

Basic information for a supplier in the Czech Republic

Czech law regulating public procurement procedure (i.e., primarily Act No. 134/2016 Coll., on Public Procurement, as amended – hereafter “PPA”) **is one of the most strict and formalistic laws in the EU** placing exaggerated importance on meeting formal requirements, especially when foreign suppliers are involved. It is, therefore, no wonder that many foreign suppliers fail to submit a formally correct bid, which often results in their exclusion from further participation in the tender, without effective recourse, or in cancellation of the tender altogether. For this reason, we would like to provide a **simple overview of what foreign suppliers** wishing to submit a bid in a **tender must demonstrate to meet the basic qualification criteria in the full extent**. This article does not deal with professional qualification criteria or technical qualification criteria.

The foreign suppliers demonstrate their qualification:

- In the manner prescribed by law valid in the country of their seat (registered headquarters), place of business or residence of the supplier;
- In the extent required by PPA and by the contracting authority (in the tender documentation);
- In the original language with a translation into Czech (or any other language which is prescribed for the tender).

Translation is not required when the tender documentation or applicable international treaty says otherwise. This does not apply to documents in Slovak.

In the event that a specific document required by the contracting authority is not issued under the law valid in the country of their seat (registered headquarters), place of business or residence of the supplier, or if the obligation, whose demonstration is in tender documentation defined, does not exist there, foreign suppliers may demonstrate compliance / qualification by an affidavit in writing.

The basic qualification criteria are defined in Section 74 (1) PPA.

Suppliers who

- a) have been, in the last 5 years prior to commencement of this tendering procedure, finally convicted of a criminal offence listed in Annex No. 3 to PPA or similar criminal offence(s) under the laws of the Supplier’s headquarters country; sentences that had already been struck will not be considered;

– **this must be demonstrated both for the supplier’s corporation and its statutory bodies (usually directors) for Supplier’s headquarters country**;
- b) have, in the Czech Republic or country of its headquarters, payable tax arrears (outstanding unpaid tax);

- **confirmation from the locally competent financial authority and written affidavit for consumption tax**
- c) have, in the Czech Republic or country of its headquarters, payable insurance arrears or sanction(s) relating to public health insurance,
 - **written affidavit**
- d) have, in the Czech Republic or country of its headquarters, payable social security insurance arrears or sanction(s) relating to social security insurance or contributions toward the state employment policy,
 - **confirmation from the district social security administration**
- e) are in liquidation, or subject to insolvency, bankruptcy, under forced administration (receivership) in accordance with other legal regulation or in the similar situation according to the laws of the country where headquartered
 - **extract from the Commercial Registry or by affidavit in writing in case the person has not been registered with the Commercial Registry**

will be deemed to have been disqualified herefrom.

Letters b) and d) these must be demonstrated both in relation to the Czech Republic and in the country of origin (where the corporation has a seat, or if the bidder is a natural person, residence).

To obtain these documents in the Czech Republic, foreign suppliers/bidders should proceed as outlined below:

- a. Requirements defined in **Sec 74 (1) letter (b) PPA – financial good standing** – is demonstrated by confirmation issued by local tax authority and with respect to consumption tax by an affidavit in writing. This confirmation is issued to foreign suppliers at **Financial Authority for Prague 1** (which is local for all foreign subjects not having a corporation in CR), at Štěpánská 28, 112 33 Prague 1 (<https://www.financnisprava.cz/cs/financni-sprava/financni-sprava-cr/organizacni-struktura/organy-financni-spravy/uzemni-pracoviste/2001-uzemni-pracoviste-pro-prahu-1>) against an application in writing. The usual time for processing this confirmation is 30 days and the fee (in form of a duty stamp) is 100 CZK. In reality this confirmation is usually processed within a week or ten days; however, this should not be relied on 100 %.
- b. Requirements defined in **Sec 74 (1) letter d) PPA – no debt in social security area** – is demonstrated by confirmation issued by local authority dealing with these issues, which is, for foreign suppliers not having a local corporation, the **Prague Social Security Administration for Prague 1**, Biskupská 1752/7 (<https://www.cssz.cz/web/cz/kontakty/region/ossz/praha#obsah-u1b>); the fee and processing time is identical to the financial good standing.

If these documents (such as the Criminal Record extract) **are not issued in the country where the bidder has the seat, bidders may replace it by an affidavit in writing.** The **remaining basic qualification criteria** as insurance arrears or penalties for public health

insurance **may be demonstrated by affidavit in writing** (signed by statutory directors of the corporation).

With respect to all documents thus submitted please note that none should be older than 90 days as of the initiation of the tendering procedure. All these documents may be obtained for a foreign supplier by a proxy and in this connection, you should be aware that the signatures on respective powers of attorney must be officially verified (notarized) and Apostilled, if required by applicable international treaties.

The main point of this exercise is that foreign suppliers/bidders submit some of these **documents both for the Czech Republic and for their home country**, and, depending on the document, both **for the corporation** (who is the actual bidder in most cases) **and for all its statutory directors**. This is obviously quite time-consuming and complicated, especially when a corporation has directors from different countries (and outside the EU) and if the state authorities in the country of origin are even more formally minded than state authorities in the Czech Republic. The **crucial aspect is therefore time**. All these processes must be started as soon as reasonably possible so that by the submission date all documents will have been duly issued, delivered and translated (where necessary) to be included with the bid/application to participate.

All documents must be submitted in electronic form only. Documents in physical form must be conversion through authorized conversion according to Act No. 300/2008 Coll.

For purposes of bid submission, all documents may be in particular tender replaced by a written affidavit. In that case, original documents might be asked from the chosen supplier prior contract signature.