

Checklist for ex-post control of public procurement

Project title and project number: ...
Contracting Authority: ...
Designation of public procurement procedure given by the Contracting Authority: ...
Title of public procurement procedure given by the Contracting Authority: ...
Type of order according to the Contracting Authority (service / supply / construction work) : ...
Estimated value of order in euro according to the Contracting Authority: ...
Mode of public procurement procedure given by the Contracting Authority: ...

Type of control (on-the-spot / on-desk):

Initial questions		Legal basis ¹	Yes/No/ NA	Controller remarks
1.	Has the ex-ante evaluation completed in a positive assessment of the draft documents of the public procurement procedure?	-		
2.	Has the Contracting Authority implemented instructions provided by the Controller after the ex-ante evaluation?	-		
Questions - formal correctness of the public procurement procedure		Legal basis the public procurement law	Yes/No/ NA	Controller remarks
3.	Has the Contracting Authority provided all the necessary documentation to carry out the control?	-		
4.	Was the public procurement procedure conducted in a transparent manner and in written form?	art. 8, 9 section 1		

¹ These articles of law should be treated only as a reference, as they vary according to the version of the law applicable at the time of the proceedings.

Questions – Contracting Authority, Head of the Contracting Authority and Tender Committee		Legal basis	Yes/No/ NA	Controller remarks
5.	Has the Tender Commission been established in a manner in accordance with the Public Procurement Law ² (hereinafter referred to as “the PPL”), subject to Article 138b section 1?	art. 19, 20, 21		
6.	Has a supervising team been appointed to oversee the implementation of the order awarded in case of construction works and services which value is equal to or exceeds the PLN equivalent of 1000000 EUR?	art. 20 a		
7.	Has the Contracting Authority, the Head of the Contracting Authority and the members of the Tender Committee performed the activities in accordance with the PPL?	art. 17 section 2a,18-21 art. 92 art. 93 section 3		
8.	Have all the persons involved in the public procurement procedure made the appropriate declaration of non-existence of grounds for exclusion?	art. 17		
9.	Have the activities performed by excluded persons during the public procurement procedure been repeated?	art. 17 section 3		
Questions - type of public procurement		Legal basis	Yes/No/ NA	Controller remarks
10.	Has the type of public procurement been specified correctly? (service, supply, construction work)	art. 2 point 2, 8,10, art 138 g and 138 h		
Questions – value of public procurement		Legal basis	Yes/No/ NA	Controller remarks
11.	Has the value of the public procurement been estimated in accordance with the Law?	art. 32-35		
12.	Has the value of the order been converted into euro in accordance with the applicable EUR/PLN exchange rate specified in legislations based on Art. 35 section 3 of the Public Procurement Law?	art. 35 section 3		
13.	Has the Contracting Authority, in order to avoid the application of the provisions of the PPL, merged orders that - if separately provided – require application of different provisions of the PPL (eg classic orders and social orders)?	art. 5 b		

² Journal of Laws 2015, item 2164, as amended

14.	Has the public procurement procedure been divided into parts in order to circumvent the application of the PPL?	art. 5 b, art. 32 section 2 and section 4, art. 6a		
Questions – selection of public procurement procedure ³		Legal basis	Yes/No/NA	Controller remarks
15.	Has the Contracting Authority applied other than the standard procurement procedure, preserving conditions in accordance with the Public Procurement Law?	art. 55 section 1, art. 60b section 1, art. 62 section 1, art. 67 section 1 and 1a, art. 70, art. 73a section 1, art. 74 section 2, art. 134 section 1, 5 and 6 of the PPL		
16.	Did the Contracting Authority perform the actions resulting from the PPL before initiating the negotiation procedure without publication or a free-handed order?	art. 62 section 2, art. 67 section 2		
Questions - procurement notice/announcement of awarding the public contract, Terms of Reference, other documents		Legal basis	Yes/No/NA	Controller remarks
17.	Has the procurement notice been published in accordance with the PPL?	art. 11, art. 40 section 2 and 3, art. 48 section 1, 56 section 1, art. 60c section 1, art. 75 section 1, art. 115 section, 3 and 73c, art. 138i or art. 138j		
18.	In case of the public procurement procedure conducted in the mode of restricted tender, negotiation with and without publication, competitive dialogue, innovative partnership or price inquiry, has the Contracting Authority invited to subsequent stages of the public procurement procedure at least the number of contractors required by the PPL?	art. 51 section 1, 2, 3, art. 57 section 2, 3, 4, art. 58 section 1, art. 60 section 1, art. 60d section 2, 3, 4, art. 63 section 3, 4, art. 65, art. 71 section 1, art. 73e, art. 134 section 3c and 3e		
19.	Does the procurement notice contain the information required by Law and is the information consistent with the Terms of Reference?	art. 41, art. 48 section 2, art. 55a section 1, art. 56 section 1, art. 60c section 1 and 1a art. 73b section 1, art. 73c section 1, art. 75 section 2, art. 25 section 1, art. 134 section 3d		
20.	Has the content of the procurement notice been amended in accordance with	art 11 section 7d, art. 12a and		

³ In case of selection of other than one of the basic - open / restricted tender procedure (Article 10).

	the PPL?	art.134 section 3a		
21.	Does call for tenders/applications to participate in the public procurement procedure contain the information in accordance with the PPL?	art. 51 section 5, 60 section 2, art. 60d section 5, 60e section 3a, 63 section 2, art. 76 section 2		
22.	Has the announcement of awarding the public contract been published in accordance with the PPL?	art. 95, art. 138s and 138o section 4		
23.	Do the Terms of Reference contain the information required by Law and is the information consistent with the content of the procurement notice?	art. 36, art. 51 section 4, art. 59, art. 60e section 3, art. 64 section 3, art. 71 section 2 and art.73b section 2, art.91 section 3d		
24.	Have the Terms of Reference been made available in accordance with the PPL?	art. 37, art. 42, art. 51 section 4, art. 60 section 4, art. 64 section 3, art. 71 section 2		
25.	Has the deadline for submission of initial tenders / tenders / requests to participate / opening of electronic bidding been correctly determined in relation to the value and mode of the contract?	(art. 9a, art. 43, art. 49, art. 52 in relation to art. 18 point 5 art. 56 section 2, art. 57 section 6, art. 60 section 3, art. 60c section 2, art. 60e section 4, art. 64 section 1, art. 73, art. 73c section 2, art. 73e section 1 and 3, art. 76 section 1 and 4, art. 134 section 3 point 1,2 and 3 and section 3b point 1, art. 138 o and 138q Note: art. 43 and art. 52 in relation to art. 18 point 5 of the Act of 22.06.2016 amending the Public Procurement Law and some other acts		
26.	Has the term of the contract been set correctly?	art. 142, 143		
27.	Has the Contracting Authority described the tender evaluation criteria in a way that does not impede fair competition and in accordance with the provisions of the Public Procurement Law?	art. 91 section 2, 2a, 2b, 2c, 2d, 3, 3b, 3c, 3d, art. 37 section 4, , art. 7 section 1		

28.	Have the explanations to the Terms of Reference been provided in accordance with the PPL?	art. 38 section 1, 1a, 1b and 2 , 3 and 3a		
29.	Has the change of the Terms of Reference been made in accordance with the PPL?	art. 38 section 4, 4a, 4b, 6		
Questions – description of the subject-matter of the contract, conditions for participation in public procurement procedure, documents required to confirm the fulfillment of conditions		Legal basis	Yes/No/NA	Controller remarks
30.	Has the subject-matter of the contract been described in a manner that does not impede fair competition and whether the Contracting Authority has complied with the statutory obligations? (including for example: have the statutory obligations for description of the subject-matter of the contract been fulfilled in case of the indication of the trade mark, patent or origin and have the criteria for equivalence been met?)	art. 29-31 and art. 7 section 1		
31.	Has the Contracting Authority defined the conditions for participation in the public procurement procedure and the means of proof required from the contractors in a manner that has not impeded fair competition and has been proportionate to the subject-matter of the contract and has enabled the assessment of the contractor's ability to perform proper the contract?	art. 7 section 1, art. 22 section 1a, art. 22b, art. 22c, art. 22d section 1 and 3 art. 23 section 5 of the Public Procurement Law		
32.	Has the Contracting Authority requested from the contractors declarations necessary to carry out the public procurement procedure and documents confirming the fulfillment of conditions for participation in the public procurement procedure, tender evaluation criteria and lack of grounds for exclusion?	art. 25, art. 26 ust,1,2,6,7 art. 30b section 4		
33.	Has the Contracting Authority fulfilled the statutory obligations in case of a limitation on the number of contract parts which may be awarded to one contractor?	art. 36aa section 3, 4, 5		
34.	If subcontracting was limited - was it limited in accordance with the PPL?	art. 36a, 36 b		
Questions – contractor selecting procedure		Legal basis	Yes/No/NA	Controller remarks
35.	Has the Contracting Authority fulfilled the statutory obligations related to the opening of tenders?	art. 86		
36.	Has the Contracting Authority properly applied the "reverse procedure"	art. 24 aa		

	described in Article 24aa of the PPL?			
37.	Have all the tenders / requests to participate been submitted within the deadline stipulated in the PPL?	art. 43, art. 49, art. 52, art. 56, art. 60c, art. 60e, art. 64, art. 73, art. 76, 104 e		
38.	Has the Contracting Authority excluded from participation in the public procurement procedure contractors who were subjected to exclusion under the PPL and in case of the existence of optional grounds for exclusion provided by the Contracting Authority?	art. 24 section 1, 5, 6, 7, 8, 9, 10 and 12		
39.	Has the Contracting Authority assessed the contractors in terms of meeting the conditions for participation in the public procurement procedure? (Including whether the contractor who submitted the most beneficial tender and who was not subjected to exclusion was excluded or whether the tender of a contractor who was subjected to exclusion was chosen)	art. 25, 26, 87 section 1 and 1a		
40.	Has the Contracting Authority rejected tenders that were subjected to rejection under the PPL? (Including whether the most beneficial tender was rejected or whether the tender which was subjected to exclusion was chosen)	art. 89, 90 section 3, art. 138c section 1 point 4, art. 138r section 1 or 2, art. 24 section 4		
41.	Has the Contracting Authority assessed the tenders in accordance with the PPL (including whether the tenders were assessed on the basis of criteria specified in the Terms of Reference)?	art. 91, art. 138r section 3		
42.	Has the tender guarantee been paid in accordance with the PPL?	art. 45, art. 64 section 2, art. 76 section 3, art. 85 section 4, art. 184		
43.	Have the negotiations of submitted tenders been conducted / have unauthorized modifications of tenders been made?	art. 87 section 1		
44.	In case of mistakes in the tenders or suspicion of the abnormally low price - did the Contracting Authority satisfy the statutory obligations?	art. 87 section 2, art. section 1 point 4 and 7, art. 90 section 1, 1 a		
45.	In case of occurrence of the circumstances referred to in Article 26 section 3 and 4 of the PPL - did the Contracting Authority satisfy the statutory obligations?	art. 26 section 3, 3a and 4		
46.	Have there been grounds for annulment of the public procurement procedure?	art. 93		

47.	Is there a protocol from the public procurement procedure and does it contain all the required data and is it signed by authorized persons?	art. 96, art. 97		
Questions - selection of the most beneficial tender		Legal basis	Yes/No/ NA	Controller remarks
48.	Has the most beneficial tender been submitted in accordance with the PPL?	art. 82-84		
49.	Has the most beneficial tender been selected in accordance with the PPL?	art. 73f, art. 91, art. 138r section 3		
50.	Has the relevant information of fact and of legal grounds been provided to the contractors who submitted tenders, immediately after the most beneficial tender was selected?	art. 92		
Questions - legal remedies		Legal basis	Yes/No/ NA	Controller remarks
51.	In case of applying legal remedies, did the Contracting Authority act in accordance with the PPL?	art. 180, 181, 182, 183		
52.	Have the legal remedies applied during the public procurement procedure been resolved within the correct deadline and in accordance with the PPL?	As above		
53.	Have the resolutions been made public in accordance with the PPL?	As above		
54.	Has the Contracting Authority repeated the activities covered by legal remedies?	As above		
55.	Has the Contracting Authority executed the decision of the National Appeals Chamber?	art. 192		
Questions - contract with the contractor		Legal basis	Yes/No/ NA	Controller remarks
56.	Has the contract been concluded within the deadline pursuant to the PPL?	art. 94 section 1 and 2, art. 183 section 1 and 2		
57.	Is the scope of the contract consistent with the tender?	art. 140,		
58.	Has the contract been concluded for a fixed period, subject to art. 143 of the PPL?	art. 142, art 143 and art. 67 section 1b		
59.	Are there grounds for annulment of the contract?	art. 146		

60.	Have contractual penalties been applied for improper performance of the contract /if applicable/?			
61.	Has the contract been amended in accordance with the PPL? (including whether the amendment is substantial, acceptable, or whether as a result of the contract amendment the object of the contract was extended beyond its framework described in the Terms of Reference?)	art. 144		
62.	Has the contract / contract amendment been concluded by the authorized person?			
63.	Has the contract / contract amendment been concluded in written form?	art. 139		
Conclusion		Yes/No/ NA		
64.	Has the public procurement been evaluated positively?			
65.	In case of a negative evaluation of the public procurement, as a consequence of the irregularities detected, it is required to consider whole or part of the expenditures as incorrect.	Method of determining incorrect expenditures:.....		
Auditor's first and last name		Date	Signature	