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On the basis on Article 33, paragraph 1 and Article 46, paragraph 3 of the Law on Classified Information (Official Gazette of the Republic of Serbia, No. 104/09), as well as on Article 42, paragraph 1 of the Law on the Government (Official Gazette of the Republic of Serbia No. 55/05, 71/05 - corrigendum, 101/07, 65/08, 16/11, 68/12- The Constitutional Court Ruling, and 72/12),

The Government has adopted the following

**DECREE
ON THE SPECIAL PROTECTIVE MEASURES RELATING TO THE
DETERMINATION OF FULFILLMENT OF ORGANIZATIONAL AND TECHNICAL
CONDITIONS
BY VIRTUE OF CONTRACTUAL RELATION**

I INTRODUCTORY PROVISIONS

Article 1

This decree prescribes special measures for the protection of classified information relating to the manner of and procedure for determining fulfillment of organizational and technical conditions for safeguarding of classified information provided to the legal or natural person by virtue of contractual relation.

Article 2

The contract, within the meaning of this decree, shall refer to a document that implies special measures for the protection of classified information that apply to all organizational and technical requirements for safeguarding classified information within the procedure for concluding a contract between the public authority and the legal or natural person based on which classified information shall be provided to the said persons (hereinafter: the classified contract).

The legal or natural person, within the meaning of this decree, shall refer to the contractors or subcontracts to which classified information is provided by virtue of contractual relation.

Organizational conditions shall apply in particular to the organization of the work process, protection of access to classified information and protection against unauthorized use of classified information, designation of the responsible person for the implementation of protective measures, as well as to the determination of the procedure for the protection of classified information in case of contingency and emergency.

Technical conditions shall apply particularly to the physical and technical protection of the area i.e. premises in which classified information is stored, fire protection, protection of classified information in the course of its transfer and delivery outside storage premises, transport of classified information, safeguarding and protection of information and telecommunication devices for the transmission and communication of classified information and the implementation of prescribed measures for cryptographic protection.

II PROCEDURE FOR CONCLUDING AND PERFORMING THE CLASSIFIED CONTRACT

Article 3

The procedure for the conclusion of classified contract shall include the following:

- 1) preparatory activities, negotiations that precede the conclusion of classified contract and submission of bids;
- 2) content of classified contract;
- 3) conclusion and performance of classified contract;
- 4) actions in case of termination of classified contract;

The performance of classified contract shall imply all actions to be taken upon its conclusion until the fulfillment of contractual obligations or termination of its validity.

Article 4

Before launching the procedure for negotiations and selection of the contractor, the public authority shall adopt a decision specifying the subject of classified contract, actions relating to its conclusion and performance, as well as determine the classification level of information to be contained in that classified contract.

Article 5

The invitation to participate in the procedure for conclusion of classified contract shall be communicated in accordance with the law regulating public procurement.

A provisional classified information registry shall be established in the course of negotiations and selection of contractors when it is necessary to exchange classified information between the public authority and the legal or natural person that does not have a registry of classified information.

The provisional registry referred to in paragraph 2 of this Article shall be established within the registry of classified information of the public authority or within the legal or natural person.

The provisional registry referred to in paragraph 2 of this Article established to serve the needs of the legal or natural person selected in the procedure for conclusion of the classified contract shall be closed down after completing the contractor selection procedure.

The legal or natural person selected as contractor in the procedure for concluding o the classified contract shall establish a separate registry of classified information upon which the provisional registry referred to in paragraph 2 of this Article shall be closed down.

Article 6

If the legal or natural person cancels its participation in the procedure for concluding the classified contract, it shall be obligated to return classified information to the public authority simultaneously with communicating a cancellation notice.

The provision set out in paragraph 1 of this Article shall also apply to the legal or natural person that has failed to be selected in the procedure for the conclusion of classified contract.

Article 7

The negotiations and contractor selection within the procedure for conclusion of classified contract shall take place on the premise for storage of classified information that fulfills the conditions for implementing special physical and technical measures for the protection of classified information.

Article 8

The authorized person of the public authority shall provide classified information to other legal or natural persons under the conditions stipulated by the law regulating classified information.

Article 9

Prior to the conclusion of classified contract with the legal or natural person, the authorized person of the public authority shall determine the fulfillment of organizational and technical conditions for storage of information classified TOP SECRET RS, SECRET RS or CONFIDENTIAL RS.

The authorized person referred to in paragraph 1 of this Article shall check out the following:

- 1) if access to classified information is indispensable to natural persons that are to carry out the works stipulated by the contract;

- 2) if the legal person holds a clearance that is at least equivalent to the classification level of information to be provided to that legal person;
- 3) if natural persons who are to perform contracted works have been issued clearances or permits;
- 4) if the facility or premise of the legal person in which classified information is to be stored is equipped in accordance with the regulation setting out special physical and technical measures for the protection of classified information;
- 5) manner of keeping records, safeguarding and archiving of classified information;
- 6) if the legal person has a document that addresses handling of classified information, measures for the protection of classified information, as well as handling of classified information in case of contingency;
- 7) marking of cabinets and containers in which classified information is stored and filed away;
- 8) method of using and accessing classified information, keeping files and records of access to classified information, as well as of storing such records and files;
- 9) method of reproduction of classified information;
- 10) packing and delivery of classified information inside and outside the secured area;
- 11) procedure for destruction of classified information;
- 12) records of entries and exits of persons and vehicles, uses of security passes and special security passes, functioning of the physical and electronic system for the protection of facilities and premises;
- 13) manner of safekeeping clearances;
- 14) receipt, processing, transfer, storage, archiving and destruction of classified information in the electronic form;
- 15) storage of encryption devices;
- 16) manner of safekeeping classified contracts;
- 17) implementation of other measures for the protection of classified information.

The authorized person shall inform the head of the public authority of the results of such check-out.

Article 10

Prior to the conclusion of classified contract that contains information classified as TOP SECRET RS, SECRET RS or CONFIDENTIAL RS, the legal or natural person which is to conclude the classified contract, shall draft instructions for the protection of classified information as an annex to such contract.

The instructions referred to in paragraph 1 of this Article shall contain obligations to be fulfilled by the legal or natural person which is to conclude the classified contract, such as

- 1) designating a responsible person for the implementation of measures for the protection of classified information;

- 2) maintaining a constant contact with the authorized person or other person of the public authority responsible for the supervision of the performance of the classified contract;
- 3) ensure that classified information contained in the classified contract is not reproduced unless stipulated by such contract or approved by the public authority;
- 4) provide information on persons that are to have access to classified information contained in the classified contract;
- 5) keep records of employees holding clearances who are to participate in the performance of the classified contract;
- 6) promptly inform the public authority of any irregularities observed in connection with the protection of classified information or its disclosure to the unauthorized person;
- 7) allow the public authority to carry out a control of implemented measures for the protection of classified information in the classified contract;
- 8) brief the subcontractor on the measures for the protection of classified information that the above is obligated to implement;
- 9) use classified information to which it has access under the classified contract or subcontract only for the purposes stipulated by such contract or subcontract;
- 10) return all classified information to the public authority upon the performance of the classified contract;
- 11) ensure destruction of classified information in accordance with the regulations governing special measures for the physical and technical protection of classified information;
- 12) ensure that employees are briefed on the measures for the protection of classified information and that such measures are observed by them;
- 13) make a list of classified information and fields in which classified information may be generated.

The measures for the protection of classified information stemming from paragraph 2 of this Article in accordance with the law regulating classification of information shall be contained in the classified contract concluded between the public authority and the legal or natural person in connection with the execution of works in question.

In the course of performing the classified contract or subcontract the legal or natural person or the subcontractor shall comply with the obligations set out in the instructions referred to in paragraph 2 of this Article.

Article 11

In case of termination of the classified contract, the legal or natural person shall without delay return the documents and other materials containing classified information received from the public authority, as well as take measures in connection to the closedown of its registry unless such registry is managed on other grounds.

Article 12

If the foreign natural or legal person makes access to the premises of the legal or natural person with which it has concluded the classified contract where such access also implies access to classified information, it shall be necessary to obtain a prior approval from the public authority with which the legal or natural person has concluded the classified contract unless stipulated otherwise by the relevant international agreement.

Article 13

Transfer and delivery of classified information to the legal or natural person when concluding or performing the classified contract shall be done in accordance with the regulations governing special measures for the physical and technical protection and Special measures for the protection of classified information in information and communications systems.

Article 14

The provisions of this decree that apply to the conclusion and performance of the classified contract shall also apply to the conclusion and performance of the foreign classified contract unless envisaged otherwise by the relevant international agreement.

III FINAL PROVISION

Article 15

This decree shall enter into force on the eighth day from its publication in the Official Gazette of the Republic of Serbia and be implemented upon the expiry of six months from the date of its entry into force.

Ref. 05 No. 110-5864/2013
Done in Belgrade on 12 June 2013

Ivica Dačić, sgd.
Prime Minister

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