**Article 118, paragraph 4 of the** **PPL stipulates that in the statement on the fulfilment of the criteria, economic operators must list the issuers of evidence of the fulfilment of the criteria for the qualitative selection of the economic operator and declare that they will be able to provide the contracting authority with this evidence upon request and without delay.** **In this regard, the question arises whether each bidder must possess the evidence at the time of filling out the declaration?**

Article 118, paragraph 1 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19, hereinafter referred to as: the PPL) stipulates that the economic operator in the bid or application submits a statement on the fulfillment of the criteria for qualitative selection of the economic operator on a standard form, confirming, *inter alia*, that there are no grounds for exclusion and meeting the required criteria for selecting the economic operator.

Article 119, paragraph 1 of the PPL stipulates that, before making a decision in a public procurement procedure, the contracting authority is obliged to request the bidder that submitted the most economically advantageous bid to submit, within a reasonable period of time, no shorter than five working days, evidence of compliance with the criteria for the qualitative selection of the economic operator, in uncertified copies.

It follows from the above provisions that all bidders in the public procurement procedure confirm by means of a declaration on the fulfilment of the criteria that there are no grounds for exclusion, and that evidence of the fulfilment of the criteria, at the request of the contracting authority, is submitted only by the bidder who submitted the most economically advantageous bid. The bidder is also expected to state in the declaration the issuers of the evidence, which does not mean that it must have the aforementioned evidence at the time of filling out the declaration.

In light of the above, we would like to point out that in the case of evidence referred to in Article 111, paragraph 1, item 1) of the PPL, it is important that the bidder whose bid has been assessed as the most economically advantageous proves by the said certificate that it has not been legally convicted of certain criminal offences in the period of five years preceding the expiry of the deadline for submission of the bid. Therefore, in this case, it is not important whether the bidder applied to the competent authority in order to obtain the certificate immediately after the expiry of the deadline for submission of bids or upon the invitation of the contracting authority to submit evidence, but rather that the said certificate covers the period prescribed in Article 111, paragraph 1, item 1) of the PPL. We would like to point out that immediately after the expiry of the deadline for submission of the bids, the bidder still does not know whether its bid will be assessed as the most economically advantageous bid, and whether it will be obliged to obtain the said evidence. However, given that the provisions of the PPL do not prescribe when the said evidence must be issued, but only what period the said evidence must cover, as well as when that evidence must be submitted to the contracting authority, the bidder is left with the option of obtaining the requested evidence either after the contracting authority has called for the submission of evidence, which is fully in line with the provisions of the PPL, or after the expiry of the deadline for submitting bids, which is not in contradiction with the provisions of the PPL, but the question of the expediency of obtaining evidence arises in a situation where the bidder does not yet know whether its bid will be assessed as the most economically advantageous.

Considering all the above, it can be concluded that the economic operator should not possess the aforementioned evidence at the time of making the aforementioned statement. The interpretation that every economic operator should possess the aforementioned evidence at the time of making the aforementioned statement would imply that all economic operators, in order to participate in the public procurement procedure, would have to not only fill out the statement, but also have all the evidence of compliance with the criteria at their disposal when filling out the statement, which is not in accordance with the aforementioned provisions of the PPL. The obligation to obtain and submit evidence is only imposed on the bidder whose bid was assessed as the most economically advantageous, which is a novelty compared to the previous legal solution when it was an obligation for all bidders who wanted to participate in the public procurement procedure. It is precisely for the purpose of reducing the administrative burden that existed due to the requirement to produce a significant number of certificates and other documents proving the absence of grounds for exclusion and compliance with the criteria for the selection of an economic operator that there have been changes in the method of proving the criteria for the qualitative selection of an economic operator in such a way that only the bidder whose bid was assessed as the most economically advantageous, and not all bidders, obtains and submits the evidence. The aforementioned legal solutions are fully in the spirit of the principles of public procurement, and in particular the principles of economy and efficiency.