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COVID 19 FAQs regarding SELECTION PROCEDURES in Peru

What happens with the contracts that are being executed with the State, whose contractual object is not in the exception activities foreseen in the Supreme Decree 044-2020-PCM?

Contractors who are executing contracts with the State, whose activities are not included within the exceptions of D.S. 044-2020-PCM, a deadline for the payment of benefits, claiming that this is a situation that is not attributable to them and prevents them from fulfilling the contract. The extension of time may be requested for the duration of the emergency situation.

The legal basis is as follows:

Contracting Regulations approved by Supreme Decree 344-2018-EF. For the purpose of contracts for goods and services: Procurement Regulations approved by the D.S. 344-2018-EF.

In the case of contracts for goods and services Article 158.

Extension of the contractual term 158.1.

It is justified to extend the deadline in the following cases:

- a. When the additional period is approved, insofar as it affects the time limit. In this case, the contractor extends the term of the guarantees they have granted.
- b. For delays and/or stoppages not attributable to the contractor.

158.2. The contractor requests the extension within seven (7) business days following notification of the approval of the additional or the end of the cause of the delay or stoppage.

In the case of works contracts: Article 197.

Causes for extension of time The contractor may request the extension of the agreed term for any of the following reasons beyond their control, only if they modify the critical path of the work execution program in force at time of the request for extension:

- a. Delays and/or stoppages for reasons beyond the contractor's efforts
- b. When an additional period is necessary for the execution of additional work. In this case, the contractor extends the period of the guarantees that they have granted.

For contracts resulting from bidding processes called before April 3, 2017, the legal grounds are the following:

Supreme Decree 350-2015-EF amended by Supreme Decree 056-2017-EF. For contracts of Goods and services (Article 140 of the Regulation) and for work contracts (Article 169).

What happen with contracts that are being executed with the State, and that their purpose is the delivery of food, pharmaceuticals, and assistance to health centers?

Whereas, in accordance with Article 2.1. of S.D. 044-2020-PCM, it is necessary to ensure the supply of food and medicine and the continuity of public services described in Article 4 of the aforementioned law, which in its section 4.1., subparagraphs a) and b), refers to the



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production and supply of food and contractors who have been executing contracts with the State, whose activities are related to the supply of food and medicine, they should continue these benefits. For this purpose, the employer must apply for the relevant road traffic permits.

What will occur with scheduled hearings at the Supervisory agency for state procurement (OSCE) Tribunal, as well as Arbitral Tribunals? All hearings scheduled by the OSCE Tribunal, as well as those of Arbitral Proceedings for disputes related to contracts with the Peruvian State, should be rescheduled to a date beyond the period of the sanitary emergency. What will happen with the electronic submission of proposals?

As the SEACE facility continues its operation without any difficulties, proposals must be submitted electronically by the indicated date, unless the OSCE issues a communication to the SEACE stating that such activity is suspended. The logistical actions that must be taken to make the electronic submission possible are included in exceptional cases allowing physical mobility, given that these actions are necessary for the provision of work.

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