



# Supply of Food and Material Aid



**Contracting Authority:**  
**Czech Republic**  
**- MINISTRY OF LABOUR AND SOCIAL AFFAIRS**

**Name of procurement:**  
**SUPPLY OF FOOD AND MATERIAL AID FUNDED FROM THE FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (FEAD)**  
**- II., Lot of pubic contract No. 4: Textile**

## PUBLIC PROCUREMENT

- Wider societal interests:**  
 The Contracting Authority required that ethical production of textile is ensured.
- Evaluation:**  
 Aspects related to socially responsible public procurement were not subject of evaluation. They were used as conditions for participation in procurement procedure and as contractual conditions relating to the subject-matter
- Anticipated value of the Lot No. 4:**  
 CZK 14,000,000 excluding VAT
- Legal regulation:**  
 ABOVE-THRESHOLD REGIME OPEN PROCEDURE in accordance with Act No. 134/2016 Coll.on Public Procurement, as amended (hereinafter PPA)

## EXAMPLE OF GOOD PRACTICE (2016/2017)

The Ministry of Labour and Social Affairs (hereinafter "MoLSA" or "Contracting Authority") has been an active promoter of responsible public procurement for several years. It adopted the responsible public procurement principles and included them in its internal governing documentation to continuously and systematically take them into account in its public procurement contracts.

SECTION I HEAD III Part 3 Par. 3) of the Principles for Public Procurement at the Ministry of Labour and Social Affairs: "*Throughout the public procurement process, emphasis must be placed on the selection of the most economical solutions that, in addition to price, take into account technical and qualitative aspects, sustainability, and life cycle costs, as well as social and employment benefits.*"

MoLSA carefully considers each and every public contracts for suitable support of individual objectives defined under responsible public procurement. In terms of objectives, the ministry does not exclusively focus on its own agenda, i.e., social or employment issues, but accepts its part of responsibility for the natural environment, too.

As part of this public procurement contract, the Contracting Authority set its goal to purchase products whose manufacture did not entail breach of selected work-related principals (no forced labour, child labour, dangerous and health-impairing working conditions, or conclusion of valid employment agreements). The Contracting Authority made this decision because it was aware of the fact that textile is merchandise usually manufactured in geographical areas where basic human rights are being breached. If the sole evaluation criterion were the lowest bid price, it may be expected that low-price performance would be provided. However, the Contracting Authority wished to avoid any purchase of goods where it might be content with the bid price but the price itself was very likely a result of problematic working conditions.

Before the Contracting Authority applied the approach presented above, it had carefully examined individual conditions, methods of demonstrating that these conditions have been met, and the system of monitoring whether they have been respected throughout the performance.

Before the procurement procedure was initiated, the Contracting Authority had carried out preliminary market consultations. The purpose of the preliminary market consultations was to acquire information necessary to properly set up procurement conditions. The Contracting Authority published background materials for the preliminary market consultations along with information on the public procurement contract in the Official Journal of the European Union (through the operator of the Tenders Electronic Daily), at Contracting Authority profile and at the MoLSA website. In addition to basic organization information, the Contracting Authority indicated the purpose of the public procurement contract, and a brief description of the performance subject matter and scope. Further, the Contracting Authority pointed out that an independent report will be drawn of the procedure and results of the preliminary market consultation. This report then become part of the award criteria. Among other things, as part of the preliminary market consultations, the Contracting Authority pointed out that it was mandatory to meet its requirements for ethical production of the performance. Namely, the requirements are: prohibition of forced labour, prohibition of child labour, and safe working conditions without any detriment to human health.

**In accordance with Art. 37 Par. 1 Letter d) of the PPA, the Contracting Authority requested that the following conditions were met throughout the manufacturing process:**

*"In accordance with EP and Council Directive no. 2014/24/EU, in particular its Annex X, as well as standards dictated by the International Labour Organization, the Contracting Authority requires that the manufacturer of the goods offered and delivered maintains the following minimal standards throughout the manufacturing process: prohibition of forced labour, prohibition of child labour, safe working conditions without any detriment to human health, and valid employment contracts. The manufacturing process is understood to mean each individual phase of the production process of the textile goods offered (i.e., sewing, knitting, and other modifications to fabrics and other materials used that are necessary for the final product to be supplied). These requirements do not apply to the production of the fabric used."*

The definition of the "manufacturing process" was created for the purposes of this procurement procedure. It is not a definition indicated in any legal regulation, or a definition generally used in any other way. It was born from the necessity to define the scope of the manufacturing process since understanding of the scope of 'manufacturing process' may vary.

**The Contracting Authority requested that the requirements defined must be met in the following manner:**

- a document demonstrating membership in Fair Wear Foundation, or
- an affidavit drawn by a particular bidder, in which it confirms that it maintains the conditions required (prohibition of forced labour, prohibition of child labour, safe working conditions without any detriment to human health, and valid employment contracts) throughout all phases of the manufacturing process during which the textile products offered are being made (hereinafter "Affidavit").

It was permitted to demonstrate the fulfilment of individual portions of the performance under the contract by presenting a combination of the documents above.

If the Contracting Authority's request is met by presenting an Affidavit, it was necessary for each individual item included on the Affidavit indicate the manufacturer, label, and address of the factory where the manufacturing process actually takes place (or several factories if several locations are used for various production phases). Information in the Affidavit was *considered to be trade secret and handled as such*.

**Monitoring Whether Ethical Production Requirements Are Met and Sanctions in Case of Noncompliance**

*"Buyer shall be entitled to carry out—even via an authorized third party—an **audit of the supplier factory** that takes part in the manufacturing process of the Goods to be supplied, to assess whether the requirements specified in the ethical production declaration are met in accordance with Annex No. ... to this Contract (a document testifying membership in Fair Wear Foundation / a document testifying membership in World Fair Trade Organization / affidavit of conformance with the conditions required are met). Seller shall be obligated to provide any assistance necessary. The same applies to his subcontractors.*

*Buyer shall be entitled to **withdraw** from this Contract in case of a substantial breach on the part of Seller."*

**Performance Obtained – Conclusion:**

The contract went to business company KORAKO plus s.r.o., Most of the production comes from Slovakia, an EU Member state. Supplier presented an affidavit to demonstrate that it met the ethical production requirements, part of which was identification information of the manufacturer and the address of the factory, in which production actually takes place (or factories in case of several locations for various phases of production).