

public procurement - legal changes published in October 2018

New NAPP working tools used in the ex-ante control activity - Press release published on the NAPP website on 10 October 2018.

In order to assist the contracting authorities in the procurement process, and in the creation of the contracting strategy, the awarding documentation, as well as in the bid evaluation process, the National Agency for Public Procurement has made available to all interested persons the following working tools used in the ex-ante control activity:

- ***Notice on the use of the Framework Agreement*** – a working tool that clarifies the issues related to the purpose, timeliness and context justifying the proper use of this specific instrument for the award of contracts;
- ***Notice on the issues to be considered when using the works schedule as a requirement for the preparation of the technical proposal for contracts of works*** - a working tool providing the necessary information on the conditions under which one can formulate in the awarding documentation the requirement with regard to the presentation of the implementation schedule of the contract, together with the aspects to be considered by the evaluation committee when determining the conformity of the technical proposal and granting of the technical score, if evaluation factors are used to differentiate between bids depending on how the execution/performance of the contract is planned. The reasoning presented also applies to service contracts having as object intellectual services, and for which evaluation factors of the type exemplified by the NAPP Instruction no. 1/2017 were established.

The two above mentioned notices can be consulted on the NAPP website under the ***Useful documents / Notices*** section or by accessing the following links: <http://anap.gov.ro/web/notificare-cu-privire-la-utilizarea-acordului-cadru/> and <http://anap.gov.ro/web/notificare-cu-privire-la-necesitatea-utilizarii-graficului-gantt-pentru-contractele-de-lucrari/>

Order of the President of the National Agency for Public Procurement no. 1.581/2018 on the approval of standard forms of interim evaluation minutes afferent to awarding procedures of public procurement contracts/framework agreements, sectoral framework agreements /contracts and works concession and service concession contracts was published in Official Gazette of Romania, Part I, no. 885 of October 22, 2018, entering into force on the same date.

This Order approves the standard forms of the interim evaluation minutes and the procedure report form relating to the procedures for awarding procedures of public procurement contracts/framework agreements, sectoral framework agreements /contracts and works concession and service concession contracts used by contracting authorities / entities to complete the phases of the bid / candidate evaluation process as follows:

- (i) Minutes on the evaluation of the tender bond, the information from the DUAE and the accompanying documents, as well as the fulfillment of the qualification requirements set out in Annex no. 1 to the Order;
- (ii) Intermediate report on the candidate selection stage, set out in Annex 2 to the Order;
- (iii) Minutes on the assessment of the conformity of the technical proposals against the provisions of the technical specifications and, where applicable, the assessment factors set out in Annex 3;
- (iv) Minutes on the evaluation of financial proposals, including verification of their compliance with the technical proposals, set out in Annex no. 4 to the Order;
- (v) And also the report of the procedure, set out in Annex no. 5.

At the end of each phase of the evaluation process, contracting authorities/entities shall fill in the appropriate standard report form, i.e. the report of the procedure, set out in the Annexes to this Order, and enter the outcome of the assessment phase in the electronic procurement system.

If the award procedure is subject to the ex ante control process exercised by the NAPP in accordance with the provisions of Art. 5 of the Government Emergency Ordinance no. 98/2017, the contracting authority/entity is required to transmit the minutes and the report of the procedure to obtain the approval as a prerequisite for the introduction of the outcome of the evaluation phase in the SEAP and the transition to the next phase of evaluation/completion of the award procedure.

These standard forms apply only *to award procedures for which the deadline set for the submission of bids /applications is set after the date of entry into force of the Order.*