

NEMZETI FEJLESZTÉSI
MINISZTERIUM

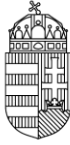
Background information

The aim is to put small enterprises in position

In the introduction to the discussion of the modification of the public procurement act, János Fónagy, the political State Secretary of the Ministry of National Development emphasised that the aim of the Government with the modification of the public procurement act was to put small- and medium-sized enterprises in a position, to simplify and at the same time accelerate procedures and to stem corruption enmeshing everything. As he pointed out, due to the present rules, many quotations that are economically favourable and where the tenderer is also capable of the execution of the contract, become invalid due to some smaller error, omission or typo. A further problem was that for the time being, the public procurement act hardly restricts the announcements setting superfluously severe suitability conditions. The complicated order of proceedings and the difficult application of the law is a further reason for which, based on regulations in effect, micro-, small- and medium-sized businesses find it much harder to enter public procurement procedures at all, and especially to win than would be desirable.

According to the report of the Public Procurement Council for the year 2008 – with view to the number of procedures – though businesses with foreign seats won indeed only in 1.6 percent of the cases and the projects and deliveries won constituted only 1.4 percent of the value of all the public procurements. In the meanwhile, small- and medium-sized Hungarian businesses won in 2,768 of 3,911 public procurement procedures, thus this is 70.8 percent, however, the value of these projects and deliveries is only 39.1 percent of the value of all the public procurements. Winning a little in many procedures, with much struggle, and a lot with one percent: this is the absurdity of the present practise – added the political State Secretary.

All of the present modifications serve the purpose of the transparent and unambiguous rules restricting exaggerated expectations helping tenderers, within that, especially Hungarian small- and medium-sized entrepreneurs.



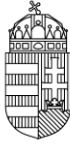
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Due to the so far superfluously strict requirements of financial suitability, for instance, Hungarian small- and medium-sized businesses were not able to enter public procurement procedures as sub-contractors over 10 percent, let alone as tenderers. The present bill eases the queuing requirements and allows starting businesses to participate in public procurement procedures. As the Bill prescribes that whatever financial suitability condition is required by the contracting authority, a starting enterprise may submit a tender if, since the start of its operation, it has had sales revenue in the subject of the public procurement equal to the amount the contracting authority endeavours to procure now. In the case of a sub-contractor over ten percent, if it has had sales revenue in the subject of the procurement equal to the amount of the present procurement.

The bill submitted restricts the requirement of exaggerated suitability conditions related to sub-contractors and by establishing a new exception, it makes procurement for licensed traditional small-scale producers easier. Together with this, the bill further expands the possibility of the exclusion of companies with high sales turnover from public procurement procedures.

In the interest of the elimination of circular debt paralysing the economy, the public procurement act contains three important modifications.

Firstly, the tenderer (if there are also partial invoices, in connection with every partial invoice) must announce to the contracting authority before payment what amount is due to the sub-contractor used by him from the (partial) invoice in question, and it will be entitled to issue an invoice first for this amount only to the contracting authority. If he has satisfied the claims of the sub-contractors and it also certifies this to the contracting authority, it will be entitled to issue the invoice with respect to the other parts of the valuable consideration of the (partial) performance. With respect to the contract concluded in public procurement procedures, this rule makes the costly and complicated collateral management system superfluous.



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Secondly, if a tenderer does not pay its sub-contractor or pays him incompletely or late, it will be possible to exclude it from public procurement procedures for a certain period of time.

Thirdly, it is important that if a business participates in the execution of the contract to an extent exceeding twenty-five percent of the value of public procurement, it cannot qualify a sub-contractor but is to be listed in the tender and during the course of the execution of the contract as well as a joint tenderer.

The modification of the public procurement act is an important tool for the Government achieving its goals set. Thus the steps taken in the interest of the elimination of corruption paralysing the economy cannot be avoided either. The bill contains over ten modifications related to this; finally, Fónagy János emphasised that the Ministry of National Development hopes that these will significantly support honest businesses.

The Ministry of National Development

6 July 2010