

Open data on public procurement

October 28, 2018

Transparency Serbia submitted to the Public Procurement Office objections and proposals in the framework of a public debate on amendments to the Law on Public Procurement. One of the proposals is related to open data that is, publishing data in machine readable form, and enabling them to search and compare for the selected group of public procurement at the Public Procurement Portal.

Namely, the Draft Law envisages the publication of a large number of data related to individual public procurement procedures, public procurement plans and reports on conducted public procurement, as well as those procurements to which the Law does not apply. The Draft also contains provisions that regulate electronic communication and the use of the Public Procurement Portal by the contracting authorities, tenderers, competent state authorities, as well as all other interested parties.

The Law on Electronic Administration in Article 27 of the Open Data Portal prescribes that the authority (the term largely coincides with the notion of the contracting authority in the sense of the Law on Public Procurement) is "obliged to publish, in the Open Data Portal, open data from the scope of its competence to a way that makes it easy to search and reuse". However, "for the purpose of re-use, the authority does not have the obligation to create or adapt open data if it requires disproportionate use of time or resources. "

Furthermore, it is stipulated that the access to open data is provided free of charge, that the Portal is managed and maintained by the "competent authority" and that "Detailed conditions for the establishment and operation of the Open Data Portal, including organizational and technical standards, are regulated by the Government." The deadline for passing this bylaw act expired on October 14, 2018.

As can be seen from the above, authorities are obligated to publish their own open data on the central Open Data Portal. However, publishing data in one place does not present an obstacle for them to be published elsewhere. Specifically, when it comes to data related to public procurement, there is no obstacle, nor would it be contrary to the objectives of the Law on Electronic Administration if the same data were published on the web site of the authorities, or on the Public Procurement Portal.

The inclusion of provisions in the Public Procurement Law proposed by TS, on the other hand, crucial for the government agencies-contracting authorities-to publish open data at all. The same applies to the future Public Procurement Office (currently the Directorate) and to the Republic Commission for the Protection of the Rights in Public Procurement Procedures.

At the moment, but also after the adoption of the new Law, according to the existing Draft, data would be published in an open and machine-readable form only if the authorities themselves do that.

Alternatively, in one part, this goal could also be achieved through an act of the Article 184 of the Draft (“The Government office responsible for designing, harmonization, development and functioning of the E-government system prepares a user guide for Public Procurement Portal. Users are obliged to use the Public Procurement Portal in accordance with provisions in this law and with the Public Procurement Portal user guide and are solely responsible for the truthfulness and accuracy of the entered data”) or through technical solutions of the future Public Procurement Portal.

However, the only way to ensure that the Guidelines foresee such solutions is to create a legal obligation. Regarding the publication of data on the work of the Republic Commission, since the current Draft does not foresee the publication of the report at all, it was necessary to prescribe both the obligation to publish the report and the form in which the reports will be published. The amendment to Article 183 is necessary, although in appearance, the user who takes documents from the Public Procurement Portfolio can certainly continue to use those documents. The updated addition takes the factual possibility of using information from the documents after they are downloaded into account.

For example, it is not only the point that the user can download the tender documentation for each public procurement, and that he can search each of them individually for a keyword or to copy parts of the text. It is necessary to provide such solutions that would give the user the ability to suddenly search for data (e.g. additional conditions) for the selected public procurement group.

Adoption of these amendments would significantly increase the general level of transparency and accountability in public procurement, not only through the control of the interested public, but also by increasing the possibility for the competent state authorities to identify weaknesses in the system and eliminate them. Adoption of the amendment would therefore contribute to the achievement of the goals of the fight against corruption, the safeguarding of public funds, the promotion of the use of electronic administration and the reform of public administration.

All submitted proposals can be downloaded from the TS website, from the [Initiative and Analysis](#) page.