

The selected issues of public procurement in the Czech Republic

Abstract

The aim of this diploma thesis is to identify selected issues occurring in the public procurement in the Czech Republic. The submitted diploma thesis presents some reasons for the wrongful procedure of the contracting entities which cause difficulties to the subjects of Act No. 134/2016 Sb., the Public Procurement Act. Problematic aspects are judged by the 3E principles, which define the cause of the adoption of this Act. The purpose of the public procurement legislation in force is to specify sufficient rules to ensure proper spending of public funds. Definitions of the selected problems are followed by an outline of possible solutions.

The introductory chapter summarizes the milestones in the development of public procurement legislation which began in the time of Austria-Hungary. It includes the essence and reasons for the adoption of legislation and points out certain problematic sections of the rules that led to their change later. The chapter also includes the basic characteristics of the Act currently in force which was adopted in 2016 in order to reflect the valid European Union directives and the determined problems of the previous Act.

The second chapter describes the status of public procurement in the system of law. Public procurement is a process leading to the conclusion of a contract. It is designated as a set of rules of private law with a public law element in limiting the contracting party's choice due to the spending of public funds. The chapter also contains definitions of basic terms used in public procurement legislation.

The last chapter focuses on defining the selected issues and on the outline of possible solutions. All these problems are related to the economy, efficiency and effectiveness of public finance spending. This key chapter focuses on the 3E principles and the risks resulting from the absence of definitions of those principles in the Public Procurement Act. The chapter presents the issues related to public budgets and their expenditures including public procurement. Another problematic aspect is the violation of the principle of transparency that may lead to corruption or bid rigging. The greater part of the chapter is devoted to the issue of procurement documentation, which may involve a number of problems. Those include the estimated value, public contracts divided into lots, economic qualification, tender price, payment of the price of performance, and evaluation of tenders. The last two paragraphs of this chapter deal with the range of issues arising from setting financial limits for public

procurement and from the legal regulation of the possibility of reviewing public procurement. These problems include the limited possibility of reviewing the contracting process for small-scale public contracts and potentially discriminatory provisions of the Act governing the conditions for the access of contractors and the public to supervisory authorities.

Keywords: public procurement, issues of public procurement, efficiency.