

DECREE no. 326/2006 Coll.
of 9 June 2006

**on Particulars of the Attestation Procedure for Electronic Tools, Essentials of the
Application for Attestation and the Amount of Fee for the Submission of
Application for Attestation (Attestation Procedure and Electronic Tools Decree)**

Pursuant to § 159(5) of the Act no. 137/2006 Coll., on Public Contracts (hereinafter referred to as „the Act“), the Ministry of Informatics (hereinafter referred to as „the Ministry“) to implement § 149(2) of the Act lays down

§ 1

Scope

This Decree provides for

- a) essentials of the application for attestation,
- b) amount of fee for the submission of the application for attestation,
- c) particulars of the attestation procedure.

§ 2

Essentials of Application for Attestation

- (1) The application for attestation, which the operator submits to the Ministry, shall include
 - a) business name or name of the operator of the electronic means (hereinafter referred to as „the operator“), identification number or equivalent information and address of registered office or, where appropriate, any other address for delivery of mail in the case of legal person, or
 - b) name or, where appropriate, names and surnames or, if appropriate, supplement distinctive for the person of entrepreneur or type of enterprise relating to such a person or to the type of enterprise pursued thereby, identification number and address registered in the Companies register or in any other register provided for by law as a place of business or, where appropriate, any other address for delivery of mail, where a natural person in the capacity of entrepreneur acts as an operator,
 - c) business name or name, identification number or equivalent information and address of registered office or, where appropriate, any other address for delivery, where a legal person acts in the capacity of manufacturer of an electronic tool or name or, if appropriate, names and surnames, alternatively supplement distinctive for the person of entrepreneur or type of enterprise relating to such a person or to the type of enterprise pursued thereby, identification number and address registered in the Companies register or in any other register provided for by law as a place of business or, where appropriate, any other address for delivery of mail, where a natural person in the capacity of entrepreneur acts as a

- manufacturer, if the electronic tool, and such persons are not identical with the person of an operator,
- d) trademark and version of the electronic tool,
 - e) list of all types of award procedures or, if relevant, of acts within the framework of a single type thereof, or of special procedures secured by the electronic tool,
 - f) information, which implies that the electronic tool allows to carry out a design contest,
 - g) electronic acts of the designed type of award procedures or what type or more types of award procedures such an electronic tool secures, and which constitute the subject-matter of the application for attestation from the side of the operator,
 - h) special procedures in an award procedure or design contest, where the electronic tool allows for them, and which constitute the subject-matter of the application for attestation,
 - i) statement of the operator or manufacturer of a tool, if it operates such an electronic tool that it secures the operation in conformity with the requirements imposed on the electronic tool by law or decree which lays down more detailed requirements upon such an electronic means, electronic tools and electronic acts in awarding public contracts,
 - j) evidence of payment of a fee.

§ 3

Amount of Fee for Submission of Application for Attestation

- (1) In case that the electronic tool secures electronic transmission and receipt of tenders or, if appropriate, electronic receipt of requests to participate and projects in a design contest or electronic auction or dynamic purchasing system, the fee shall amount to
 - a) CZK 10,000 in case that the electronic tool allows for carrying out
 - 1. open procedure,
 - 2. restricted procedure,
 - 3. negotiated procedure with publication,
 - 4. negotiated procedure without publication,
 - 5. competitive dialogue, or
 - 6. simplified bellow-the-threshold procedure,
 - b) CZK 10,000, if the electronic tool allows for carrying out special procedures in the award procedure, which consist in
 - 1. conclusion and use of framework agreement with one or more tenderers,
 - 2. setting up of the dynamic purchasing system, or
 - 3. use of electronic auction,
 - c) CZK 10,000 in case that the electronic tools allows for carrying out a design contest, which is a procedure of the contracting body to acquire a design, project or plan,
 - d) CZK 120,000 in case that the electronic tool allows for carrying out only single electronic act.

- (2) In case that the electronic tool pursuant to paragraph 1 allows for carrying out more types of award procedures or special procedures, the fee shall amount to CZK 10,000 for each type of award procedure or for each special procedure in the award procedure or design contest, which might be carried out by means of electronic tool; where the electronic tool allows for carrying out more than 5 types of award procedures pursuant to paragraph 1(a), or combination of types, special procedures or design contests, the number of which exceeds 5, the fee shall amount to CZK 50,000.
- (3) In respect of electronic tools, which fail to secure transmission and receipt of tenders or, where appropriate, electronic receipt of requests to participate and projects in design contest or electronic auction or dynamic purchasing system, the fee shall amount to CZK 100.

§ 4

Particulars of Attestation Procedure

- (1) The contracting body shall secure the fulfilment of requirements imposed upon electronic tool by
 - a) attestation in case that the contracting body acts in capacity of an operator; the operator shall be understood as a natural or legal person that secures the operation of electronic tool for the purpose of the award of public contracts, or
 - b) employment of electronic tool of any other operator that holds attestation, for the needs of award procedure in case that the operator fails to act as an operator.
- (2) The operator shall evidence the fulfilment of requirements pursuant to § 149(2) of the Act for the needs of attestation procedure with the documentation, which it maintains of the electronic tool pursuant to this Decree (hereinafter referred to as “the documentation of electronic tool”).
- (3) In case that the electronic tool secures electronic transmission and receipt of tenders or, where appropriate, electronic receipt of requests to participate and projects in design contest or electronic auction or dynamic purchasing system, the operator shall evidence for the needs of attestation procedure
 - a) fulfilment of requirements pursuant to § 149(6)(c) to (i) of the Act with valid certification¹ of implementation of information security management system in the field of operation of electronic tool concerning conformity with the Czech technical standard ČSN BS 7799-2 – Information security management system – Specification with guidance for use or concerning conformity with any other foreign standard, the content of which conforms to the content of the standard ČSN BS 7799-2 in case that the

¹ Act no. 22/1997 Coll., on Technical Requirements upon Products and Amendments to Certain Other Acts, as subsequently amended.

operator obtained certification from the authority of the State other than the Czech Republic,

- b) fulfilment of requirements pursuant to § 149(6)(b) of the Act with
 - 1. calibration sheet of the time measuring tool under separate legal regulation², unless it makes use of the operation system under § 4(3)(b)(2) for measuring the time, or
 - 2. documentation of the time measuring tool, where the operation system of the operator is employed for measuring the time; such documentation shall evidence uncertainty regarding the measuring of time and linkage to the source reproducing universal coordinated time documenting time measuring tools, where the manner of carrying out synchronization with the source of universal coordinated time is described, even in the case of occurrence of the leap second.
- c) fulfilment of requirements pursuant to § 149(6)(a) of the Act with documentation of the electronic tool, in which it shall indicate the manner of fulfilment of requirements referred to in § 4 to § 7 of Decree no. 329/2006 Coll. laying down more detailed requirements concerning electronic means, electronic tools and electronic acts in awarding public contracts,
- d) fulfilment of requirements pursuant to § 149(6)(j) of the Act with documentation of the electronic tool,
- e) fulfilment of requirements as regards procurement of records pursuant to § 8 of Decree no. 329/2006 Coll. laying down more detailed requirements concerning electronic means, electronic tools and electronic acts in awarding public contracts, with documentation of the electronic tool, in which it shall indicate the list of all recorded events, manner of procurement and maintenance thereof.

(4) The Ministry shall delivery attestation for the electronic tool, if the conformity of such an electronic tool with requirements imposed upon the tool is established.

§ 5

Entry in Effect

This Decree shall enter in effect on 1 July 2006.

Minister:
Ing. **Bérová**, autograph

² Act no. 505/1990 Coll., on Metrology, as subsequently amended.

Model Standard Form of the Application for Attestation

A. Identification data of the operator

Legal person

- Business name or name:
- Identification number or equivalent information:
- Address of registered office or, if appropriate, any other address for delivery of mail:

Natural person

- Name or, if appropriate, names and surnames:
- Supplement distinctive for the person of entrepreneur or type of enterprise relating to such a person or type of enterprise pursued thereby:
- Identification number:
- Address registered in the Companies Register or in any other register provided for by law as a place of business or, where appropriate, any other address for delivery of mail:

B. Identification data of the manufacturer, unless it acts in the capacity of the operator of an electronic tool

- Name or, if appropriate, names and surnames:
- Supplement distinctive for the person of entrepreneur or type of enterprise relating to such a person or to the type of enterprise pursued thereby:
- Identification number:
- Address registered in the Companies Register or in any other register provided for by law as a place of business or, where appropriate, any other address for delivery of mail:

C. Identification of electronic tool

Electronic tool

- Trademark:
- Version:
- List of all types of award procedures or, if relevant, of acts in the framework of a single type, or of special procedures in the award procedure or design contest, which are secured by the electronic tool, and which constitute the subject-matter of the application for attestation from the side of the operator or manufacturer that ensures the operation of such a tool: