**Milestone 13 Public procurement procedure for construction works published (15/10/2019, in GA 31/05/2018)**

**Acts in the PP process in 2019 until the tendering procedure (15/10/2019)**

**09/01/2019** – the Slovak Railways sent an application for withdrawal of the documentation submitted on 30/11/2018 to the MoTC SR due to the need to complete the draft tender documents for changes introduced by the amendment to the PPA effective from 01/01/2019

**10/01/2019 to 28/02/2019** – finalization of the draft tender documents for changes introduced by the amendment to the PPA effective from 01/01/2019

**01/03/2019** – sending the draft tender documents to an external consultant (Partial contract No. 4/2018 of 03/12/2018) for the purpose of assessing the wording of the draft tender documents in terms of compliance with the PPA

**08/03/2019** – delivery of comments on the draft tender documents from the external consultant

**15/03/2019** - meeting with the external consultant to discuss modifications and changes in the revised draft tender documents

**21/03/2019** - receipt of comments on the draft tender documents from the external consultant following the conclusions agreed at the meeting held on 15/03/2019

**17/04/2019** - submission of finalized documentation for inspection at MoTC SR prior to PP declaration

**07/05/2019** – interruption of the inspection - comments of the MoTC SR, including a recommendation to use the possibility of ex-ante assessment, which is performed by Public Procurement Office (hereinafter referred to as “PPO”) prior to PP declaration

**09/05/2019 to 31/05/2019** - incorporation of comments into the draft tender documents / notification of the PP declaration and preparation of the required justification and statement (it was necessary to involve several professional units of Slovak Railways)

**31/05/2019** – management of the Slovak Railways decided to submit the PP documentation for ex-ante assessment

**03/06/2019** – submission of PP documentation to the PPO – application for ex-ante assessment

**03/07/2019** – delivery of PPO notice - non-compliance with the PPA

**04/07/2019 to 12/08/2019** - incorporation of comments of PPO into the draft tender documents (it was necessary to involve several professional units of Slovak Railways and external consultant)

**13/08/2019** – resubmission of PP documentation to the PPO – application for ex-ante assessment

**06/09/2019** – delivery of PPO notice - non-compliance with the PPA

**09/09/2019 and 10/09/2019** - incorporation of comments of PPO into the draft tender documents (it was necessary to involve several professional units of Slovak Railways)

**11/09/2019** – resubmission of PP documentation to the PPO – application for ex-ante assessment

**16/09/2019** – delivery of PPO notice - compliance with the PPA

**17/09/2019** - the result of the ex-ante assessment was sent to the MoTC SR with a request to terminate the PP pre-declaration inspection

**03/10/2019** - interruption of the inspection due to comments of the MoTC SR - to update the estimated contract value (hereinafter referred to as “PHZ”) in order to be valid at the time of the PP declaration and, at the same time, established in accordance with the PPA

**08/10/2019** - Update of PHZ (adjustment of the construction budget to price level of 1st quarter 2019)

**10/10/2019** – delivery of inspection report to the Slovak Railways from MoTC SR - consent to PP declaration

**11/10/2019** – sending a contract notice for publication in the OJ and PPJ

**15/10/2019** - publication of the contract notice in OJ (<https://ted.europa.eu/udl?uri=TED:NOTICE:482589-2019:TEXT:SK:HTML&src=0> )

**16/10/2019** – publication of a contract notice in PPJ (<https://www.uvo.gov.sk/vestnik/oznamenie/detail/421058>)

**Ex-ante assessment**

**What is an ex-ante assessment?**

It is an inspection carried out by the PPO when, in the case of an over-limit contract wholly or partly financed by EU funds, the contracting authority (Slovak Railways) may submit to the PPO documents to which objections may be raised in the PP process before the PP publication.

It is a precautionary measure of contracting authority that the PPO, as an institution carrying out (among other things) supervision of PP, expresses the opinion as to whether the documents (draft tender documentation comprising the draft tender documents, including draft qualification prerequisites, i.e. participation conditions; draft PP notice) are in accordance with the PP Act.

The purpose of the ex-ante assessment should be to provide professional support to contracting authority before the publication of the PP to reduce the error rate and, subsequently, cut the funds in the PP process.

Ex-ante assessment **does not apply** to the assessment of requirements for technical specifications, functional characteristics and professional requirements of the contract subject.

The ex-ante assessment results in:

* notification of the PPO stating the compliance of the submitted documents with the provisions of the PP Act or
* notification of the PPO on non-conformity of submitted documents with the provisions of the PP Act with designation of those parts of documents that are not in accordance with provisions of the PP Act, together with a brief justification.

According to the PP Act, the PPO is obliged to issue a notification within 30 days of the date of delivery of documents.

**Reasons why the documents were submitted to an ex-ante assessment**

In terms of financial volume and scope, this is a major investment Action. In the tender documentation there are similar requirements (especially qualification requirements) as in both actions No. 2015-SK-TM-0207-M and No. 2015-SK-TM-0200-W, which cannot be implemented due to impossibility to conclude a contract due to unfinished PP, which is delayed mainly due to the resolution of review procedures (opposition proceedings and subsequent appeal proceedings).

The MoTC SR recommended using the possibility of ex-ante assessment of documents as part of a pre-publication inspection and subsequently the management of the Slovak Railways agreed to such a procedure.

On 03/06/2019, an application for ex-ante assessment including the relevant documents were submitted to the PPO.

**Milestone 17 Contract signed for construction works (30/06/2020, in GA 31/03/2019)**

**Acts in the PP process after the PP publication from 16/10/2019 to 31/12/2019**

**17/10/2019 to 31/12/2019** – the process of explaining the information needed to draw up the tender and to demonstrate compliance with the qualification requirements to tenderers

**08/11/2019** – delivery of a request for redress (against the inability to adjust prices during construction period) – a tenderer requested to allow price adjustments due to changes in costs during construction, in accordance with the Methodological Instruction of the MoTC SR no. 6/2018 effective from 01/05/2018

**15/11/2019** – compliance with the request for correction – the Slovak Railways had to to modify the tender documents and, at the same time, to extend the deadline for submission of tenders (by 52 days), as the tender documents were substantially modified, what could have been a reason for participation (bid submission) in the PP