
ATTACHMENT 3

SSPT NEGOTIATION-TYPE PROCEDURE

In the event that the contracting authority has the grounds to announce a public tender for innovations and the expected value means that it is a small-scale public tender, it is possible to use the negotiation-type procedure for the selection of a supplier (hereinafter also referred to as the “SSPT negotiation-type”) in such a tender.

Legal Regulation

The SSPT negotiation-type procedure may be used in a public tender **where the expected value is a maximum of 2,000,000 CZK excluding VAT for supplies and services, and a maximum of 6,000,000 CZK excluding VAT for construction works.**

Pursuant to Article 31 of the Act: *“The contracting authority is not obliged to use the tender procedure to award the small-scale public tender. However, when awarding a small-scale public tender, the contracting authority shall comply with principles laid down in Article 6”.*

The rules for small-scale public tenders are contained in the following principles:

- The principle of transparency;
- The principle of equal treatment;
- The principle of non-discrimination;
- The principle of proportionality; and
- The principle of responsible procurement.

It is also necessary to take into account the principle of economy. This adjustment to the Act allows the contracting authority to award a public tender in a very flexible manner, which is less demanding on time and administration.

Assumptions for Applying the SSPT Negotiation-Type Procedure

The basic assumption for applying the SSPT negotiation-type procedure is the estimated value of the public tender defined in the previous chapter. This estimated value should be determined

based on market analysis and communication with experts and potential suppliers. If the value exceeds the specified limits, it is not possible to apply this type of procedure.

Other assumptions for the application of the SSPT negotiation-type procedure are not given by law, so its use will result from the general assumptions applicable to public tenders for innovations. Specifically, the following questions should be answered:

- 1. Can the solutions available on the market satisfy my need?**
- 2. If the product, service, or construction work is available on the market, is it of sufficient quality and with satisfactory parameters?**
- 3. If I am faced with a problem, do I know the most effective solution and is this solution available on the market?**

In the event that the contracting authority answers “NO” to any of the above questions and at the same time the estimated value implies the use of a small-scale public tender, then it may be appropriate to negotiate with the suppliers during the selection of a solution in order to achieve the most effective solution.

Stages of the SSPT Negotiation-Type Procedure

The stages may be similar to the competitive dialogue and the innovation partnership procedures. However, it is not an exact copy of the formal procedure for below-limit and over-limit public tenders, but rather provides inspiration. Therefore, the steps are as follows:

- Preparation before announcing the public tender
- Stage 1 – Assessing who to invite to the negotiations
- Stage 2 – Negotiations
- Stage 3 – Signing the contract and starting the implementation
- Commencement of use

Preparation

Even within the framework of the SSPT negotiation-type procedure, it is recommended to include the negotiation-type procedure in the preparation of the contract (for more information, see the Methodology):

- Market analysis;
- Preliminary market consultations; and
- Determining the expected value to confirm that it is indeed a small-scale public tender.

Market analysis and preliminary market consultations may help the contracting authority determine what the options are for a solution suitable for it. At the same time, it provides confirmation that a solution does not exist on the market.

Stage 1 - Assessing who to Invite to the Negotiations

The contracting authority should prepare the call for negotiations with knowledge of which potential suppliers can contribute to the contracting authority's search for the most suitable solution during the negotiations. Requirements can be based, for example, on the expertise of persons, previous experience, or positive references. Any request for possible information or documents should only be made in small-scale public tenders in justified cases, with regard to minimal administrative burden and usefulness. It is unnecessary, for example, to request documents proving information publicly available in various registers.

In principle, the conditions for participation in negotiations should be set as openly as possible.

The result is an invitation to selected participants for negotiations.

Stage 2 – Negotiations

Negotiations should also be conducted with each participant separately with regard to the protection of confidential information even in the case of a SSPT negotiation-type procedure. Conducting negotiations may be difficult for the contracting authority at first, and it is necessary to prepare for it. It is advisable for experts who know the market well to take part in the negotiations and that the negotiations are documented. If the negotiations take place several times and the participants help the contracting authority in formulating the tender conditions, but are subsequently not selected as partners, it is possible to provide them with remuneration for their participation, which the contracting authority will already assume in the tender dossier.

The result is a receipt of proposed solutions based on the negotiations with the contracting authority.

Stage 3 – Selection of a Supplier and Start of Implementation

The contracting authority selects the most suitable solution based on pre-defined criteria, whereby quality should be of great importance. The criterion of the lowest price would not be beneficial for a public tender for innovations.



The stage ends with the signing of a performance contract - see the Methodology for the recommended contract provisions.

Commencement of Use

Commencement of use is part of the purchase of the subject of performance in the case of a public tender for innovations. Without providing the innovation to the end user (contractor) there may be no innovation. If the solution will be developed from the beginning, it is necessary to count on the corresponding length for the completion of performance.