

## AUDIT REPORT 5/2023

### **Pre-contractual audit of public-contract works: Substantial irregularities & further findings of period from 1.1.2022 to 30.6.2023**

#### SUMMARY

During the period from 1.1.2022 to 30.6.2023, the substantial irregularities and the most critical findings, which emerged from the pre-contractual audit of the procedures for awarding public works, are as follows:

**I.** From 1.9.2021 onwards, the execution of supplementary works can be assigned directly to the initial contractor of a public work regardless of unforeseen circumstances as well as whether said circumstances were required at the time the initial contract was awarded. It is still, however, audited if the works assigned are indeed essential for its completion or if, on the contrary, they extend or change the original contractual subject-matter.

**II.** Although public works aimed at covering permanent needs of a public authority can legally be assigned through a competitive tendering procedure, said procedures were not always followed during the critical period, despite the purpose of the works concerned which definitely had not arisen due to unforeseen circumstances.

**III.** Economic operators whom the contracting authorities deprived of the ability to fulfill the criteria of financial adequacy by summing up the capabilities of the respective candidate and a third supporting party, or of the members of a candidate association of economic operators, requiring, on the contrary, the fulfillment of this particular criteria by one operator exclusively, were deemed illegally excluded.

**IV.** The irregularities found at the stages of the support documents' verification either for the participation in the tendering procedure, or the awarding of the contract, resulted in the illegal exclusion of economic operators who would normally be selected.

**V.** The Section set the framework of the audit carried out, particularly, at the stages of the award procedure of the works financed by the Recovery and Resilience Fund, and formulated observations on the content of contract notices submitted to this audit.

**VI.** Part of the amending contracts submitted to the Section were based on increases in the prices of materials, in terms of which the subject-matter of the audit consisted of whether the adverse conditions, which were formed in the markets, and found to be the operative event which gave rise to these increases, appeared long after the critical time of the invitations to tender for the public works and, therefore, impossible to predict.