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Department of Central Procurement of Contracts

Bratislava, 24.08.2026
To all interested parties

Explanation No. 7

The contracting authority hereby informs that in the public procurement of the above-limit contract entitled: **"Library and Information System"** published in the European OJ No. 134/2026 on July 15, 2026, and in the Journal of Public Procurement No. 141/2026 under number 9987 – MSS from July 16, 2026, the following question was received:

Question No. 1:

Could the Contracting Authority consider amending point 9 of Article V of the Agreement (Annex 3a), so that it words:

'All prices and fees specified in this Agreement and in any Quotations are exclusive of any applicable value added tax and any other direct or indirect taxes, fees, duties or assessments, all of which shall be added to the fees and paid by the Customer. Payments of the fees specified in the Quotations shall be made without any deduction or withholding of any amount, tax or governmental charge. If the Customer is a tax-exempt institution, the Customer shall provide the Provider with the relevant confirmation of its tax-exempt status within ten (10) days from the effective date of this Agreement and shall promptly inform the Provider of any change in such status'."

Answer No. 1:

The original wording of the provision reflects a standard and customary approach to the allocation of tax liabilities in commercial and contractual relationships. The purpose of the provision is to ensure that the Contracting Authority bears transaction taxes, VAT, customs duties and other charges applicable to the supply of goods or provision of services.
Deleting the express carve-out ("except for taxes based on the Provider's net income"), particularly when read in conjunction with the wording "any other direct or indirect taxes", would create disproportionate legal and financial uncertainty; such wording could be interpreted broadly as requiring the Contracting Authority to bear direct taxes imposed on the income or profits of the tenderer/economic operator or, following contract award, the Contractor/Service Provider.
It is standard commercial practice that income taxes and taxes imposed on the net profits of an economic operator are borne exclusively by that economic operator, as the entity deriving the relevant income. Such taxes do not arise from or relate to the supply of the goods or provision of the services under the Contract, but rather to the economic operator's own income and profitability.
For these reasons, we maintain that the original wording should be retained, including the express carve-out for taxes based on the Service Provider's net income.
This clarification is intended to ensure that the tax allocation provision applies to taxes, duties and charges arising in connection with the performance of the Contract, while excluding taxes imposed on the economic operator's own income or profits.