

## PROPOSAL

Pursuant to Article 60 paragraph 4 of the Public Procurement Law (Official Gazette of Montenegro 42/11), the Ministry of Finance hereby issues the

### **Rulebook on Program and Manner of Taking Professional Examination for Performing the Public Procurement Tasks**

#### **Subject**

##### **Article 1**

This Rulebook shall lay down the program and manner of taking professional examination for performing the public procurement tasks (hereinafter: examination).

#### **Program of Examination**

##### **Article 2**

The examination shall be taken in accordance with the program for taking the examination, consisting of:

- 1) legislative regulation of public procurement procedure, with reference to the European Union regulations;
- 2) protection of rights in public procurement procedure;
- 3) other regulations, forms, acts and documents related to public procurement.

The Program of examination and the list of literature for the examination is presented in the Annex 1 which is an integral part of this Rulebook.

#### **Commission**

##### **Article 3**

The examination shall be taken before the Commission for taking the professional examination for performing public procurement tasks (hereinafter: Commission) that shall be established by the decision of the Head of the competent state authority in charge of public procurement tasks (hereinafter: competent state authority).

The Commission shall be consisted of a president and two members.

The president of the Commission shall be a representative of the competent state authority, while the two members of the Commission shall be a representative of the Ministry of Finance and a representative of the State Commission for Control of Public Procurement Procedures.

A person holding an university degree may be elected as the president or the member of the Commission, having at least five years of work experience, of which at least one year of work experience in public procurement field.

President and members of the Commission shall be appointed for the period of four years and may be re-appointed.

Technical-administrative tasks on behalf of the Commission shall be performed by the secretary appointed by the decision on establishment of the Commission.

Secretary of the Commission shall be the officer employed in the competent state authority.

### **Compensation**

#### **Article 4**

The President, Members and Secretary of the Commission are entitled to the compensation for their work within the Commission, the amount of which shall be determined by the decision issued by the head of the competent state authority.

### **Request**

#### **Article 5**

A public procurement officer, employee of the competent state authority, of the State Commission for Control of Public Procurement Procedures and other interested persons (hereinafter: candidate) may submit the request for taking the examination to the competent state authority individually, or through the contracting authority within the meaning of the Article 2 paragraph 1 of the Public Procurement Law or through another legal person where the candidate is employed.

The request referred to in paragraph 1 thereof shall be accompanied by the evidence of fulfillment of conditions for taking the examination and they are as follows:

- 1) a certified copy of the biometric ID card or other proof of identity;
- 2) evidence of qualifications;
- 3) certificate proving that the candidate attended the program of professional development and training;
- 4) certificate on the work experience and
- 5) proof of payment for the examination.

Upon the request of candidate for taking the examination, the head of the competent state authority shall issue a decision, no later than eight days as of the day of receipt of the request, and delivers it to the candidate.

The decision by which the taking of the examination is approved shall also be delivered to the President of the Commission within three days as of the day it was adopted.

### **Time Limit**

#### **Article 6**

The President of the Commission shall determine the date, time and place of the examination.

The Secretary of the Commission shall notify the candidate on the date, time and place of the examination, no later than 15 days before the date of the examination.

### **Costs of Taking the Examination**

#### **Article 7**

The costs of taking the examination shall be, by rule, borne by the contracting authority or the legal person referred to in Article 5 paragraph 1 of this Rulebook.

The costs of taking the examination, unless they are borne by the contracting authority or the legal person referred to in Article 5 paragraph 1 thereof, shall be borne by the candidate.

The amount of costs of taking the examination shall be determined by the decision issued by the head of the competent state authority.

### **Examination**

#### **Article 8**

The examination consists of two parts: written and oral.

### **Written Examination**

#### **Article 9**

The written part of the examination consists of doing a written assignment determined by the Commission.

The time for completing the written assignment cannot be less than two nor more than four hours.

### **Manner of Taking the Written Examination**

#### **Article 10**

Before commencing the written assignment, the Secretary of the Commission shall verify the identity of candidates by examining their ID or some other document and introduce them to the rules that must be observed by the candidates during the examination.

Secretary and Members of the Commission shall attend the written examination.

Upon doing the written assignment, no communication between the candidates shall be allowed, as well as the use of mobile phones or other devices obstructing the examination.

## **Submission of Written Assignment**

### **Article 11**

The candidate shall submit his/her written assignment to the Secretary of the Commission by the expiry of the time limit determined for its completion at the latest, upon which the time of submission shall be recorded.

After submission of the written assignment, the candidate shall leave the room where the examination takes place.

## **Results of the Written Part of the Examination**

### **Article 12**

The Commission shall, at the time designated by the President of the Commission, review the completed written assignment and evaluate the success of the candidate demonstrated in the written assignment.

The success of the candidates at the written assignment shall be evaluated by grades "satisfactory" or "unsatisfactory".

## **Communication of Results**

### **Article 13**

Before start of the oral part of examination, the candidates shall be informed about the results of the written assignment.

The candidate whose written assignment was not evaluated as "satisfactory" shall not have the right to take the oral part of the examination.

## **Oral Examination**

### **Article 14**

The oral examination is public and it shall be taken before the Secretary and Members of the Commission.

## **Oral Examining**

### **Article 15**

At the oral part of the examination the candidate shall be examined in the individual subjects in the order designated by the President of the Commission.

The manner of oral examining shall be determined by the Commission.

## **Evaluation**

### **Article 16**

Member of the Commission shall examine and evaluate the examination subject by the grades "satisfactory" or "unsatisfactory".

The candidate shall be evaluated in each examination subject separately, and then the Commission shall determine the final grade of the candidate at the examination.

President of the Commission shall inform the candidate in public, in presence of all members of the Commission, about the final grade at the examination, and in case that the candidate is absent for justified reasons, he/she shall be informed thereof in writing.

### **The Final Examination Grade**

#### **Article 17**

The final examination grade of the candidate shall be determined on basis of the knowledge demonstrated at written assignment and oral part of the examination.

The final success of the candidate at the examination shall be evaluated by the grade "passed" or "failed to pass", or the candidate shall be sent to take correctional examination.

### **Correctional Examination**

#### **Article 18**

A candidate that was not successful at the examination in no more than one subject, shall have a right to take the correctional examination in that subject.

The correctional examination shall be taken within a time limit no shorter than 30 days and no longer than 60 days as of the day the examination was taken.

### **Repeated Examination**

#### **Article 19**

In case that the candidate, before the start of written assignment, makes a statement of withdrawing from the examination, does not submit the written assignment, does not attend the oral part of the examination or the deferred examination, he/she shall be considered to have failed the examination.

The candidate who failed the examination may take the examination again after expiry of a three-month period from the day of the scheduled examination.

The candidate who gets the grade "unsatisfactory" in at least two subjects shall be evaluated as "failed to pass" the examination.

The candidate who gets the grade "unsatisfactory" at the correctional examination, shall also be evaluated as "failed to pass" the examination.

### **Deferment**

#### **Article 20**

The Commission may, upon a written request by the candidate, defer taking of the examination, or the commenced examination or the repeated examination, due to illness or some other justified reasons, but for no longer than 30 days and it shall determine the date of continuation of the deferred examination.

### **Minutes**

#### **Article 21**

The Secretary of the Commission shall keep the Minutes on the course of the examination.

The Minutes referred to in paragraph 1 thereof shall contain:

- reference number of the decision by which taking of the examination was approved,
- first name, the name of the father and the surname, for married woman also her maiden name,
- date, month and year of birth, place, municipality,
- type and degree of education,
- name of the body or legal person where the candidate is employed,
- composition of the Commission,
- date, hour and place of taking the written assignment and the oral part of the examination,
- the fact whether the candidate withdrew from the commenced examination,
- the fact whether the candidate requested deferment of the commenced examination,
- duration of the written assignment,
- the grade obtained at the written assignment,
- the grade of the candidate at the oral part of the examination obtained in the individual subjects,
- the final examination grade,
- time of the correctional examination,
- the success obtained in the correctional examination in each individual subject,
- time of completion of the examination,
- other data relevant to the examination taking.

The Minutes shall be signed by the President, other Members of the Commission and the Secretary of the Commission.

### **Records and Certificate on the Passed Examination**

#### **Article 22**

The records on passed examinations shall be kept by the competent state authority which shall also issue the certificates on the passed examinations for performing public procurement tasks.

The form of the records and the form of the certificate referred to in paragraph 1 of this Article are included in Annex 2 and Annex 3 which are integral parts of this Rulebook.

### **Entry into Force**

#### **Article 23**

This Rulebook shall enter into force on the day following that of its publication in the Official Gazette of Montenegro.

No:

Podgorica, April 2012

**Minister**

**Milorad Katnić**

## **PREAMBLES**

A legal preamble for adoption of the Rulebook on Program and Manner of Taking the Professional Examination for Performing the Public Procurement Tasks is contained in the provision of the Article 60 paragraph 4 of the Public Procurement Law (Official Gazette of Montenegro 42/11), according to which the Ministry of Finance has an obligation to determine the program and manner of taking the professional examination for performing the public procurement tasks. The Public Procurement Law started to implement as of 1 January 2012. Transitional and final provisions of the Law, Article 153 stipulate the obligation of adopting the secondary legislation within six months as of the day of this Law's entry into force.

Considering that the Law entered into force on 23 August 2011, and the obligation of adoption of this Rulebook was not observed during the stipulated time limit, by the Rulebook's entry into force on the day following that of its publication, the preconditions shall be ensured for the candidates who complete the program of professional development and training, as well as for other interested candidates, to apply for taking and to pass the professional examination for performing the public procurement tasks, which is a condition for performance of these tasks (they are obliged to complete the examination within a year as of the day this Law entered into force – that is, until 23 August 2012).

For the said reasons it is necessary that, as foreseen by the provision 23 of the Rulebook, this Rulebook enters into force on the day following that of its publication in the Official Gazette of Montenegro.

The Rulebook regulates the issues related to the program of taking the examination, the manner of taking the examination before the commission established by the state authority competent for the public procurement matters, the course of the examination, keeping the stipulated records, issuing of certificates on the passed examinations, the material to be learned for the examination and other issues relevant for taking the examination.

## Annex 1

### PROGRAM OF PROFESSIONAL EXAMINATION

#### **1. Legal regulation of a public procurement procedure, with reference to the European Union legislation**

**Subject of regulation:** Subject; Application; Application exemptions; Meaning of terms.

**Public procurement principles:** Principle of cost-effectiveness and efficiency in use of public funds; Principle of ensuring competition; Principle of transparency of public procurement procedure; Principle of equality.

**Protection of data, recording of procedure and establishing communication:** Protection of data; Determination of confidentiality; Language in a public procurement procedure; Bid in a foreign language; Currency; Manner of conducting public procurement.

**Anticorruption rule and prevention of conflict of interest:** Anticorruption rule; Prevention of conflict of interest from the side of contracting authority; Prevention of conflict of interest from the side of bidder; Nullity of procedure and recording of conflict of interest.

**Tasks of the competent authority:** Competences of the Public Procurement Administration

**Types of procedures, value scales, consolidated procurement:** Types of public procurement procedures; Value scales; Prior approval; Conducting public procurement procedures by another contracting authority; Consolidation of public procurement.

**Types of subjects of public procurement:** Procurement of goods; Procurement of works; Procurement of services.



**Initiation of procedure:** Conditions for initiating the procedure; Public procurement plan; Allocation of funds for public procurement; Decision on initiating the public procurement procedure; Determining the subject of public procurement; Determining the subject of public procurement by lots; Common public procurement vocabulary.

**Estimated value of public procurement:** Determining the estimated value; Determining the estimated value of public procurement of goods; Determining the estimated value of public procurement of services; Determining the estimated value of public procurement of works; Determining the estimated value of public procurement by lots.

**Determining technical elements of public procurement:** Tender documents; Technical characteristics or specifications; Use of technical characteristics or specifications; Content of technical characteristics or specifications; Essential requirements and compensations for use of patents; Purchase and assumption of tender documents; Changes and amendments to tender documents; Clarification of tender documents; Means of financial securing - guarantees.

**Performance of the public procurement tasks, training and education:** Public procurement officer; Commission for opening and evaluation of bids; Professional examination; Professional training and education.

**Transparency of public procurement:** Publication and submission; Content of contract notice; Changes of contract notice.

**Conditions for participation in a public procurement procedure:** Mandatory conditions; Evidence on fulfilment of the mandatory conditions; Optional conditions; Proofs of economic-financial capability; Proofs on technical and/or professional and staffing abilities in the public procurement of goods; Proofs on technical and/or professional and staffing abilities in the public procurement of services; Proofs on technical and/or professional and staffing abilities in the public procurement of works; Determining the moment of fulfilment of conditions; Validity of proofs from foreign countries; Form of submission of proofs.

**Bid:** Content of the bid; Manner of preparation of the bid; Submission of a bid by lots; Timely bid; Submission of a joint bid; Conditions for submission of a joint bid; Participation of sub providers and/or sub contractors; Alternative bid; Bid validity period; A bid price; Abnormally low price; Abnormally short period.

**Time limits in public procurement procedure:** Time limit for bid submission; Calculation of time limits; Appropriateness of time limits; Time limit for submission of bids in open procedure; Time limits for submission of bids in restricted public procurement procedure and negotiated procedure.

**Criteria for selection of the most favourable bid:** Establishing and description of criteria and sub criteria; Types of criteria; The lowest offered price criterion; The economically most favourable bid criterion; The lowest offered price sub criterion.

**Public opening of bids:** Receipt and recording of bids; Public opening of bids; Valid bid; Invalid bid.

**Review, assessment and evaluation of bids:** Review and assessment of validity of bids; Evaluation of bids; The minutes of review, assessment and evaluation of bids; Selection between equal bids.

**Decision making and public contract:** Decision on cancellation of public procurement procedure; Decision on selection of the most favourable bid; Public procurement contract.

**Public procurement in the water management, energy, mining, telecommunications, postal and transport sectors:** Covered parties; Contracting authorities; Holders of special and exclusive rights; Subject of public procurement; Public procurement that are not considered to be procurement in water management and energy sectors; Other procurements; Contracts in the water, energy, mining, telecommunications and transport sectors not subject to this Law – exemptions from the application of this Law.

**Public procurement in electronic form:** Conditions and manner of conducting; Electronic form of writings; Bid in electronic form.

**Public procurement records and reporting:** Records on public procurement procedures; Reporting; Preservation of records.

**The European Union public procurement legislation:** Directive 2004/17/EC of the European Parliament and Council of 31 March 2004 coordinating the public procurement procedures of entities operating in areas of water management, energy, transport and postal services; Directive 2004/17/EC of the European Parliament and Council of 11 December 2007 amending the Council Directives 89/665/EEC and 92/13/EEC regarding improved efficiency of the review procedures related to the award of public procurement contracts; [the Commission Regulation \(EC\) no. 213/2008 of 28 December 2007 amending the Regulation \(EC\) no. 2195/2002 of the European Parliament and Council on the Common Procurement Vocabulary \(CPV\) and Directive 2004/17/EC and 2004/18/EC of the European Parliament and Council on amendments to the CPV; the Commission Regulation \(EC\) no. 1150/2009 of 10 November 2009 amending the Regulation \(EC\) no. 1564/2005 on standard forms for publication of public procurement notices in accordance with the Council Directive 89/665/EEC and the Council Directive 92/13/EEC.](#)

## **2. Protection of rights in public procurement procedure, control and supervision**

**Procedure for protection of the rights and responsibilities for decision making:** Ensuring of legal protection; Initiation of legal protection procedure; Active legitimation in the procedure; Legal consequences of the appeal submission; Content of appeal; Treatment of irregular appeal; Manner of the appeal submission; Action of contracting authority on submitted appeal; Powers of contracting authority regarding the submitted appeal; Annulment of procedure due to non-submission of proofs; Time limits for decision making; The State Commission decision making; Rules on providing evidence; Substantial violations of the Law; Limits of action of the State Commission; Judicial protection.

**Organization and status of the State Commission:** Independence of the State Commission; Composition and manner of appointment of the State Commission; Responsibilities and authorizations of the State Commission; Method of operation of the State Commission; Legal Department of the State Commission; Term of office and release from duty.

**Control of public procurement procedures:** Subject of control; Omission of the time limit; Judicial protection.

**Subject of inspection control and authorized persons:** Public procurement inspector; Subject of inspection control.

**Misdemeanour liability:** Offences made by the contracting authority.

## **3. Secondary acts and other regulations and documents on public procurement**

Types of public procurement procedures and method of their implementation for the diplomatic and consular missions of Montenegro abroad, military and diplomatic representatives of the Army of Montenegro in the international forces and peacekeeping missions and other activities abroad;

List of parties subject to implementation of public procurement rules (List of contracting authorities);

Rulebook on forms in public procurement procedures;

Rulebook on methodology of expressing subcriteria into an appropriate number of points, method of assessment and comparison of bids;

Rulebook on method of keeping and content of records on violation of anti-corruption rules;

Rulebook on records of public procurement procedures;

Statement (in written form) confirming existence or non-existence of conflict of interest which is an integral part of the public procurement documentation;

Records on cases of conflict of interest in public procurement;

Form of the Public Procurement Plan;

Form of the Decision on initiation of a public procurement procedure;

Form of the Invitation to an open public procurement procedure;

Form of the Invitation to prequalification in the Phase I of the restricted public procurement procedure;

Form of the Invitation in the negotiated public procurement procedure with prior publication of contract notice;

Form of the Invitation in the negotiated public procurement procedure without prior publication of contract notice;

Form of the Invitation for submission of bids for providing consultant services;

Form of the Invitation to public competition by contest;

Form of the Request for submission of bids by shopping method;

Form of the Tender documents for procurement of goods;

Form of the Tender documents for procurement of services;

Form of the Tender documents for procurement of works;

Form of the Minutes of the public opening of bids;

Form of the Minutes of review, assessment and evaluation of bids;

Form of the Minutes of negotiation process;

Form of the Report on public procurement procedure;

Form of the Decision on selection of the qualified candidates who submitted their bids;

Form of the Decision on selection of the most favourable bid;

Form of the Decision on suspension of a public procurement procedure;

Request for obtaining prior approval;

Authorization of another contracting authority to conduct a public procurement procedure in the name of and on behalf of the contracting authority or to undertake certain action within the procedure;

Rules on conducting consolidated public procurement;

Common procurement vocabulary;

Notification on amendments to the tender documents;

List of public procurement officers;

Program and method of taking professional examination for performing public procurement tasks;

Program and method of professional development and training in public procurement field;

Amendments to the contract notice;

Amendments to invitation to competition;

Decision on rejection of the bid received after expiry of the time limit for bid submission;

Methodology of expressing subcriteria into an appropriate number of points, as well as the method of assessment and comparison of bids;

More detailed method of conducting public procurement in electronic form;

More detailed content, method of keeping and the form of records on public procurement procedures;

Content and form of the report on conducted public procurement procedures and the signed public procurement contracts.

#### **4. Regulations and legal literature**

Public Procurement Law,

Public Procurement Law with a comment,

Law on Inspection Control,

The European Union rules and standards,

Rulebook on forms in public procurement procedures;

Rulebook on methodology of expressing subcriteria into an appropriate number of points, method of assessment and comparison of bids;

Rulebook on method of keeping and content of records on violation of anti-corruption rules;

Rulebook on records of public procurement procedures;

The Public Procurement Manual,

The Manual "Public Procurement in Montenegro (realization of basic principles)", published with the support of the OSCE,

The Manual "Protection of Bidders' Rights in Public Procurement Procedures in Montenegro",

The Manual "Improvement of the Public Procurement System in Montenegro as a Response to the Global Economic Crisis",

A Guide through the Public Procurement System in Montenegro.

**RECORDS ON THE PASSED PROFESSIONAL EXAMINATION FOR PERFORMING PUBLIC PROCUREMENT TASKS**

<b>Number</b>
<b>Reference number of the decision approving the taking of the examination</b>
<b>Name, father's name and surname – for a married woman her maiden name</b>
<b>Date, month and year of birth, place of birth, municipality</b>
<b>The degree and type of education</b>
<b>Program of examination</b>
<b>Date of taking the examination</b>
<b>Success: passed/not passed</b>
<b>Referred to a correctional examination in the subject</b>
<b>Date of the correctional examination</b>
<b>Correctional examination: passed/not passed</b>
<b>Grade of the final success at the examination</b>
<b>Reference number and date of the issued certificate</b>
<b>Comment</b>

PUBLIC PROCUREMENT ADMINISTRATION

**CERTIFICATE**

**ON PASSED PROFESSIONAL EXAMINATION FOR PERFORMING PUBLIC  
PROCUREMENT TASKS**

\_\_\_\_\_ from \_\_\_\_\_  
born on \_\_\_\_\_, educated at \_\_\_\_\_  
\_\_\_\_\_ (degree and type of education)

**has passed**

before the Commission for for taking the professional examination for performing public  
procurement tasks, on \_\_\_\_\_ (date)

**A PROFESSIONAL EXAMINATION FOR PERFORMING  
PUBLIC PROCUREMENT TASKS**

\_\_\_\_\_

(Program)

This certificate is issued on basis of the Records on the passed professional examinations for  
performing public procurement tasks.

Reference number: / \_\_\_\_\_

Podgorica, \_\_\_\_\_

DIRECTOR

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