through the trainings of employees, organised to the highest extent possible through the technical assistance projects.

In order to ensure a more efficient provision of expert assistance in implementing projects of public-private partnerships, the cooperation and coordination between the Public-Private Partnership Commission and other regulators in public procurement will be improved. There will continue close cooperation between the Public-Private Partnership Commission and the PPO, through the information sharing and the provision of mutual expert assistance.

*Effect of Measure 4.2. to Specific Objectives - 3.1. Increasing efficiency and cost-effectiveness of public procurement procedures, and 3.2. Strengthening competition in the public procurement market*

The purpose of public procurement is to procure goods, services and works of best quality for a determined available and invested money, with meeting the purpose and designation of procurement itself. Public procurement procedure and execution of contract must be conducted within the reasonable periods of time, and coupled with lowest possible costs related to the procedure and the execution of contract.

On the other hand, effective competition exerts numerous positive effects on the economy in general, and on public procurement market in particular. Free competition in the public procurement market brings about a better price/quality ratio, so-called value for money, whereby the benefits enjoy not only contracting authorities as direct beneficiaries but also the citizens as end-users of services provided by the public sector.

A significant role in promotion of the above objectives play institutions in the public procurement system, especially the PPO and the Republic Commission.

The PPO does so first and foremost by providing expert assistance and by developing adequate guidelines, instructions and manuals, and also by providing its opinions on interpretation and application of legislation governing public procurement, by recommendations in its reports (on public procurement, on monitoring) and by preventive surveillance activities in individual procedures.

Further, as the review procedure is a part of public procurement procedure, the efficiency and cost-effectiveness of the proceedings is certainly influenced by an efficient review procedure, run by the Republic Commission. In addition, through its binding principled legal positions on the application of laws from the scope of its competences, the Republic Commission influences the increase of legal certainty which is a prerequisite for greater trust in the system, that is, for the strengthening of competition in the public procurement market.

It is necessary that the Ministry of Finance, by means of recommendations and also by virtue of its powers, exerts influence on the supervised subjects and on a more efficient execution of contracts and a more cost-effective spending of public funds. The State Audit Institution can also substantially contribute to the achievement of set objectives, in accordance with its competences and in particular by means of its revision of purposefulness.

Lastly, an especially important role in reinforcing the competition in the public procurement market plays the Commission for Protection of Competition, as an autonomous and independent organisation, with powers to adjudicate rights and duties of market participants, to establish breaches of competition, to impose measures to protect competition and measures to remedy such breaches. In this regard, both under the new and the applicable PPL, this Commission will be authorised to impose on economic operator the measure of banning participation in public procurement procedure, if it establishes that the latter has violated competition in a public procurement procedure in terms of the Law on Competition Protection

*Effect of Measure 4.2. to Specific Objective – 3.3. Reducing risks of irregularities in the public procurement system*

For an efficient detection and combating irregularities in public procurements, it is necessary to resolve in best possible way the matter of coordination of various institutions and their powers.

To this end, the PPO should carry out systematic monitoring, pursuant to the annual monitoring plan and by following certain types of procedure (negotiated procedure without prior call for competition pursuant to some of legal grounds) and also by acting upon relevant notifications made by legal and/or physical persons, a state administration body, or another state body. The PPO will be able to determine, on the basis of data collected under systematic monitoring, in which areas and at which contracting authorities is necessary to carry out this kind of monitoring for the purpose of preventing (and also detecting) improper actions in the conduct of public procurement procedures; in specific cases, it should act upon reports, in a timely fashion, and thus influence the conduct of participants in public procurement procedure in line with the PPO.

The results of monitoring activities should be made available to the public by means of adequate media, as information about the most common causes of wrong application of laws, including possible structural issues or recurring problems in application of rules, about preventions, detection and adequate reporting of fraud, corruption, conflict of interest or other irregularities related to public procurements.

While carrying out its function of systematic monitoring, the PPO should make all rules in public procurement readily available to all users, through a range of activities (guidelines, instructions, education), and also to assist other bodies be more efficient in activities combating irregularities (the Budgetary Inspection of the Ministry of Finance, Inspections, the State Audit Institution, the Police and Public Prosecutor’s Office).

The PPO’s activities of relevance for combating irregularities are as follows:

* Ensuring preconditions that all relevant information about public procurement is published and readily available, most notably on the Public Procurement Portal and the PPO's website;
* Education of all stakeholders in public procurements, both those who directly conduct or take part in public procurement procedures and those employed in state authorities and institutions which exercise certain powers and activities related to the control and combating irregularities in public procurements, and also the media staff and the representatives of the civil society which may have an important role to play in revealing irregularities;
* Systematic monitoring of practices in competent authorities, such as the Republic Commission and the State Audit Institution, with continuous information sharing by those institutions, in order to identify most frequent irregularities detected by them, and to act preventively (through raising public awareness and additional education), and to avoid the recurring of those irregularities;
* Developing templates of legal acts and documentation which will facilitate easier participation of contracting authorities and bidders in public procurement procedures, and also help oversight bodies control such procedures, by keeping those templates clear and concise and having all necessary notes and explanations to help the reader understand their contents and the reasons to apply them;
* Achieving closer cooperation among the competent authorities and institutions in public procurements, in order to exchange knowledge, experience, and maintain uniform practice in the application of the provisions of the PPL.

*Effect of Measure 4.2. to Specific Objective – 3.4. Promoting and stimulating environmental and social aspects in public procurements and innovations*

The PPO is a holder of the above activities, but the central role belongs to the line ministries which should, in cooperation with the PPO, promote and stimulate environmental and social aspects in public procurements and innovations as the values representing one of the special objectives of this programme. One of those activities is the normative one. The Rulebook on Minimum Criteria for Energy Efficiency in Procurement of Goods (“Official Gazette of the RS”, No. 111/15), issued by the Minister in charge of energy, sets forth the minimal criteria for energy efficiency that contracting authorities determine in the procedure for public procurement of goods, for the procurement of: 1) office IT equipment; 2) refrigerators and refrigerators with food freezer compartment; 3) air conditioning units, and 4) indoor and outdoor lighting.

To this end, it is necessary to adopt sectoral rules which will regulate environmental standards to be applied for the procurement of certain goods, services and/or works, with further promotion of environmentally-friendly procurements for the purpose of reducing adverse effects on the environment, and with promotion of the social aspect and innovations, headed by ministries in charge for the portfolios of environment, energy, innovations, social issues, etc.

* 1. Upgrading electronic public procurement

This is the area in which are planned the biggest improvements in the forthcoming period, in accordance with the provisions of the new PPL.

The novelty is that communication and data exchange in public procurement procedure, in line with the scheduled dynamics, are going to be carried out by electronic means on the Public Procurement Portal. In this regard, harmonisation with the requirements under EU Directives will be carried out.

In addition to the already implemented solutions such as electronic notices on public procurement and electronic availability of tender documents, the plan is to introduce electronic submission of bids and applications, and also electronic catalogues, as an option for contracting authority, where electronic means are used, to request or allow the bids to be submitted in the format of electronic catalogue or to allow bids to contain electronic catalogue. Electronic catalogue, compiled by bidder in order to participate in public procurement procedure, gets adjusted to technical specification and gets into format specified by contracting authority in procurement documentation.

The complete communication by electronic means is scheduled for mid-2020. To ensure conditions for application of novelties in electronic public procurement under IPA 2013 Project “Support to Further Improvement of the Public Procurement System in the Republic of Serbia”, there will continue activities on developing a new and holistic information and technological support to public procurement system through development of the new Public Procurement Portal.

Pursuant to the provisions of the new PPL, most important steps in developing a new public procurement portal, to be established in mid-2020, are as follows:

* Analysing optimal template for electronic submission of bids;
* Designing technical specification for developing system for electronic submission of bids;
* Developing system for electronic submission of bids;
* Pilot project for electronic submission of bids;
* Analysing optimal templates for electronic catalogue, dynamic procurement system, electronic planning, and electronic request for the protection of rights;
* Designing technical specification for developing systems for electronic catalogue, dynamic procurement system, electronic planning, and electronic request for the protection of rights;
* Designing modules for electronic catalogue, dynamic procurement system, electronic planning, and electronic request for the protection of rights;
* Pilot project for electronic catalogue, dynamic procurement system, electronic planning, and electronic request for the protection of rights;
* Developing guidelines and other material for trainings to use electronic procurement module.

The final goal will be the establishment and functioning of the single, comprehensive platform containing all key functionalities of electronic public procurement.

Within the development of new information and technological infrastructure for applying electronic communication in public procurements will also be carried out activities to allow the implementation of standards which will enable disclosure of information and documents at all stages of the contracting by defining the common data model (so-called *Open Contracting Data Standard-OCDS*)*,* which is expected to contributing to a greater transparency in public procurements.

*Effect of Measure 4.3. to Specific Objective – 3.1. Increasing efficiency and cost-effectiveness of public procurement procedures*

Electronic procurements which will take place on the new Public Procurement Portal are going to significantly influence a more efficient procedure on the part of contracting authorities, by enabling easy designing of all relevant forms, by ensuring efficient generating of necessary data, and by enabling direct and swifter communication with interested persons and bidders. On the other hand, bidders will be creating their bids and submit those electronically on the Public Procurement Portal, which is going to substantially reduce the duration and the costs involved in participation in public procurement procedures.

In this regard, the new Public Procurement Portal will minimise the costs of public procurement procedure, whereas the simplicity in the submission of bids and initial proving compliance with eligibility requirements by means of the statement, will be the outcome of the economic and logical approach that preparing a bid should incur least possible costs to unsuccessful bidders, whereas certain (not huge) costs should only be borne by the economic operator having an economic interest, which is the successful bidder.

*Effect of Measure 4.3. to Specific Objective – 3.2. Strengthening competition at the public procurement market*

A key objective pursued by electronic procurement is the strengthening of competition in the public procurement market. The new Public Procurement Portal should influence the achievement of this objective by virtue of all of its functionalities it is intended to offer to economic operators, from an easier way of learning of certain procurements they have previously expressed their interest in, to a simplified procedure for the submission of bids, and a timely reporting of all fact of relevance for given procurement and an option to also file request for the protection of rights through the Portal.

The notification system will enable economic operators to pre-determine contracting authorities and/or public procurement subjects they are interested in, in order to receive regular information and notifications on both planned and already initiated procurement in their focus, and all developments (changes to tender documentation, questions and answers, etc.) in given procurement. This will also ensure greater competition in the procedures, whereas the system of electronic submission of bids, by virtue of its transparent and security aspects, should help reinforce confidence in the public procurement system, which is a prerequisite for an increased interest in participation in public procurement procedures and, consequently, for a general increase in competition in public procurement.

*Effect of Measure 4.3. to Specific Objective – 3.3. Reducing risks of irregularities in the public procurement system*

At present, there is a high level of transparency which will be additionally improved by the adoption of the new PPL and the new Public Procurement Portal. In addition to reducing the spending of time and money and to laying the groundwork for the achievement of better value for invested money though the increased competition, the new electronic services and especially the electronic submission of bids will contribute to:

* Standardising public procurement processes;
* Ensuring equal opportunities to all bidders;
* Increasing transparency;
* Reinforce the stakeholders’ trust in the public procurement system.

The standardised processes help minimise errors and also narrow the margin for the misuse in public procurements. The bids to be submitted electronically are going to have the highest level of encryption and are going to be decoded by the system itself, no sooner than upon expiry of deadline for the submission of bids. This will ensure full integrity of bids and award credence to the public procurement procedure as a procedure cleansed of any possibility of irregularities in terms of the submission, opening, and the contents of submitted bids

The risk of irregularities is also reduced by means of the following:

* Registration of economic operators;
* Identification of physical persons as users of the new Public Procurement Portal on behalf of contracting authorities and economic operators, and by establishing hierarchy among the authorised persons having access to create the contents on the new Public Procurement Portal within given organisation;
* Automatic logging in the system and by public access to data on any change in public procurement plans and to any document created on the new public procurement portal (invitations to bid, tender documents, etc.).

*Effect of Measure 4.3. to Specific Objective – 3.4. Promoting and stimulating environmental and social aspects in public procurements and innovations*

The reduction and even the exclusion of transport costs by means of introducing electronic public procurement, during preparation of bids (through simplifying bid preparation, most notably by proving compliance with eligibility requirements by means of statement) and during submission of bids, will undoubtedly produce a positive environmental aspect.

* 1. Strengthening of administrative capacities and education

To enable proper application of legislation governing public procurement, it is necessary to ensure adequate administrative capacities at all levels. To this end, it is necessary to resume all activities concerning the trainings, primarily those intended for contracting authorities and bidders, preparation of all necessary supporting materials such as guidelines, manuals, instructions, etc.

Strengthening of administrative capacities will continue by certification of public procurement officers. Within the period of 2014 to 2018, 2382 persons who are performing public procurement tasks at all levels (republic, regional, local) acquired certificates of public procurement officer. In the forthcoming period the certification process will continue in accordance with the relevant legal provisions.

The purpose of further professionalisation of public procurement officers is to improve the improving of laws governing public procurement at all levels by means of training, expertise and working efficiency of the practitioners in public procurement, and also to ensure building and reinforcing capacities to implement EU Directives. The expected outcome are more efficient and cost-effective procurements and reduced irregularities and the corruption risks.

The development of administrative capacities will unfold through the following steps:

* Continued certification process;
* Improved awareness (holding forums on public procurement, electronic newsletters, etc.), for addressing the practical application of the law governing public procurement and other regulations in the area of public procurement;
* Strengthening of professional capacities of employees in the PPO and other institutions.

For the sake of reinforcing professionalism and ethical standards in public procurements and for enabling practitioners in public procurements to give their contribution to the adoption and application of legislation governing public procurement, the operation of professional associations in public procurements will be continuously encouraged.

*Effect of Measure 4.4. to the overall goal and to all specific objectives*

The precondition for the achievement of the overall goal and the specific objectives is the strengthening of professional capacities of participants in the public procurement system.

Trainings, seminars and conferences will be especially intensified during preparations for the beginning of application of the new PPL, in order to ensure the proper application thereof.

In the forthcoming period, institutions that are relevant for public procurement system, most notably the PPO, will resume expert training of own employees so to better learn the *Acquis*, the good practices of EU countries, and the decisions of the Court of Justice of the European Union. Relevant institutions in public procurements will design and organise workshops for the sake of the expert joint training in specific areas which are relevant for the application of the PPL.

For the forthcoming period is scheduled an increase of the number of the PPO employees, which will in turn contribute to the strengthening of its institutional and administrative capacities and, indirectly, of other participants in public procurements, as well.

Trainings for bidders will be organised in cooperation with the Serbian Chamber of Commerce and the regional chambers of commerce, adjusted to their actual needs.

The PPO will continue to develop templates, instructions, guidelines and other tools intended for the practitioners in public procurement. This activity will be particularly intensified in relation with the beginning of application of the new PPL. The PPO will have an important role in monitoring the application of legislation and consequently in detecting irregularities, given that within the scope of its competences it monitors the implementation of legislation on public procurement and compiles annual reports on this monitoring. The findings contained in its annual reports will make the basis for identifying most critical areas in public procurements and for taking necessary activities to reduce the risks of irregularities.

The activity of drafting risk assessment of corruption in public procurements will be completed and an appropriate brochure made, and the workshops on this risk assessment will be held.

For the sake of the successful application of green public procurements, an analysis will be made together with the recommendation to increase the number of green public procurements and the appropriate guidelines.

One of key prerequisites for the successful public procurement reform and alignment with EU *Acquis* is to ensure public support by enabling the citizens to understand why this reform matters and what kinds of benefits it brings to them. A particularly important role in this process belongs to the media and the civil society organisations.

In the coming period will be resumed the organising of seminars and workshops in order to inform the media and representatives of the civil society organisations about legal solutions in the area of public procurement and the good practice in their implementation.

5. MONITORING OF IMPLEMENTATION OF THIS PROGRAMME AND REPORTING

Implementation of this programme will be monitored by the PPO as the coordinating body, whereas the measures for the achievement of this programme’s objectives will be taken in cooperation with competent institutions.

At the operational level, this programme will be implemented in line with the action plans. The first Action Plan is adopted for 2019 and 2020, whereas the subsequent action plans are going to be endorsed annually.

The reporting on implementation of this programme and of the accompanying action plans will be performed pursuant to Article 43 of the Law on the Planning System of the Republic of Serbia.

6. FINANCIAL EFFECTS OF THE PROGRAMME AND THE ACTION PLAN

The funds needed for conducting activities planned under this programme, in the total amount of RSD 21,600,000.00 have been secured under the Law on the Budget of the Republic of Serbia for 2019 (“Official Gazette of the RS”, Nos. 95/18 and 72/19), in Section 45 - Public Procurement Office (public funds beneficiary code 41200), Programme 0612 - System Development and Protection of Rights in Public Procurement Procedures, Function 410 - General Economic and Commercial Affairs and Labour Related Jobs, Project 7003 - IPA 2013 - Public Administration Reform, Economic Classification 423 - Contractual Services at the Source of Financing 01 - General Revenues and Budget Revenues , in the amount of RSD 2,160,000.00 and at the source of financing 56 - EU Financial Assistance in the amount of RSD 19,440,000.00.

In 2020, the funds will be planned in accordance with the balancing options of the Budget of the Republic of Serbia, within the pre-set limits in Section 45 - of the Public Procurement Office, and in Section 3 - Government, Chapter 3.24 - the Office for Information Technology and E-Government.

7. CONCLUDING PART

Action Plan for 2019 and 2020 is attached to this programme as a printout and is an integral part thereof.

This programme to be published on the Government’s website, on the E-Government Portal, and on the Public Procurement Office’s website.

This programme to be published in the “Official Gazette of the Republic of Serbia”.

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In Belgrade, on 13 November 2019

GOVERNMENT

PRIME MINISTER

Ana Brnabić, s.r.