



NATIONAL AGENCY FOR PUBLIC PROCUREMENT

**Online meeting of the European
Network of National Authorities in
the Field of Public Procurement
and of National Standardization
Bodies
January 28th 2021**

**Implementation of Article 42.3 of
Directive 2014/24/EU in the
Romanian public procurement
legislation - examples of good
practice**

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- 2019- National Agency for Public Procurement (ANAP) in collaboration with the National Standardization Body (ASRO) developed a **Methodological Guide for formulating the criteria related to standards in the award documents**
- (http://anap.gov.ro/web/wp-content/uploads/2019/08/Indrumar-ANAP-final_august2019.pdf).
- The purpose of the guide – to provide support to the professionals of the contracting authorities/entities regarding the application and appropriate formulation of the qualification requirements related to the compliance by economic operators of certain standards for:
 - quality management systems,
 - environmental management systems or other management systems, as well as
 - when defining the technical specifications in the task book, by reference to standards.



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- The guide is answering to questions like:
 - What do we have to know about standards?
 - What do European directives and national public procurement legislation provide regarding quality management standards & environmental management standards?
 - How do we formulate the qualification criteria in relation to the standards?
 - What are providing European Directives in the field of public procurement regarding the technical specifications included in tender documents, defined by standards?
 - How do we formulate the technical specifications in relation to the standards?



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- According to the national legislation (Law no. 98/2016 on public procurement, Law no. 99/2016 on utilities and Law no. 100/2016 on works and services concessions), the contracting authority/entity has the right to ask the economic operators to prove that certain quality management standards are met.
- The request shall be mentioned:
 - in the participation notice/invitation and
 - in the award documentation,



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- Where the contracting authority/entity entails minimum qualification requirements regarding the compliance by the economic operator with a certain quality management standard, it **shall refer to quality assurance systems based on relevant European standards, certified by accredited bodies.**
- The contracting authority/entity **must accept the presentation of certificates attesting that the economic operator complies with certain standards regarding quality management systems, issued by accredited certification bodies.**



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The guide wants to clarify some operational issues like:

- Has standard SR EN ISO 9001 an equivalent?
- What information must contain the certificate on quality management system ?
- Can ISO 27001, ISO 50001, ISO 45001 standards be considered as belonging to the series of quality management standards such as ISO 9001?
- What evidence can the economic operator provide to confirm the same level of quality as the certificate requested?
- How can a requirement for the implementation of a quality management standard be considered to be met in the case of a joint bid or an individual bid which is based on the capabilities of another legal entity?



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- ANAP considers as a good practice of contracting authorities to accept the presentation by the economic operators of certificates attesting the implementation of a quality management system by :
- reference to SR EN ISO 9001 Standard, or
- providing of an equivalent solution instead of the certificate, in cases where it could not be obtained within the required timeframe.



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- An equivalent measure may be the self declaration of the tenderer concerning the implemented a quality management system, followed by:
 - proof of legal purchase of the standards,
 - proof of training its own staff as specialists and auditors for the respective management system (at least 2 auditors), and
 - an internal audit report for the last year or evidence regarding the initiation of the certification process.



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- Examples of good practice in formulating the qualification/selection requirements
 - Contract for the supply of printer toners – “The tenderer shall provide evidence of the implementation of the quality management system in accordance with SR EN ISO 9001 — in the field of trade of goods, either by a certificate issued by an accredited certification body or by other means of proof concerning the quality management system that can be provided”.
 - Contract for the supply of agri-food products – “The tenderer will provide evidence of implementation and maintenance of procedures based on the principles of the food safety management system according to SR EN ISO 22000, either by a certificate issued by an accredited certification body or other means of proof concerning the food safety management system, that can be provided”.



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- Examples of good practice in formulating the qualification/selection requirement
 - Contract for providing magnetic resonance device repair services – “The tenderer shall provide evidence of holding a specific certification, certifying its compliance with the SR EN ISO 13485/SR EN ISO 9001 quality management standard in the field of medical devices repair/maintenance”.
 - Contract for providing security services – "The tenderer will present evidence of the implementation the quality management system in accordance with the standard SR EN ISO 9001 - in the field of protection and guard services, either by a certificate issued by an accredited certification body or by other means of proof regarding the quality management that can be provided ”.



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- Examples of good practice in formulating the qualification/selection requirement
 - Public works execution contract – “The tenderer will provide evidence of the implementation of the quality management system according to SR EN ISO 9001 - in the field of construction works related to the field of the contract works (construction of buildings/civil engineering works/special construction works), or through a certificate issued by an accredited certification body, or by other means of evidence regarding the quality management system that can be provided”.



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- Qualification requirement in relation to environmental management measures - works / services contracts by presentation of:
- procedures implemented at the level of the tenderer for the identification, planning, implementation, verification and continuous improvement of the environmental measures specified in the organized sites
- the infrastructure used for the implementation of the environmental measures
- the standard implementation certificate SR EN ISO 14001:2015



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- Is certification mandatory?

In EU Member States there are two types of certification of products and services:

- mandatory - refers to the “regulated field” through various normative acts (e.g. CE conformity marking for products: lifts, medical devices, personal protective equipment, etc.)
- voluntary - covers “unregulated area”(e.g. organizational management)



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➤ Technical Specifications

- Proof of conformity of products and services can take several forms:
- declaration of conformity - a document issued by a manufacturer stating and guaranteeing that the product meets the requirements of the applicable regulations.
- certificate of conformity - a document by which a product, process or service is in accordance with a certain standard or other normative document.



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- Conclusions:
 - ANAP and ASRO – have developed this guide as a result of:
 - frequent use in the award documentations of qualification requirements regarding quality management/environmental management standards;
 - The interest of contracting authorities/entities in consolidating the knowledge in the field of standards in general, and with the aim of ensuring unity, uniformity, balance and coherence in the adoption of any decision regarding their use.



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Thank you for the attention!

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