

THE EVALUATION CRITERIA IN PUBLIC PROCUREMENT

Anna Hlaváčová¹ Renáta Schneiderová Heralová² Petr Matějka³

¹*CTU in Prague, Faculty of Civil Engineering, Department of Construction Management and Economics, Thakurova 7, Prague, 166 29, Czech Republic, anna.hlavacova@fsv.cvut.cz*

²*CTU in Prague, Faculty of Civil Engineering, Department of Construction Management and Economics, Thakurova 7, Prague, 166 29, Czech Republic, heralova@fsv.cvut.cz*

³*CTU in Prague, Faculty of Civil Engineering, Department of Construction Management and Economics, Thakurova 7, Prague, 166 29, Czech Republic, petr.matejka@fsv.cvut.cz*

Abstract

The task of the research is to map out the most commonly used evaluation criteria in public procurement for construction industry. A specific example demonstrates which evaluation criteria are most frequently used in actual practice and what is an impact on tender. On the basis of these findings, the procedures are proposed for improving the quality of the competitions. These findings, obtained during thesis work, are supported by answers of the respondents, interviewed in the questionnaire.

Keywords

assumed values; evaluation criteria; exceptionally low tender price

Introduction

The article deals with evaluation criteria of public contracts, determination of preliminary value of a public contract and with a phenomenon that is very closely related to these matters – exceptionally low tender price in practice. These are topical issues of the Czech construction industry. The objective of this article is to answer the following questions:

Why only one evaluation criterion, i.e. the lowest price, has been used in the past years in the majority of public contracts? Is exceptionally low price a problem for the construction business today? Why do the assumed values of public contracts differ from the tender prices in some cases even by more than 50%? Are the price reductions offered by the individual bidders in tender procedures at the expense of quality?

The ideal use of this article would be if it would contribute to amending the Public Procurement Act by a precise calculation procedure for an exceptionally low price and to convince public contracting authorities that using only one evaluation criterion – the lowest price does not always lead to the best result. The contracting authorities should also focus more on determination of the assumed price, which would make it easier to find out if a bidder tenders for a contract with an exceptionally low price or not.

Content of the research

The article has been based on public contracts that Division Building Bohemia, Plant Central Bohemia of the company Hochtief CZ a.s. tendered for from 2011 to 2013. It is a sample of thirty-one public contracts, thereof twenty-five have already been awarded to the general contractor or to a joint venture of general contractors.

Currently, the most often used evaluation criterion in public procurement has been only the tender price. That is demonstrated in the table below, which shows the percentage representation of use of only the lowest tender price evaluation criterion in comparison to public contracts, for which other evaluation criteria in addition to the lowest tender price have been used as well.

Table 1: Use of evaluation criteria of public contracts tendered by Hochtief CZ a.s. 2011–2013 [own processing]

Description	Number of public contracts	Representation in %
Number of public contracts tendered by Hochtief CZ a.s. 2011–2013	31	100%
Only one evaluation criterion – price	20	65%
Other evaluation criteria in addition to the price	11	35%

The reason is evident. It is a very comfortable evaluation criterion; it is easy to evaluate and it is not necessary to deal with technological procedures.

That is where the problem arises. Only one evaluation criterion – the lowest tender price should be used only if the project documentation is prepared perfectly, if the assumed value is correctly determined and if the evaluation committees are not afraid to exclude the individual bidders for dumping prices. In such an ideal case, it would be easy to find out where the biggest deviation can be found between the individual tender estimate positions submitted by the bidders and the contracting authority's check budget. If a bidder's explanation of low prices of the positions is not satisfactory, it would be automatically excluded from the tender procedure. Then it could not happen that the general contractor would run out of money halfway through the construction. Materials of

poor quality would not be used. And, moreover, construction of buildings that after expiry of the warranty period require high expenditure on maintenance, operation and repair would be prevented.

At present, when project documentation is often far from being perfect, it is necessary to think about other evaluation criteria that could be used in the public procurement. These should be such criteria that will guarantee quality of the respective contract, thus by no means shortening of the construction period.

Other interesting evaluation criteria were discovered during the research. Such criteria are worth considering. These could be, for instance: warranty period for the work, alternative technical solutions ensuring no less than the same quality as it has been described in the tender documentation, experience with similar projects etc.

The quality of tender procedures could also be enhanced if the technical qualification requirements would include besides demonstration of reference construction projects for some specific technology also reference construction projects, where the warranty period has already expired. In connection with these construction projects, the number of defects and arrears of work found in the warranty period in percent, e.g. in relation to the financial volume of the contract, would be stated. The investor would immediately get an idea of quality of the specific general contractor.

It is also necessary to realize that it is not always pressure of the contracting authorities on reduction of the price, but sometimes also efforts of some contractors to win a contract at all costs. This is another shortcoming that arose during preparation of this contribution, i.e. there is no accurate calculation of determination of an exceptionally low tender price in the Public Procurement Act and precise determination of the assumed price of a contract is not accentuated enough.

The table 2 shows ten public contracts, where there was the biggest difference between the original assumed value of a public contract determined by the contracting authority and the price submitted by the selected general contractor, which won and to which the contract was awarded. In the last column of the table, there is percentage representation demonstrating to how many percent of the assumed price the final awarded price corresponded, i.e. the awarded value amounts to xy% of the assumed contract value.

Tale 2: Ten public contracts with the biggest difference between the original assumed value of a public contract and the price submitted by the selected general contractor, tendered by Hochtief CZ a.s. 2011–2013 [own processing]

Name of contract	Date of publication in the Bulletin of Public Contracts	Assumed value	Awarded value	Representation in % of the assumed value compared to the awarded value
Dostavba kanalizace – Říčany/Completion of construction of sewerage – Říčany	13 March 2012	CZK 128 000 000	CZK 54 489 750	43%
Zateplení souboru budov – SO 02 Jiráskova 888, Benešov/Thermal insulation at a complex of buildings – SO 02 Jiráskova 888, Benešov	15 June 2011	CZK 24 000 000	CZK 11 093 228	46%
MSP – rekonstrukce objektu F a půdní vestavby Na Míčáncích/Ministry of Justice – reconstruction of building F and loft conversion Na Míčáncích	28 February 2012	CZK 150 000 000	CZK 74 474 048	50%
VÝUKOVÉ A VÝZKUMNÉ CENTRUM V DOPRAVĚ – stavba/EDUCATION AND RESEARCH CENTRE IN TRANSPORT – construction	29 August 2011	CZK 192 000 000	CZK 97 876 876	51%
Generální dodavatel stavby Biotechnologického a biomedicínského centra AV ČR a UK ve Vestci – BIOCEV/General contractor for construction of Biotechnological and Biomedical Centre of the Academy of Sciences of the Czech Republic and Charles University in Vestec – BIOCEV	21 August 2013	CZK 1 328 000 000	CZK 722 052 897	54%
Zateplení objektu SPŠ Na Třebešíně/Thermal insulation of the high school building Na Třebešíně	2 June 2012	CZK 54 000 000	CZK 29 778 995	55%
Základní škola Milovice – Mladá – stavební práce a projektové práce/Primary school Milovice – Mladá – construction and designing works	13 June 2012	CZK 550 000 000	CZK 320 335 182	58%
Rekonstrukce 3. NP pavilonu D Nemocnice Milosrdných sester sv. Karla Boromejského/Reconstruction of the 3 rd AG floor in building D of the hospital Nemocnice Milosrdných sester sv. Karla Boromejského	25 May 2011	CZK 19 500 000	CZK 12 311 995	63%
Rekonstrukce objektu UPa na nám. Čs. legií 565, stará část/Reconstruction of a building of the Pardubice University in 565 nám. Čs. legií, old part	9 August 2011	CZK 180 000 000	CZK 114 825 160	64%
FTNsP Praha 4 – Rekonstrukce akutních chirurgických provozů – pavilon B4/Thomayer's Teaching Hospital Praha 4 – Reconstruction of acute surgical operations – ward B4	4 August 2011	CZK 57 000 000	CZK 36 983 947	65%

It can be seen in the table that seven contracts were awarded in the range of 40% to 60% of the assumed contract value. It is a question whether in these cases it was an exceptionally low tender price or “only” an incorrectly assumed contract value determined by the investor.

The assumed contract value was either very overestimated or all these contracts were awarded without margin or even below cost. According to CEEC Research s.r.o., in 2013 the number of companies on the market that would be willing to accept a contract with a zero, in some cases even with a negative, margin was rising. Currently, up to 41% of the companies would do so [1].

The contracts are most probably infeasible at such a price [2]. This price will probably not be final for the investor and the investor’s expenses will grow during the construction due to additional construction works – extra works. One third of the construction companies confirm that they perform the construction works in such a way as to make the resultant construction functional and without any problems for its users, but only for the warranty period [3]. This results into the fact, that the investor would incur additional cost in such a short time as five years, when it will be necessary to invest into repair of some structures.

If the assumed value had been correctly determined and if calculation of the exceptionally low price had been precisely defined in the Public Procurement Act, the contracting authority could have avoided many problems.

The last issue addressed in this article is evaluation of anonymous questionnaires filled in by the total of fourteen respondents. Ten of them work on the part of a general contractor, three on the part of a designer and one on the part of a contracting authority. The individual respondents were asked the following questions:

- What has been your experience with public contracts in the last three years?
- What has been your experience with the quality of project documentation in the last three years?
- What is your opinion of the most often used evaluation criterion – the lowest price?
- What evaluation criteria would you suggest?
- Are contracts awarded for dumping prices a problem for the construction industry today?
- Have you come across exceptionally low prices in public contracts?
- Do you think that the investors’ pressure on the resultant price is reflected in the quality of construction works?
- Which way of acquiring contracts is the most efficient in your opinion?
- Do you think that corruption is a problem of the construction industry today?
- Is there a difference between tender procedures for tender preparation and for the actual construction?

The respondents unanimously concurred that: the quality of project documentation is not in accordance with Regulation No. 499/2006 Coll., as amended by No. 62/2013 Coll., on Building Documentation; only one evaluation criterion, i.e. the price, is not sufficient and it should always be in combination with other evaluation criteria; exceptionally low price is a problem of the today’s construction industry.

It is not possible to define a uniform way of selecting the evaluation criteria for all construction contracts, for they are varied. Still, the following comment is worth taking into account: To prefer those criteria that contribute to adherence to the technological procedures, thus by no means shortening of the construction period.

Conclusion

Should the price be the most often used evaluation criterion, the Public Procurement Act has to include an accurate definition and calculation of an exceptionally low price. Moreover, it is absolutely necessary that all bidders that participate in tender procedures with dumping prices are excluded.

In conclusion, it is important to point out that the evaluation criteria are just a tool to achieve the best result in tender procedures. It is solely up to the contracting authorities and general contractors, however, how they are to handle this tool.

Most of the respondents were forthcoming and helpful in the research, when almost 90% of the distributed questionnaires returned. Answers of most of the respondents were very apt and accentuated the same problematic issues in public procurement like those that are described in the thesis.

The only problem noticed during the research is the fact that even though the questionnaire was anonymous, some respondents refused to answer the question: Do you think that corruption is a problem of the construction industry today? The reason is obvious.

References

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