

Legal update

Venezuela's Rationality and Uniformity Law in Public Contracting

January 2018

Public law

On January 11, 2018, the National Constituent Assembly published in the Official Gazette No. 41,318 a "Constitutional" Law against economic war for Rationality and Uniformity in the Acquisition of Goods, Services and Public Works (Rationality and Uniformity Law in Public Contracting).

Purpose

The law sets basic rules for public administration entities at all levels regarding the processes for the acquisition and contracting of goods, services and public works.

Government Contracting Integrated System

The Rationality and Uniformity Law in Public Contracting originates from the concept of a Government Contracting Integrated System to be applied regarding a set of principles, rules, processes, subjects, authorities, contracts, rights, duties, resources, actions, governmental goals and other elements related to government contracting.

Unified operation of the Government Contracting Integrated System

This Rationality and Uniformity Law in Public Contracting unifies the operation of the Government Contracting Integrated System through the harmonization of methodologies, criteria and concepts used by Governmental bodies and entities, according to a policy aimed at simplifying the procedures, technological standardization, promoting new economic actors, creating new management methods, promoting national industry and optimizing public investment.

Preferred application of the rules of the Government Contracting Integrated System

Basic rules set forth in the framework law developing the Government Contracting Integrated System shall have preferential application since they make up the ruling basis regarding actors, management methods and components of the system that includes, among others: a centralized committee for purchases and procurement, a national contracting system, a transactional system for public purchases and a unique register for contracting.

Unity for Arithmetical Calculus

An objective determination unit is created and a simple arithmetical application called the "Unit for the Arithmetical Calculus of the Maximum and Minimum Threshold" (UCAU, for its acronym in Spanish) will be used as the only multiplier in order to obtain the amount related to maximum and minimum thresholds to determine the public contracting process to be followed, or for the fulfillment of conditions and requirements in such contracting process.

Fixing the value of an UCAU

The UCAU's value shall be fixed jointly by the ministries with competence in matters of planning and finance, with prior approval by the Council of Ministers.

Only registry for public contracting

In order to participate in a public contracting procedure, the only requirement shall be to submit evidence of registration in this register, which shall be regulated and administered by the national government. In order to obtain such evidence, an affidavit submitted using an electronic form shall be necessary.

First temporary provision

The entity in charge registering contractors in the public sector shall make the registration in the National Contractor Register of the companies domiciled in the country, communal councils and organizations of the Communal Economic System producing, trading or distributing food, raw material and elements; products, raw material and elements for agriculture production and industrial national agricultural food produce; pharmaceutical products, medical material and equipment; personal hygiene products and products for household cleaning, as well as any other products or elements necessary for the acquisition of goods, provision of services and performance of works contracted by the government. Such registration shall be made in accordance with the UCAU, with no additional justification or evidential documents to grant the relevant registration receipt.

This qualification shall only be made to companies and individuals duly registered and included in the relevant register before December 1, 2017.

Individuals or companies involved in contravening an administrative procedure or under penalty according to the Public Contracting Law may not be registered or qualified in this manner.

Second temporary provision

Until a special law in matters of public contracting is passed or the existing law is reformed, or until new regulations or administrative acts are issued, the procedures for contracting in the public sector shall comply with this Rationality and Uniformity Law in Public Contracting. The ministry in charge of matters related to planning may issue temporary resolutions for the immediate application of articles 6 and 8 to 10 of this law.

Effective date

The Rationality and Uniformity Law in Contracting became effective on January 11, 2018.

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