

Subject :

Doubts regarding the timing recognized for violating Article 14, Paragraph 1 of the Act on Recusal of Public Servants Due to Conflicts of Interest.

Description :

1. Article 14 of the Act on Recusal of Public Servants Due to Conflicts of Interest regulates private law transactions. Therefore, the times of private law transactions shall be established according to the Government Procurement Act, depending on whether a contract is signed. In a procurement case in which a public servant-serving agency awards a related party a bid but the procurement agency did not sign a contract with the related party, it is difficult to conclude that the transaction behavior provided by Article 14 of the Act on Recusal of Public Servants Due to Conflicts of Interest has occurred.
2. When applying for a subsidy, the applicant submits an application to the institution or organization, which constitutes the proposal for the subsidy contract. The institution or organization's consent constitutes the subsidy contract's commitment. At this time, the institution or organization has agreed to the terms set by the subsidy recipient and provider, and the subsidy contract is established. Therefore, upon approval by the institution or organization, the subsidy contract between the applicant and the institution or organization is established. It is also the benchmark time point for identifying illegal subsidies under this Act. Whether the government agencies will subsequently allocate subsidy funds in one lump sum or installments or if the subsidy recipient will provide evidence to the government agencies to substantiate that the write-offs do not constitute elements of violation for Article 14, Paragraph 1 of the Act on Recusal of Public Servants Due to Conflicts of Interest.