The Law of the Republic of Kazakhstan No. 303-III "On Government Procurement" of 21 July 2007

Chapter 1. General provisions

Chapter 2. State regulation of the government procurement system

Chapter 3. Government procurement by the tender

Chapter 4. Government procurement by the price quotation request method

Chapter 5. Government procurement by the one source method

Chapter 6. Government procurement at auctions and through commodity exchanges

Chapter 7. A government procurement contract

Chapter 8. Special provisions

Chapter 9. Final provisions

Article 1. General Definitions Used in This Law

- 1) auction step –amount of money, for which reduces the price of the auction item;
- 2) auction commission a collegial body created by the organizer of the government procurement procedures for government procurement by auction method provided by this Law;
- 3) auction documentation the documentation provided by the potential supplier to prepare an application for participation in the auction, which contains the requirements for participation application in the auction, the terms and procedure of government procurement by auction method;
 - 4) potential supplier

any physical person or legal entity, which

has the right to determine decisions and (or) to exert an influence upon decisions passed by the said potential supplier, in particular in virtue of a deal made in the written form, as well as any physical person or legal entity in relation to which the said potential supplier has such a right;

- 6) uniform goods, work, services goods, work, services which are not identical, have similar characteristics and consist of similar components, that allows them to perform same functions and to be interchangeable;
- 7) affiliated entities of legal entities, fifty and more per cent of voting shares (share of participation in authorized capital) in which is owned by the state, legal entities, in which fifty

- 20) authorised body for government procurement (henceforth the authorised body) a state body performing regulation of the government procurement system;
- 21) government procurement system a totality of subjects of the government procurement system and their relations determined by the unity and interconnection, in the process of carrying out by them of activities in the sphere of government procurement;
- 22) subjects of the government procurement system physical persons and legal entities carrying out activities in the sphere of government procurement;
- 23) activities in the sphere of government procurement—elaboration and approval of an annual government procurement plan, organisation and conducting of government procurement, fulfilment of government procurement contracts, rendering of services for preparation and (or) improvement of professional skills of specialists in the sphere of government procurement, consulting, information services to subjects of the government procurement system to be implemented in accordance with this Law, as well as civil legislation of the Republic of Kazakhstan;
- 24) government procurement contract a civil law contract concluded between the customer and the supplier in accordance with this Law, as well as civil legislation of the Republic of Kazakhstan, in relation to supply of goods, performance of work, rendering of services to ensure functioning, as well as performance of state functions or statutory activities of the customer;
- 25) organiser of government procurement a legal person or structural unit acting on behalf of the legal person formed it which carries out organisation and conducting of government procurement;
- 26) procedure for organisation and conducting of government procurement a complex of mutually connected sequential measures to be implemented by the organiser of government procurement, appropriate commission in accordance with this Law, for the purposes of concluding with a potential supplier a government procurement contract;
- 27) domestic businessmen potential suppliers who are residents of the Republic of Kazakhstan and who carry out business activity;
- 28) domestic manufacturers that are potential suppliers (henceforth domestic manufacturers) physical and (or) legal persons which are residents of the Republic of Kazakhstan and which produce:

goods entirely manufactured in the Republic of Kazakhstan, in accordance with the customs legislation of the Customs Union and (or) of the Republic of Kazakhstan;

goods exposed to sufficient processing in the Republic of Kazakhstan in accordance with the criteria of sufficient processing, in accordance with the customs legislation of the Customs Union and (or) of the Republic of Kazakhstan;

- 29) supplier a physical person carrying out business activities, a legal entity (except for state agencies, unless it is established otherwise by laws of the Republic of Kazakhstan), a temporary association of legal entities (consortium) being a counter agent to the customer in the government procurement contract concluded with it. The physical person, who is not a subject of business activities, may be a supplier in the case stipulated by subparagraph 5) of paragraph 3 of Article 41 of this Law;
- 30) expert commission a collective body to be formed by the organiser of government procurement, to be attracted to participate in elaboration of a technical task and (or) technical specification to goods, work, services to be purchased, and (or) to prepare an expert's conclusion

of the Republic of Kazakhstan, this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. Where an international contract ratified by the Republic of Kazakhstan establishes other rules than those, which are stipulated by this Law, then rules of the international contract shall be applied.

Article 3. Principles of Legal Regulation of Government procurement

The legislation of the Republic of Kazakhstan concerning government procurement shall be based on the principles of:

- 1) optimal and effective expenditure of cash assets used for government procurement;
- 2) giving to potential suppliers of equal possibilities to participate in the procedure for conducting of government procurement, except for the cases stipulated by this Law;
 - 3) fair competition among potential suppliers;
 - 4) publicity and transparency of the process of government procurement;
 - 5) support of domestic businessmen.

Article 4. Government procurement Conducted Without Application of the Rules of This Law Regulating Selection of a Supplier and Conclusion of a Government procurement Contract with It

- 1. Government procurement shall be conducted without application of the rules of this Law regulating selection of a supplier and conclusion of a government procurement contract with it in cases of:
- 1) purchases of goods, work, services, where the total annual amount stipulated by the annual government procurement plan does not exceed two thousand fold amount of the monthly assessment index established by the law concerning the republic's budget for the appropriate financial year;
- 2) purchases of goods, work, services at prices, tariffs, charges and payments established by the legislation of the Republic of Kazakhstan;
- 3) purchases to perform operative-search activities, as well as investigation actions by bodies authorised to conduct them in accordance with the legislation of Republic of Kazakhstan:

of services of persons expressed the consent to render confidential assistance to bodies conducting operative-search activities;

- of service premises, transport and other technical means, property;
- of goods, work, services to form secret organisations;
- of services of officials and specialists having necessary scientific-technical or other special knowledge;
 - 4) purchases of the right of nature use;
- 5) purchases of goods being a raw resource for strategically important productions, which are not mined in the territory of the Republic of Kazakhstan and purchased abroad, according to the list approved by the Government of the Republic of Kazakhstan;
- 6) purchases by state enterprises, legal entities, fifty and more per cent of voting shares (share of participation in authorized capital) in which is owned by the state, and legal entities affiliated with them, of goods for the purposes of their further processing, according to the list approved by the Government of the Republic of Kazakhstan;
 - 7) purchases of goods, services related to representative expenses;

8) purchases of materials of exhibitions, seminars, conferences, meetings, forums,

- 21-1) procurement of services related to obligatory medical examination of workers engaged at hard work, work with harmful (especially harmful) and (or) dangerous working conditions, and also at work related to high danger, machinery and mechanisms;
- 21-2) procurement of medical preparations to render the guaranteed volume of unpaid medical aid, treatment and prevention of epidemiological diseases;
- 22) purchases of services for treatment of citizens of the Republic of Kazakhstan abroad, as well as services for their transportation and accompanying;
 - 23) purchases of services related to incurring of travel expenses;
- 24) purchases of goods being cultural values, in particular museum items and museum collections, as well as rare and valuable editions, manuscripts, archives documents, including copies, which have a historic, art or another cultural importance, which are taken by the state under protection as monuments of history and culture and designated for re-filling of the museum, library, archives stock, cinema, photographic stock and other analogous stock;
- 25) purchases of goods, services being intellectual property items from a person having exclusive rights in relation to goods, services to be purchased;
 - 26) purchases of regulated goods, rviK68ml2e8r8 Tw[mucya1.8(9g-.0012 v9r) purchas)ns

staying of guarded persons, as well as services for formation of video archives and information services to activities of the President of the Republic of Kazakhstan;

- 33-1) purchases of goods, works and services required to support the activities of the President of the Republic of Kazakhstan and other protected persons, maintenance, servicing and operation of state residences, vehicles and aircraft, designed to serve the President of the Republic of Kazakhstan and other protected persons, as well as purchases of goods, works and services required for events involving the President of the Republic of Kazakhstan and other protected persons, in accordance with the legislation of the Republic of Kazakhstan;
- 34) purchases of consulting and law services for defence and representation of interests of the state or customers at international commercial arbitration or foreign judicial bodies;
- 35) purchases of services of property trust management from a person determined by the legislation of the Republic of Kazakhstan;
- 36) purchases of goods, work, services from a person determined by laws of the Republic of Kazakhstan;
- 37) payment of remuneration to members of the board of directors of joint-stock companies, to members of the supervisory council of limited and additional liability partnerships;
- 38) purchases by a specialised organisation (agent) of foodstuffs from home producers of that produce, as well as services of their storage, processing, carriage. The list of specialised organisations (agents) shall be approved by the Government of the Republic of Kazakhstan;
 - 39) purchases of services of processing of data of statistical monitoring;
 - 40) purchases of property (assets) sold at bidding (auctions):
- by law enforcement officers in accordance with the legislation of the Republic of Kazakhstan concerning executive proceedings;
- conducted in accordance with the legislation of the Republic of Kazakhstan concerning bankruptcy;

conducted in accordance with the land legislation of the Republic of Kazakhstan; in case of privatisation of state property;

41) purchases of services rendered by

64) procurement of goods and services by the theatre for stage performances and performance of works of art.	public

- 1) close relatives, husband (wife) or persons in connection with chief executives of the said potential supplier and (or) authorised representative of the said potential supplier have the right to pass a decision concerning selection of a supplier, or they are representatives of the customer or organiser of government procurement in state purchases being conducted;
- 2) the potential supplier and (or) its employee rendered to the customer or organiser of government procurement expert, consulting and (or) other services for preparation of state purchases being conducted, participated as a general designer or sub-designer in elaboration of the feasibility study and (or) project (project-estimate) documents for construction of the item being a subject-matter of state purchases being conducted, except for participation of the developer of the feasibility study in the state purchase of project elaboration (project-estimate) documents;
- 3) chief executives of the potential supplier, which intends to participate in government procurement, had relations connected with control, organisation, participation in authorised capital of legal entities entered in the register of unfair participants in government procurement;
- 3-1) chief executives of the potential supplier, which intends to participate in government procurement is an individual engaged in business activities included in the register of unfair participants of government procurement;
- 3-2) a potential supplier, who is an individual engaged in business activities, applying for participation in government procurement, is the chief executives of a potential supplier, who is included in the register of unfair participants of government procurement;
- 4) the potential supplier is entered in the register of unfair participants in government procurement;
- 5) the arrest is applied to property of the potential supplier and (or) sub-contractor (coperformer) attracted by it, the balance cost of which exceeds ten per cent of the value of appropriate main assets;
- 5-1) the potential supplier and (or) subcontractor (co-performer) attracted by him have non-fulfilled liabilities under executive documents and they are entered by the authorised body in the sphere of ensuring of the implementation of executive documents in the appropriate register of debtors;
- 6) financial-business activities of the potential supplier and (or) sub-contractor (coperformer) attracted by it are suspended in accordance with the legislation of the Republic of Kazakhstan or legislation of the state of the non-resident potential supplier of the Republic of Kazakhstan.
- 7) potential supplier and (or) his subcontractor (co executor), and (or) their chief executor, the founders (shareholders) are included in the list of organizations and persons connected with the financing of terrorism and extremism in accordance with the laws of the Republic of Kazakhstan.
- 2. The potential supplier and affiliated person of the potential supplier shall have no right to participate in the same tender (lot).
- 3. The customer, in whose interests the state purchase is being conducted, shall have no right to participate in such a purchase as a potential supplier.
 - 4. The potential supplier or the supplier committed violation of requirements of

Article 7. The Procedure for Determination of an Organiser of Government procurement

- 1. To perform procedures for organisation and conducting of government procurement the customer shall determine an organiser of government procurement, as well as an official of the customer representing interests of the latter in the coming state purchase, except for the cases where the customer and organiser of government procurement are the same person.
- 2. The customer itself directly or duly represented by its structural subdivision in charge for performance of the procedures for organisation and conducting of government procurement may act as an organiser of government procurement.

The customer shall have the right to determine a customer's subordinated state agency or a customer's affiliated entity as an organiser of government procurement.

3. In the cases stipulated by the second

Article 8. Qualification Requirements Made to a Potential Supplier

- 1. General and special qualification requirements shall be made to potential suppliers.
- The potential supplier must meet the general qualification requirements as follows:
 it must have the legal capacity (for legal entities), civil capacity (for physical persons);
 - 2) it must be solvent, have no tax arrears for a period exceeding three months; 3) it must not be liable to the bankruptcy or liquidation procedure.

The requirements of subparagraphs 2) of this paragraph shall not apply to potential suppliers who undergo the rehabilitation procedures as well as to potential suppliers that are participants of state support measures for which the use of accelerated rehabilitation procedure is mandatory.

- 3. The potential supplier of goods, work, services, except for the general qualification requirements established by paragraph 2 of this Article, must be consistent with the special qualification requirement in respect of holding material, financial and labour resources which are sufficient to fulfil obligations under the government procurement contract.
- 4. In confirmation of its consistency with the qualification requirements established by this Article the potential supplier shall present to the organiser of government procurement appropriate documents stipulated by the government procurement rules.
- 5. In confirmation of its consistency with the qualification requirements established by this Article the non-resident potential supplier of the Republic of Kazakhstan shall present the same documents like residents of the Republic of Kazakhstan or documents containing analogous information on the qualification of the non-resident potential supplier of the Republic of Kazakhstan.
- 6. The potential supplier shall have the right to confirm the consistency with the general qualification requirements by presentation of one of the following documents:
- 1) a document confirming that an international rating organisation gave the potential supplier a rating;
- 2) an excerpt form a stock exchange that the potential supplier is officially listed at the exchange;
 - 3) is deleted in accordance with the Law of RK dated 20.02.09, 138-IV;

The legal capability of the potential supplier carrying out types of activity liable to licensing shall be confirmed by confirmed by means of state information system in accordance with the laws of the Republic of Kazakhstan on Informatization.

In case of absence of information in state information system the potential supplier presents the notarized copy of a license issued in accordance with the laws of the Republic of Kazakhstan on licensing.

7. The qualification requirements established by paragraphs 2 and 3 of this Article shall also apply to physical persons and legal entities which the potential supplier plans to attract as subcontractors for performance of work or co-performers to render serv

Maximal volumes of work and services which may be transferred to subcontractors (co-performers) to perform work or to render services shall be established by the rules of conducting of government procurement.

- 8. The potential supplier shall have the right to confirm the consistency with the general qualification requirement to solvency by furnishing of collateral of fulfilment of the contract in the form of a bank guarantee of one or several resident banks of the Republic of Kazakhstan in the volume equal to one hundred per cent of the amount of the state purchase being conducted:
- 1) together with the bid for participation in the tender in case of conducting of government procurement by the tender. Collateral of fulfilment of the government procurement contract shall be furnished by the potential supplier for the period established in the tender documents for complete fulfilment of obligations under the government procurement contract;
- 2) on the stage of determination of its consistency with the qualification requirements where government procurement is conducted by the one source method for a period sufficient for the complete fulfilment of obligations under the government procurement contract.
- 9. The qualification requirements established by paragraphs 2 and 3 of this Article shall not cover the cases of conducting of government procurement as stipulated by paragraph 1 of Article 4, Articles 30, 31, subparagraph 4) of Article 32 and 36 of this Law.
- 10. It shall not be allowed to establish qualification requirements not stipulated by paragraphs 2 and 3 of this Article, except for conducting of government procurement with the application of the particular and special procedures for conducting of government procurement by the tender as stipulated by Articles 41 and 42 of this Law.
- Article 9. Bases for Recognition of a Potential Supplier as Inconsistent with the Qualification Requirements
- 1. The potential supplier must be recognised as inconsistent with the qualification requirements on one of the bases as follows:
- 1) the non-presentation or presentation of the improperly formulated document (documents) to confirm the consistency of the potential supplier and (or) sub-contractor (coperformer) of work or services to be attracted by it with the qualification requirements;
- 2) the establishment of the fact of the inconsistency with the qualification requirements on the base of information contained in the documents presented by the potential supplier to confirm its consistency, as well as consistency of the sub-contractor (co-performer) of work of services to be attracted by it with the qualification requirements;
- the establishment of the fact of the presentation of unreliable information on the qualification requirements.
- 2. It shall not be allowed to recognise the potential supplier and (or) subcontractor (co-performer) of work or services to be attracted by it as inconsistent with the qualification requirements on bases, which are not stipulated by paragraph 1 of this Article.
- Article 10. Consequences of Presentation by a Potential Supplier of Unreliable Information on the Qualification Requirements
- 1. Potential suppliers presented unreliable information on the qualification requirements shall be entered in the register of unfair participants in government procurement in accordance with the procedure established by this Law.

- 2. Reliability of information on the qualification requirements presented by the potential supplier may be established by the customer, organiser of government procurement, authorised body or bodies of state financial control on any stage of conducting of government procurement.
- 3. The persons established the fact that the potential supplier has presented unreliable information on the qualification requirements shall be obliged:
- 1) not later than in three working days from the day of establishment of such a fact, to notify the customer and authorised body concerning it with attachment to the notice of copy documents confirming the said facts;
- 2) not later than in five working days from the day of establishment of such a fact, to bring a claim to the court concerning recognition of the potential supplier, which presented unreliable information on the qualification requirements, as an unfair participant in government procurement.

The requirement of subparagraph 2) of this paragraph shall not apply to the Accounting Committee for Supervision of Fulfilment of the Republic's Budget and auditing commissions of the provinces, Republican significance cities, the capital, except for the cases where they act as customers (organisers) of government procurement.

Article 11. Registers to Be Formed in the Sphere of Government procurement

- 1. The authorised body shall perform forming and maintaining the following general republic's registers in the sphere of government procurement (henceforth the registers):
 - 1) of customers;
 - 2) of government procurement contracts;
 - 3) of unfair participants in government procurement.
- 2. The register of customers shall constitute a list of legal entities obliged to conduct purchases of goods, work, services necessary for them to support the functioning, as well as performance of state functions or statutory activities in accordance with this Law, as well as civil legislation of the Republic of Kazakhstan.
 - 3. The register of government procurement contracts shall constitute a list of government

- 1) potential suppliers presented unreliable information on the qualification requirements;
- 2) potential suppliers committed violation of requirements of Article 6 of this Law;
 - 3) potential suppliers avoided conclusion of a government procurement contract;
- 4) suppliers which did not fulfill or fulfilled improperly their obligations under government procurement contracts concluded with them.

The register of unfair participants in government procurement shall be formed on the base of the court decision entered in legal force.

Potential suppliers entered in the register of unfair participants in government procurement on the base stipulated by this subpa

support activities of its branch (representative office) provided that such government procurement is conducted on behalf of the customer directly by the customer's branch (representative office).

- 4. Government procurement conducted by the methods stipulated by subparagraphs 1) and 3) of paragraph 1 of this Article may be implemented by electronic government procurement in accordance with the procedure determined by the Government of the Republic of Kazakhstan.
- 5. Government procurement which is carried out by the method provided for by subparagraph 2) of paragraph 1 of this Article shall be conducted by electronic government procurement in accordance with the procedure determined by the Government of the Republic of Kazakhstan.
 - 6. is abolished from 1 July 2012 in accordance with Article 47-1 of the Law.
- 7. Government procurement by the means provided in subparagraphs 1) and 4) of paragraph 1 of this Article shall be conducted by electronic government procurement in the manner specified by rules on electronic government procurement. This requirement shall not apply to the government procurement by the way of tender in accordance with Articles 41 and 42 of this Law.

CHAPTER 2. STATE REGULATION OF THE GOVERNMENT PROCUREMENT SYSTEM

Article 13. The Scope of the Government of the Republic of Kazakhstan in the Sphere of Government procurement

The Government of the Republic of Kazakhstan shall:

- 1) elaborate guidelines of the state policy in the sphere of government procurement;
 - 2) is deleted in accordance with the Law of RK dated 20.11.08, 87-IV;
- 3) approve a list of goods, work, services of daily and weekly needs to be purchased by customers to support smooth activities;
- 4) approve lists of stock and commodity exchanges, necessary to apply rules of this Law, as well as establish requirements to the form and contents of the documents stipulated by paragraph 6 of Article 8 of this Law;

- 11) determine a particular procedure for conducting of government procurement by the bidding method;
- 12) establish model requirements to the special procedure for conducting of government procurement by the tender method;
- 13) determine the procedure for formation and maintenance of the registers in the sphere of government procurement;
- 14) determine the procedure for conducting of electronic government procurement;
- 15) determine the procedure for re-training and improvement of professional skills of specialists in the sphere of government procurement;
- 16) determine suppliers of printed products requiring a special protection degree, as well as approve a list of such products to be purchased from them in accordance with subparagraph 16) of paragraph 1 of Article 4 of this Law;
- 17) approve a list of specialised organisations (agents) carrying out procurement operations and commodity interventions, as well as purchase of services associated with the storage, treatment, transportation of foodstuffs;
- 18) approve a list of state enterprises of corrective labour institutions, a list and volumes of goods, work, services manufactured, performed, rendered by them, which are purchased from them by customers in accordance with subparagraph 42) of paragraph 1 of Article 4 of this Law;
- 19) approve a list of organisations formed by public associations of disabled persons, a list and volumes of goods, work, services manufactured, performed, rendered by them, as well as determine a procedure for purchasing from them by customers of such goods, work, services;
 - 20) determine a common operator in the sphere of electronic government procurement;
- 21) determine a special procedure for conducting of government procurement to ensure needs of the defence:
- 22) is deleted in accordance with the Law of RK dated 13.01.12, 543-IV (entered into force after the expiration of thirty calendar days after its first official publication);
- 23) is deleted in accordance with the Law of RK dated 13.01.12, 543-IV (entered into force after the expiration of thirty calendar days after its first official publication) (see the old. Ed.);
 - 24) approve a list of food products procured from domestic manufacturers;
- 24-1) approve a list of goods and services that are the subject of government procurement carried out by auction;
- 24-2) approve a list of goods and services provided by the legislation of the Republic of Kazakhstan on Elections;
- 24-3) approve a list of goods and services of daily or weekly needs, customers purchased from the one source within the period up to announcement of results of competition and entry into force of the government procurement contract.
- 25) perform other functions imposed upon it by the Constitution, laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Article 14. The Scope of the Authorised Body

The authorised body shall perform in the sphere of government procurement the functions as follows:

- 1) it shall elaborate strategic program documents in the sphere of government procurement and in the field of international cooperation;
- 2) it shall implement inter-sector coordination and methodical guidance in the field of government procurement;
 - 3) it shall elaborate and pass regulatory legal acts stipulated by this Law;
- 4) it shall perform forming and maintaining the registers in the sphere of government procurement;
 - 5) is deleted in accordance with the Law of RK dated 20.11.08, 87-IV;
- 6) determine the procedure for collection, generalisation and analysis of reports with regard for information on Kazakhstan's content in procurement of goods, work, services;
- 7) it shall interact with bodies of state financial control and law protecting bodies on issues of control over the compliance with the legislation of the Republic of Kazakhstan on government procurement;
- 8) it shall participate in elaboration, introduction and operation of the state information systems in the sphere of government procurement;
- 9) determine the procedure for rendering electronic services to subjects of the government procurement system and other concerned persons;
- 10) determine the procedure for storage of information placed on the web-portal for government procurement;
- 11) it shall perform control over the compliance with the legislation of the Republic of Kazakhstan concerning government procurement;

when necessary, it shall check the verity of report data, materials and information presented by subjects of the government procurement system;

12) perform other powers provided for by this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and Government of the Republic of Kazakhstan.

The authorised body shall have the right:

- 1) to request and to receive necessary information and materials from subjects of the government procurement system in accordance with the procedure determined by the government procurement rules;
- 2) to attract for conducting of expert examinations and consultations specialists of state bodies and other organisations.

Article 14-1. Powers of a Common Operator in the Sphere of Electronic Government procurement

The common operator in the sphere of electronic government procurement shall:

- 1) perform development, introduction, information-technical support and operation of state information systems in the sphere of government procurement;
 - 2) ensure technical support to registers in the sphere of government procurement;
- 3) ensure creation, functioning and technical support to the web-portal for government procurement;
- 4) place on the web-portal for government procurement information on government procurement which is subject to obligatory publication in accordance with this Law, on the charge-free basis;

- 5) render electronic services to subjects of the government procurement system and other concerned persons with the application of information systems in accordance with the legislation of the Republic of Kazakhstan concerning computerisation, on the charge-free basis;
- 6) render consulting and practical assistance to subjects of the government procurement system in the sphere of electronic government procurement, on the charge-free basis;
- 7) perform functions of control of projects and technical support to electronic government procurement by state information systems;
- 8) ensure technical support to reporting in the sphere of government procurement, in particular reporting concerning quantities of Kazakhstan's content in case of procurement of goods, work, services;
- 9) interact with the national operator in the sphere of computerisation in respect of issues of integration and ensuring of security of state information systems and state electronic information resources.

Article 15. Control over the Compliance with the Legislation of the Republic of Kazakhstan Concerning Government procurement

- 1. Control over the compliance with the legislation of the Republic of Kazakhstan on government procurement shall be performed by conducting of plan and off-plan inspections of items of control by the bodies as follows:
- 1) bodies of state financial control within the scope established by the Budget Code of the Republic of Kazakhstan;
 - 2) authorised body.
 - 2. The items of control shall be:
- 1) the customer, organiser of government procurement, tender commission, auction commission, expert commission, expert;
- 2) the potential supplier, participant in the tender, auction, supplier, as well as persons attracted by them as sub-contractors for performance of work or co-performers for rendering of

- 2) reception of information on the making by items of control of actions (omission) containing signs of an administrative violation;
 - 3) where resolutions of law protecting bodies are received;

Where government procurement of several types of uniform goods, work, services is conducted by the tender, the organiser of government procurement shall be obliged to divide goods, work, services in lots in the tender documents by their uniform types and (or) according to the place of their delivery (performance, rendering).

In the cases stipulated by this paragraph consideration of bids for participation in the tender, evaluation and comparison of competitive price offers of participants in the tender, as well as determination of a winner of the tender shall be performed by each lot stipulated in the tender documents.

4. Potential suppliers, which are determined according to results of the consideration of the bids for participation in the tender as consistent with the qualification requirements and requirements of the tender documents and recognised by the tender commission as participants in the tender, shall participate in the tender.

Government procurement by the tender shall be recognised as invalid where one of the following cases has occurred:

- 1) the tender commission has recognised less than two potential suppliers as participants in the tender;
- 2) less than two competitive price offers of participants in the tender are to be evaluated and compared after the rejection of competitive price offers of participants in the tender in the cases stipulated by paragraph 4 of Article 26 of this Law;
- 3) the winner of the tender has avoided to conclude a government procurement contract.

Article 17. Tender Documents

- 1. The tender documents shall be elaborated by the organiser of government procurement in Kazakh and Russian languages on the base of the model tender documents determined by the government procurement rules with respect to requirements of the legislation of the Republic of Kazakhstan concerning state secrets.
- 2. Besides the general and special qualification requirements established by Article 8 of this Law, the tender documents must contain information as follows:
 - 1) the name and place of location of the organiser of government procurement;
- 2) the description and required technical, quality and operating characteristics of goods, work, services to be purchased, including project-estimation documents approved in accordance with the established procedure, technical specifications, and, if any, with indication of regulatory-technical documents;
- 3) the quantity of goods, volumes of performed work, rendered services being a subject-matted of government procurement being conducted;
 - 4) the place of delivery of goods, performance of work, rendering of services;
 - 5) required dates of delivery of goods, performance of work, rendering of

transportation and insurance, payment of customs duties, taxes and levies, as well as other expenses stipulated by terms of delivery of goods, performance of work, rendering of services;

9) the currency or currencies, in wh

- a) experience in the market of goods and services which was required for conducted government procurement;
- b) document confirming performance of voluntary certification of goods by domestic producers in accordance with Kazakhstan legislation on technical regulation;
 - (c) certified system on management quality in accordance with State standards;
- (d) a certified system on management of environmental control in accordance with the requirements of State standards and (or) the confirmation of compliance with standard of ecologically clean production in accordance with Kazakhstan legislation on technical regulation;
- 2) the functional, technical and qualitative characteristics of goods and services, and (or) the costs of operation, maintenance and repair of the purchased goods;
 - 3) Kazakhstan's content.
- 5. The tender documents must have indicated the electronic address of the Internet resource, on which it is planned to place information to be published in cases established by this Law (henceforth the customer's Internet resource). The customer's Internet resource must be permanently functioning and be held by the person being a resident of the Republic of Kazakhstan.

procurement by the tender, not later than in three working days from the date of approval of tender documentation but not less than twenty calendar days before the final date for presentation of applications by potential suppliers to participate in the tender.

Where repeated government procurement by the tender method is conducted, the organiser of government procurement shall be obliged to fulfil the requirements provided for by subparagraphs 1), 2), 3) of this paragraph not later than in three working days from the day of approval of the tender documents but not less than fifteen calendar days before the final date for presentation of bids for participation in the tender.

Where repeated electronic government procurement by the tender method is conducted, the organiser of government procurement shall be obliged to publish on the web site the text of the government procurement announcement concerning the implementation of repeated electronic government procurement by the tender not later than in three working days from the day of approval of the tender documents but not less than fifteen calendar days before the final date for presentation of bids for participation in the tender.

Article 19. Presentation of Tender Documents

1. The tender documents shall be presented by the organiser of government procurement to concerned persons on paper (henceforth copy tender documents) or by placement of the approved tender documents on the customer's Internet resource with respect to the requirements established by subparagraph 3) of Article 18 of this Law.

Where electronic government procurement by the tender method is conducted, the organizer of government procurement provides tender documentation to stakeholders through the publication of the approved tender documents on the web portal of government procurement.

The organiser of government procurement shall be obliged to present the copy tender documents to concerned persons on the day of their request to the organiser of government procurement for presentation of the copy tender documents.

Where the copy tender documents are presented on the paid base and an indication to that is contained in the appropriate notice, the organiser of government procurement shall present it to concerned persons on the day of their request, provided that they present to the organiser of government procurement a document confirming the making of the said payment.

The payment amount for presentation of the copy tender documents must not exceed expenses of the organiser of government procurement directly related to the making the copy tender documents.

2. Information on persons, to which the copy tender documents are presented by the organiser of government procurement, as well as information on persons, who obtained the approved tender documents from the customer's Internet resource, shall be entered by the organiser of government procurement in the journal of registration of persons who received the tender documents.

Information on persons who have received the copy tender documents on the web portal of government procurement, volunteer to participate in electronic government procurement by tender method are automatically registered on the web portal of government procurement.

3. It shall not be allowed to present the tender documents before the publication of the text of the announcement on conducting of the tender.

Article 20. Explanation of Provi

which must comprise presented requests conc

- 2) The application for participation in the tender came to a web portal for government procurement after the deadline for receiving applications for participation in this tender;
- 3) provided by subparagraphs 3), 3-1), 3-2) and 4) of paragraph 1 of Article 6 of this Law.
- 2. The organiser of government procurement shall enter in the registration journal of bids for participation in the tender according to the chronological sequence information on potential suppliers presented before the expiration of the established deadline envelopes with bids for participation in the tender.

Applications for participation in electronic government procurement by tender method supplied by potential suppliers are automatically registered on the web portal -.81al 2re auto

Collateral of the bid for participation in the tender shall be furnished at the ra of one per cent of the amount allocated to purchase goods, work, services,					

2) the signature of the protocol of admission to participate in the tender. case shall not cover potential suppliers recognised as participants in the tender;	The said

- 3) The winner of the tender signing a government procurement contract has not performed or inadequately performed, including the untimely performed the requirements established by the tender documentation, the introduction and (or) the timing of enforcement of the government procurement contract.
- 5. When one of the cases provided for in paragraph 4 of this Article is occurred, the amount of software applications for participation in electronic government procurement by the tender shall be credited the appropriate revenue b

protocol of opening of envelopes with bids for participation in the tender and placed on the customer's internet resource must be available for all concerned persons to acquainted with free of charge.

Potential suppliers, which did not attend the procedure for opening of envelopes with bids for participation in the tender, shall be presented a copy protocol of opening of envelopes under their written request or under a written request of their authorised representatives within the period of not more than two working days from the day of reception by the organiser of government procurement of such a request.

4. It shall not be allowed to change the date, time and place of opening of envelopes with bids for participation in the tender without introduction of said amendments to the tender documents.

Article 24-1. Opening of bids for participation in electronic government

- 3. When considering bids for participation in the tender the tender commission shall have the right:
- 1) to request in the written form from potential suppliers materials and explanations in connection with their bids so that consideration, evaluation and comparison of bids for participation in the tender to be facilitated;
- 2) for the purposes of more precise determining information contained in bids for participation in the tender, to request in the written form necessary information from appropriate state bodies, physical persons and legal entities.

Not later than in one working day following the day of signature of the protocol of admission to participate in the tender, the organiser of government procurement shall be obliged to inform concerned persons of the passed decision of the tender commission by:

- 1) presentation or delivery of a copy protocol of admission to participate in the tender to the address of potential suppliers, information on which is entered in the registration journal provided by the Paragraph 2 of Article 22 of the Law;
- 2) placement of the text of the signed protocol on the customer's internet resource.

Where electronic government procurement by the tender method is conducted, protocol for admission to the competition is published by secretary of Competition Commission on the day the decision on admission to the Web site of government procurement with automatic e-mail notification of all potential suppliers, details of which were entered in the registration journal provided by paragraph 2 of Article 22 of this Law.

8. The decision of the tender commission concerning admission to participate in the tender may be appealed in accordance with the procedure established by Article 45 of this Law.

Article 26. Evaluation and Comparison of Competitive Price Offers

1. The meeting of the tender commission in relation to evaluation and comparison of competitive price offers shall be conducted on the day, at the time and in the place indicated in the protocol of admission to participate in the tender, but not earlier than in three working days from the day of notification of concerned persons by the methods stipulated in subparagraphs 1) and 2) of paragraph 7 of Article 25 of this Law.

Participants in the tender and (or) their authorised representatives shall have the right to attend the meeting of the tender commission for evaluation and comparison of competitive price offers, with the right to make audio recording and video recording.

2. Not later than on the date indicated in the protocol of admission to participate in the tender participants in the tender or their authorised representatives shall present to the tender commission envelopes with competitive price offers.

It shall not be allowed for the participant in the tender to present more than one competitive price offer, as well as to recall the competitive price offer or to introduce amendments and (or) additions to the presented competitive price offer.

The tender commission shall enter in the registration journal of competitive price offers according to the chronological sequence information on participants in the tender, which presented envelopes with competitive price offers before the expiration of the time established by the protocol of admission to participate in the tender.

3. The tender commission shall open envelopes with tender price offers in the presence of participants in the tender and (or) their authorised representatives and announce to them each competitive price offer.

Participants in the tender and (or) their authorised representatives shall have the right to be acquainted with the contents of envelopes with competitive price offers.

- 4. The tender commission shall dismiss tender price offers of participants in the tender in cases where:
- 1) the price of the competitive price offer is dumping. The procedure for calculation of the dumping price shall be determined by the government procurement rules;

competitive price offers of domestic producers, domestic suppliers of works, services, the winner is the domestic producers, the domestic supplier of works, services, having more experience in the market of goods, works and services that are the subject of the competition bidding.

Article 27. A Protocol of Results of Government procurement by the Tender Method

government procurement from one source. The price of the concluded government procurement contract must not exceed the amount allocated for the state purchase by the tender method, which was recognised as invalid in virtue of admission of one potential supplier to participate in the tender.

3. Where the state purchase by the tender method is recognised as invalid because of dismissal in the cases stipulated by paragraph 4 of Article 26 of this Law, only one non-dismissed competitive price offer of the participant in the tender remained, the customer shall have the right to pass a decision concerning the conclusion with such a participant in the tender of an contract of government procurement from one source. The government procurement contract shall be concluded with it on terms stipulated by its bid for participation in the tender, and the price of the contract concluded with it must not exceed its competitive price offer.

Article 29. Special Considerations in Conducting of Government procurement by the Tender Method with the Use of Two-Staged Procedures

1. Government procurement by the tender method with the use of two-staged procedures may be conducted in cases where:

performing the powers of an executive secretary who is determined by the President of the Republic of Kazakhstan, of the customer or by the person fulfilling his duties;

delivery by the organiser of government procurement to potential suppliers presented technical offers on the first stage, of an invitation to participate in the second stage of government procurement by the tender method with the use of two-staged procedures;

2) on the second stage measures shall be conducted as stipulated for conducting of government procurement by the tender method.

CHAPTER 4. GOVERNMENT PROCUREMENT BY THE PRICE QUOTATION REQUEST METHOD

Article 30. Bases for Conducting of Government procurement by the Price quotation request Method

1. Government procurement by the price quotation request method are conducted on similar goods, works and services, if the annual volumes of uniform goods, works and services in terms of value does not exceed four thousand monthly calculation index established

- 4) required timing for delivery of goods, performance of work, rendering of services;
- 5) on the date of the beginning and end of presentation by potential suppliers of price offers;
- 6) a draft government procurement contract with indication of essential terms. The posted information under this paragraph shall not contain guidelines for trademarks, service marks, trade names, patents, utility models, industrial designs, appellations of origin and name of the manufacturer, as well as other characteristics that determine the identity of purchased goods, works, services to individual potential supplier, except for the following government procurement:
 - 1) for resupply, upgrading and retrofitting the main (fixed) equipment;
- 2) to determine the service provider on providing goods on lease and need for a detailed description of the leasing subject.
- 2. The potential supplier shall have the right to present one price offer only, contain information stipulated by the rules of electronic government procurement, amendments and (or) additions to which is not allowed.

The presentation of the price offer by the potential supplier shall be recognised as a form of expression of its consent to carry out supplies of goods, performance of work, rendering of services in compliance with the essential terms stipulated in the draft government procurement contract.

3. Upon expiration of the deadline for Price quotation request, web portal of government procurement the automatic opens and sums up the government procurement by the price quotation request method.

The winner is the potential supplier that offered the lowest price quotation.

Where the least price offer is made by several potential suppliers, the potential supplier, whose price offer was received earlier than price offers of other potential suppliers, shall be recognised as a winner. A comparison of price proposals is carried out by web portal of government procurement automatically.

- 4. It shall not be allowed to conduct negotiations between the organiser of government procurement and the potential supplier in relation to its price offer, except for the cases stipulated by Article 39 of this Law.
- 5. Where within the term of presentation of price offers less than two envelopes with the price offer of potential suppliers is presented, the organiser of government procurement shall prolong the term of presentation of price offers for five working days. Not later than one working day from the day of the deadline for presentation of price offers, the organiser of government procurement shall conduct the measures stipulated by paragraphs 1 and 2 of this Article.
 - 6. The price offer of the potential supplier shall be dismissed if:
 - 1) it exceeds the amount allocated to purchase said goods, work, services;
 - 2) the potential supplier has presented more than one price offer for the lot.
- 3) as provided by subparagraphs 3), 3-1), 3-2) and 4) of paragraph 1 of Article 6 of this Law.

The dismissal of price offers on other bases shall not be allowed.

7. Where least than two price offers of potential suppliers remain after the dismissal of price offers on the bases stipulated by paragraph 6 of this Article, then such a state

purchase shall be recognised invalid, and the organiser of government procurement shall condu	uct

- 4) measures provided for by paragraphs 5 and 7 of Article 31 of this Law that were undertaken by the organiser of government procurement did not resulted in conclusion of a government procurement contract.
 - 5) measures provided for adopted by paragraph 10 of Article 35-6, paragraph 9 of Article

- 3) a written note basing the price of offered goods, work, services.
- 3. Where government procurement is conducted by the one source method in the case stipulated by subparagraph 2) of Article 32 of this Law, the participant in the tender recognised as invalid, which is invited by the organiser of government procurement to participate in the state purchase by the one source method, shall have the right not to present repeatedly to the same organiser of government procurement documents confirming the consistency of the

Article 35-1. Auction documentation

- 1. Auction documentation is formed by organizer of government procurement in Kazakh and Russian on the basis of e-auction forms of documentation, determined by rules of conducting electronic government procurement, taking into account the requirements of the legislation of the Republic of Kazakhstan on state secrets.
- 2. Auction documentation, in addition to general eligibility requirements established by Article 8 of this Act, includes the following information:
 - 1) the name and address of the organizer of government procurement;
- 2) a description and the required technical, quality and performance characteristics of the goods and services, including approved as applicable construction documents, technical specifications, and if necessary, an indication of the normative and technical documentation;
- 3) the quantity, the volume of work performed, services rendered, which are the subject of government procurement conducted;
 - 4) place of delivery of goods, works and services;
- 5) The required time for delivery of goods, works and services, providing guarantees on the quality of the offered goods, works and services;
- 6) The terms of payment and the draft of government procurement contract, indicating the essential conditions:
- 7) The requirements for language preparation and submission of applications for participation in the auction, the government procurement contract in accordance with the laws of the Republic of Kazakhstan on languages;
 - 8) the conditions and amount of submitting application to participate in the auction;
- 9) An indication of the potential supplier's right to modify or withdraw his application for participation in the auction before the deadline for their submission;
- 10) the procedure for submitting application to participate in the auction, and the desired duration of the applications for participation in the auction;
- 11) the procedure of requests for clarification of the content of the auction documentation by potential providers;
- 12) the date and time of the deadline for submission of applications for participation in the auction;
- 13) the procedure of opening, reviewing applications for participation in the auction, reducing the initial (maximum) price of the auction;
- 14) conditions, the types, amount and method of making enforcement of the government procurement contract;
- 15) information on the amount allocated for the purchase of goods, works and services, that are the subject of government procurement at auction;
- 16) the value of reducing amount appropriated for the purchase of goods and services that are the subject of government procurement at auction (auction step in monetary terms);
 - 17) the expiry date for consideration of applications for participation in the auction;
 - 18) the date and time of the auction.

the auction documentation may contain other additional information to enable potential suppliers to obtain the most complete information about the conditions of government procurement at auction.

3. Indication trademarks, service marks, trade names, patents, utility models, industrial designs, appellations of origin and name of the manufacturer, as well as other characteristics that

2) on the absence of relationships between

2) to withdraw his auction approval note, without losing the right to return the submission of auction approval note.

Amendments as well as a review of the auction approval note after the deadline for submission of auction approval note are not allowed.

6. Potential supplier shall bear all costs associated with its participation in government procurement at auction. The customer, an organizer of government procurement, auction commission, a commission of experts, expert, unified operator in the field of electronic government procurement do not have an obligation to reimburse those costs, regardless of the outcome of government procurement at auction.

Article 35-5. Security of auction approval note

- 1. Security of auction approval note is submitted by a potential supplier to ensure that he:
- 1) does not withdraw or amend or extend his auction approval note after the deadline for submission of bids:
- 2) in the case of determining him as the winner of the auction, will conclude an government procurement contract and make enforcement of the government procurement contract provided for in the auction documentation.
- 2. Security of auction approval note is submitted at a rate of one percent of the amount allocated for the auction for the purchase of goods and services as prescribed by the regulations for electronic government procurement.
- 3. Potential supplier has the right to choose one of the following types of security of auction approval note:
- 1) guarantees cash contribution, which is paid into a bank account of the organizer of government procurement, or to an account provided by the budget legislation of the Republic of Kazakhstan for the organizers of government procurement, non-governmental bodies and state agencies;
 - 2) a bank guarantee.

Actions of the potential supplier that lead to the emergence of a third party the right to claim in whole or in part for made guaranteed cash contribution before the expiry of its Security of auction approval note are not allowed.

Use of guaranteed cash contribution made by the potential supplier, except for the actions referred to in paragraphs 5 and 6 of this article by the organizer of the government procurement is not allowed.

- 4. Security of auction approval note is not returned by an organizer of government procurement in the following cases:
- 1) the potential supplier determined as a winner of the tender has avoided to conclude a government procurement contract;
- 2) the winner of the tender having concluded the government procurement contract has not fulfilled or has fulfilled not in due time the requirements established by the tender documents to the furnishing and (or) time of furnishing of collateral of fulfilm9actiocnvT2 0 0 12 85.08 155.30encies

- 5. Where one of the cases stipulated by paragraph 4 of this Article has occurred, the amount of collateral of the bid for participation in the tender shall be transferred to the revenue of the appropriate budget, state enterprise, legal entity, fifty and more per cent of voting shares (share of participation in the authorised capital) in which is owned by the state, or legal entities affiliated with them.
- 6. The organiser of government procurement shall refund to the potential supplier collateral of the bid for participation in the tender furnished by it, within three working days from the day of occurrence of one of the following cases:
- 1) the recall by the said potential supplier of its bid for participation in the tender before the expiration of the deadline for presentation of bids for participation in the tender;
- 2) the signature of the protocol of admission to participate in the tender. The said case shall not cover potential suppliers recognised as participants in the tender;
- 3) the signature of the protocol of results of the state purchase by the tender method. The said case shall not cover the participant in the tender determined as a winner of the tender;
- 4) the entry in force of the government procurement contract and furnishing by the winner of the tender of collateral of fulfilment of the government procurement contract as stipulated by the tender documents;

Article 35-6. Opening and review of the first parts of the auction approval note, admission to the auction

- 1. Access of Secretary of Competitive Commission to opening of the first part of auction approval note provided by the web portal of government procurement automatically after the date and time of the final submission of auction approval note specified by organizers of government procurement in the tender documentation.
- 2. Web portal of government procurement automatically on the day of opening of the first part of the auction approval note shall send notification to members of the auction committee, potential suppliers, details of whom are included in an electronic registration journal of auction approval note, provided the rules for conducting electronic government procurement.
 - 3. Consideration of the first part of auction approval note

The choice of the persons engaged as experts on a fee basis is carried out in accordance with this law.

- 7. The auction commission considers the first part of the auction approval note as meeting the requirements of the auction documentation, if it contains grammatical or arithmetic errors that not affecting the substance represented by the first part of the application.
- 8. Potential suppliers cannot be allowed to participate in the auction (recognized as bidder) if:
- 1) The first part of his auction approval note does not comply with the requirements defined by the auction documentation;

qualification requirements established by the auction documentation, if ava

- 2. If government procurement at auction is declared invalid, the customer is entitled to take one of the following decisions:
 - 1) re-conduct government procurement at auction;
- 2) to amend the auction documentation and re-conduct government procurement at auction:
- 3) the implementation of government procurement by the one source method, in the case provided by subparagraph 1) of paragraph 1 of this article.

Article 36. Conducting of Government procurement of Goods Through Commodity Exchanges

- Government procurement of goods through commodity exchanges_shall be conducted in accordance with the legislation of the Republic of Kazakhstan concerning commodity exchanges.
- 2. Where annual volumes of government procurement of goods, entered in the list of exchange goods, do not exceed minimal volume of lot, provided in the list of commodity exchange goods, the customer shall have the right to select another method for conducting of government procurement of goods.

CHAPTER 7. A GOVERNMENT PROCUREMENT CONTRACT

Article 37. Conclusion of a Government procurement Contract

1. Within five working days from the day of signature of the protocol of the state purchase the customer shall sign and deliver to the potential supplier a draft government procurement contract to be made in accordance with the model contract determined by the government procurement rules.

Where results of the state purchase by the tender method are summarised, the customer shall deliver to the winner of the tender a copy protocol of its results and a draft government procurement contract to be made in accordance with the tender documents.

2. Where the government procurement contract is concluded with the non-resident of the Republic of Kazakhstan, it shall be allowed to formulate the government procurement contract in the form proposed by it subject to requirements of the legislation of the Republic of Kazakhstan.

The supplier shall have the right to choose one of the following types of collateral of fulfilment of the government procurement contract:

- 1) a guarantee money contribution, which is to be placed on the customer's bank account or on the account stipulated by the budget legislation of the Republic of Kazakhstan for customers being state bodies and state agencies;
 - 2) a bank guarantee.

The supplier shall not be allowed to perform actions resulting in the emergence with third persons of the right of claim in the whole or in a part in relation to the placed guarantee money contribution, until the obligations under the contract are completely fulfilled.

The customer shall not be allowed to use the guarantee money contribution, which is placed by the supplier, for purposes not stipulated by this Law.

The requirement concerning furnishing of collateral of fulfilment of the government procurement contract shall not cover suppliers determined according to results of government procurement by the price quotation request method, through commodity exchanges, as well as suppliers presented it in the case stipulated by paragraph 8 of Article 8 of this Law.

- 6. State bodies, state agencies and state enterprises on the right of operative control may conclude a government procurement contract for a period of not more than one financial year in case of purchases of:
- 1) work with the term of it completion in the next (next) financial year (years) stipulated in the project-estimate documents;
- 2) assets and other goods, the duration of which technological manufacture time causes their delivery in the next (next) financial year (years);
- 3) services of organisation of catering to the staff of the Armed Forces and other military formations of the Republic of Kazakhstan. The term of such a government procurement contract must not exceed three years;
 - 4) services for a period of over one financial year;
- 5) goods, work, services the term of performance (rendering, delivery) of which in connection with the duration of fulfilment is stipulated for the next (subsequent) financial year (years) established in the appropriate budget, development plan (business plan), financing plan, and also work and services on current repair and maintenance of motor roads of province and region significance. The term of validity of such a government procurement contract must not exceed three years.
- 7. State enterprises on the right of business authority, as well as legal entities, fifty and more per cent of voting shares (share in participation in the authorized capital) in which is owned by the state, and legal entities affiliated with them may conclude a long-term government procurement contract for goods, work, services necessary to conduct a measure with the term of completion in the next (next) financial year (years) established in the development plan (business plan) approved by the administration body or supreme body of said entities.
- 8. The government procurement contract for services of auditing of annual financial reports may be concluded for a period of not more than three years.
- 9. The conclusion of a government procurement contract for a term over one financial year in the cases stipulated by paragraphs 7 and 8 of this Article shall be allowed only with suppliers determined under results of government procurement conducted on the competitive base.
- 10. The government procurement contract must comprise a term concerning its termination on any stage in case of exposure of one of the following facts:

- 1) violation of restrictions stipulated by Article 6 of this Law;
- 2) rendering by the organiser of government procurement of assistance to the potential supplier not stipulated by this Law.
- 11. An contract on government procurement with domestic manufacturers and domestic suppliers of work and services shall contain a provision on advance payment and full payment for the supply of goods, performance of work or rendering of services, in this respect, the deadline for full payment shall not exceed thirty calendar days from the day of implementation of obligations under the given contract.
- 12. The government procurement contract shall be considered as fulfilled provided that the customer and the supplier have completely fulfilled the undertaken obligations under the said contract.
- 13. In case of failure or improper performance of obligations taken by the supplier under the government procurement contract, the Customer shall, within ten working days after the fiscal year take measures to recover the penalty in the income of the relevant budget, state enterprise, legal entity, fifty percent or more voting shares (share of participation in the authorized capital) in which is owned by the state, and legal entities affiliated with them.

Article 38. Avoidance of Conclusion of a Government procurement Contract

- 1. Where by the time established by this Law the potential supplier has not presented to the customer the signed government procurement contract, or having concluded the government procurement contract it has not furnished collateral of fulfilment of the government procurement contract in the cases stipulated by paragraph 4 of Article 37 of this Law, then such a potential supplier shall be recognised as avoided the conclusion of the government procurement contract.
- 2. Where the potential supplier is recognised as avoided the conclusion of the government procurement contract, the customer shall:
- 1) withhold his submitted security application for a position or at auction and appeal to the court for recognition of the potential supplier as unscrupulous member of government procurement;
- 2) apply to the court to compel a potential supplier to conclude the government procurement contract, as well as for damages caused by the deviation from the government procurement contract.

Article 39. Bases of Introduction of Amendments to a Draft Government procurement Contract or Concluded One

- 1. Introduction of amendments to the draft government procurement contract shall be allowed provided that the following interrelated terms are observed:
- 1) the introduction of an amendment to the draft government procurement contract is initiated by either of the parties not later than in five working days from the day of signature of the protocol of results of the state purchase by the tender method;
- 2) introduction of an amendment shall be allowed in relation to a decrease in the amount of the draft contract providing for the quality and other terms being the base for the selec.3803 T.58 198.141 for the

procurement contract is to be registered, then it shall enter in force after the registration of it in accordance with the legislation of the Republic of Kazakhstan.

2. The government procurement contract to be registered in accordance with the legislation of the Republic of Kazakhstan shall be presented by the customer to the authorised body for registration of government procurement contracts not later than in five working days after its conclusion or complete furnishing by the supplier of collateral of fulfilment of the contract as stipulated by the tender documents or auction documents.

CHAPTER 8. SPECIAL PROVISIONS

Article 41. The Particular Procedure for Conducting of Government procurement by the Tender Method

- 1. is deleted in accordance with the Law of RK dated 20.11.08, 87-IV;
- 2. Government procurement with the application of the particular procedure shall be conducted in accordance with this Law, except for the rules establishing qualification requirements, as well as regulating procedures for and term of conducting of government procurement stipulated by this Law.
- 3. Government procurement with the application of the particular procedure shall be conducted in cases of purchases of:
- 1) goods, work, services to support law and order and national security, where it is required to establish a particular procedure for conducting of government procurement ensuring the compliance with the regime of secrecy, as well as guaranty of national security of the Republic of Kazakhstan;
 - 2) services stipulated by the state social order;
 - 3) is deleted in accordance with the Law of RK dated 20.11.08. 87-IV:
 - 4) is deleted in accordance with the Law of RK dated 18.02.11, 408-IV;
- 5) housing held on the right of private ownership by a physical person, who is not a subject of business activities;
- 6) goods, services to conduct exhibitions, seminars, conferences, meetings, forums, symposia, training;
 - 7) goods, work, services information on which constitutes state secrets;
- 8) special social services as provided for by the guaranteed volume of special social services and services associated with the evaluation and assessment of needs of special social services:
 - 9) is deleted in accordance with the Law of RK dated 13.01.12, 543-IV;
- 4. The particular procedure for conducting of government procurement by the tender method shall be determined by the Government of the Republic of Kazakhstan.

Article 41-1. The Special Procedure for Carrying Out Government procurement to Ensure Needs of the Defence

The special procedure for carrying out government procurement of arms, military machinery, ammunition, special means, and also work and services associated with repair of them and modernisation to ensure needs of the defence and military safety shall be determined by the Government of the Republic of Kazakhstan.

The special procedure shall not apply in the cases provided for by subparagraph 43) of paragraph 1 of Article 4 of this Law.

Article 42. The Special Procedure for Conducting of Government procurement by the Tender Method

- 1. The special procedure for conducting of government procurement by the tender method (henceforth the special procedure) shall be applied by customers being state enterprises on the basis economic control rights, legal entities, fifty and more per cent of voting shares (stakes) in which is owned by the state, and legal entities affiliated with them.
- 2. Government procurement with the application of the special procedure shall be conducted in accordance with this Law, except for the rules establishing qualification requirements, as well as regulating procedures for and term of conducting of government procurement stipulated by this Law.
- 3. The special procedure shall be approved by administration bodies of the customers indicated in paragraph 1 of this Article, in accordance with the model requirements to

organizations which manufacture goods, perform work, render services, established by the public associations of the disabled.

In this respect the named organizations of the public associations of the disabled shall comply with the term set forth in the second clause of subparagraph 13) of part one of Article 248 of the Code of the Republic of Kazakhstan «Concerning Taxes and Other Obligatory Payments to the Budget» (the Tax Code).

5. Organizers of government procurement in conducting government procurement of food products, indicated in the list to be approved by the Government of the Republic of Kazakhstan, shall conduct government procurement by the methods as provided for by the Law only from the domestic manufacturers.

In the case where government procurements of food products from domestic manufacturers are recognized as not held in accordance with this Law, the customer shall have the right to carry out government procurements by the methods as provided for, to which all the potential suppliers are admitted.

CHAPTER 9. CONCLUSIVE PROVISIONS

Article 45. Appealing of Actions (Omission) of a Customer, Organiser of Government procurement, Commissions, Expert, Unified Operator in the field of government procurement. The potential supplier shall have the right to appeal actions (omission) of the customer, organiser of government procurement, commissions, expert, unified operator in the field of government procurement where their actions (omission) infringe upon rights and legal interests of the potential supplier. The following customer's decisions shall not be appealed to the state supervision bodies:

- 1) concerning the selection of the method of government procurement;
- 2) concerning the denial to conduct government procurement passed by the customer in accordance with paragraph 10 of Article 5 of this Law.

Article 46. Settlement of Disputes

All disputes arising in the process of government procurement shall be settled in accordance with the legislation of the Republic of Kazakhstan.

Article 47. Responsibility for Violation of the Legislation of the Republic of Kazakhstan On Government procurement

Violation of the legislation of the Republic of Kazakhstan concerning government procurement shall involve responsibility in accordance with laws of the Republic of Kazakhstan.

Article 47-1. Transitional Provisions

1. The provision of paragraph 6 of Article 12 shall be in effect till the 1st July 2012.

Article 48. The Procedure for Enactment of This Law

1. This Law shall be enacted from 1st January 2008.

President of the Republic of Kazakhstan N. NAZARBAEV

Astana, Akorda, July 21, 2007 LRK 303-III