

QUESTIONS & ANSWERS
 regarding implementation of projects under the First Call for proposals
Part IV

№	QUESTIONS	ANSWERS
1	<p>Competitive negotiated procedure In the course of preparation of the TD for works - competitive negotiated procedure, we found out an discrepancy in the templates of PRAG and need your instructions how to proceed. First of all, we consider PRAG and its annexes as a base for contracting, while the regulations of LSP (Law for spatial planning) and related to it sub-legislative documents define how the process of implementation and acceptance of works should be done. Thus the two documents use different definitions - PRAG discusses provisional and final acceptance, final statement of account and related to it retention money, while the LSP introduces the so called Act 15 and Act 16, as core phases (documents) for works acceptance. The discrepancy we found is the following:</p> <ul style="list-style-type: none"> • The General Conditions – article 47.3 states that retention money will be released (paid) within 60 days of the issuing of the signed final statement. 	<p>BG</p> <p>Актове, съгласно българското законодателство, които следва да се считат за еквивалентни на Certificate of provisional acceptance, Final acceptance certificate and Final statement of account:</p> <ol style="list-style-type: none"> 1. Certificate of provisional acceptance: <ul style="list-style-type: none"> – Акт образец 15 за строежи от I-ва до V-та категория; – Акт за приемане работата на Строителя, аналогичен на приложимата информация от Акт образец 15, съответстващ на вида и спецификата на предвидените строително-ремонтни дейности, включващ количествено-стойностна сметка за строежи VI-та категория. 2. Final acceptance certificate : <ul style="list-style-type: none"> – Разрешение за ползване на строежа за строежи от I-ва до III-та категория; – Удостоверение за въвеждане в експлоатация за строежи от IV-та и V-та категория; - За строежи VI-та категория е неприложимо. 3. Final statement of account: <ul style="list-style-type: none"> - Административен акт въз основа на който се извършва счетоводно заприходяване на активите и/или повишаване на стойността им и извлечение от съответните счетоводни сметки, съгласно националното законодателство.

- As per Special conditions - article 47.1 the amount of retention money is fixed to 10% (confirmed in the contract form for works contracts, where it is included as a must), and cannot be substitute by retention guarantee (47.2)
 - article 51.1 states that Unless otherwise agreed in the Special Conditions, the Contractor shall submit to the Supervisor a draft final statement of account no later than 90 days after the issue of the final acceptance certificate referred to in Article 62. The template of Special condition does not give the right to change this article.
 - According to article 62.1 final acceptance certificate is issued Upon the expiry of the defects liability period.
 - So if we follow all the rules, we have to finish the works, to retain 10% of the money, to wait for 12 months to expire defect liability period, then to issue a final acceptance certificate , based on which to issue the final statement of account, and then to pay to the contractor the retained money. However, the duration of the subsidy contract is 24 months which cover only the implementation of the actual works, but not the defect liability period.
- Following the above mentioned, we see necessity the definitions of PRAG (provisional and final acceptance, final

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Acts according to Bulgarian legislation to be considered equivalent to Certificate of provisional acceptance, Final acceptance certificate, Final statement of account:

1. Certificate of provisional acceptance:

- **Act 15** for the construction of **I to V category**;
- **Act for accepting work** on the construction similar to applicable information by Act 15 corresponding to the type and specifics of the planned construction and repair activities, including bill of quantities for construction **VI category**.

2. Final acceptance certificate:

- **Permission to use** the building for the construction of **I to III category**;
- **Certificate of commissioning** for the construction of **IV and V category**;
- For construction **VI category** is **not applicable**, under SPA.

2. Final statement of account:

- Administrative Act on the basis of which the accounting entries about the assets and / or increase of their value are made and excerpt from the relevant Accounts, under national law.

statement of account) to be bound with the ones which LSP introduces - Act 15 and Act 16, in order to be able to use them in correct way. Additionally, the defect liability period introduced by PRAG is less than the warranty periods which are imposed by LSP and particularly Ordinance № 2 of the 2003 - Commissioning of buildings in the Republic of Bulgaria and the minimum warranty periods for completed construction works, facilities and construction sites – article 20.

We are confident that applicable are the periods laid down in the Law, but not the one (365 days) in the guide for contracting, however this discrepancy may cause problems because it becomes contractually agreed, if the templates of general and special conditions are used.

We kindly ask for your competent instruction how to proceed with the preparation of the clauses in the contract, related to the acceptance of the works, retention money and defect liability period.