

Unofficial translation

The Law is amended based on ~~424~~ 424-16 coming into force on March 11, 2007

LAW OF UKRAINE

enterprises, institutions or organizations founded according to the established procedure by the state authorities, authorities of the Autonomous Republic of Crimea, local self-administration bodies, and authorized to obtain state funds, assume liabilities thereunder and make payments; enterprises;

- 'State procurement (hereinafter referred to as the "procurement")' shall be understood as the acquisition of goods, work and services by the client at the expense of public funds according to the procedure established hereby, but the procurement by one principal in the interests of another principal shall be prohibited, except for cases of procurement of goods on the basis of interagency coordination;

- 'State funds' shall be understood as funds of the State Budget of Ukraine, the budget of the Autonomous Republic of Crimea and local budgets, the state lending resources and funds of the National Bank of Ukraine, state special-purpose funds, the Pension Fund of Ukraine, the social assurance funds, funds of general obligatory state insurance, funds of insurance in case of unemployment, funds of general obligatory state insurance in connection with temporary loss of capacity for work and expenses caused by birth and burial, and funds stipulated by the Law of Ukraine "On Compulsory State Social Insurance Against Labour Accidents And Occupational Diseases Causing Disability" (1105-14) which are used for procuring commodities, work and services; humanitarian aid in pecuniary form, funds of the Agrarian Fund, State and local energy saving funds, the funds of establishments or organizations, set up in the established procedure by bodies of State power, bodies of power of the Autonomous Republic of Crimea or bodies of local self-government, funds of enterprises;

- 'Procurement procedure participant (hereinafter referred to as 'participant')' shall be understood as a resident or non-resident legal entity, who confirmed its intention to take part in the procurement procedure and submits or submitted a tender proposal;

- 'Goods' shall be understood as products of any kind and purpose, including raw materials, products, equipment, technologies, objects in the solid, liquid or gaseous state, including electric power, as well as services related to the delivery of goods, provided that the cost of such services does not exceed the cost of the latter;

- Works — the design, construction of new, expansion/modernization, overhaul and restoration of facilities used for production and non-production purposes, the technical re-equipment of the existent enterprises as well as work-related services, including the geodetic activities, drilling, seismic research, aerial and satellite mapping, and other services that are included in the cost estimate of works provided that the cost of such services does not exceed the works cost

- 'Services' shall be understood as any procurement, except for goods and work, including the training of specialists, the provision of transportation and communication facilities, the implementation of technologies, scientific research, the medical and consumer services, as well as consultation services, to which belong services related to consultation, expert examination, valuation, preparation of opinions and recommendations;

- 'Tender documents' shall be understood as the documents to be prepared by the client and handed over to bidders for the preparation of bids as the object of the procurement in conformity with this Law,

- 'Tender committee' shall be understood as a group of specialists appointed by the client and be responsible for executing the procurement process in compliance with the provisions of the present Law;

- 'Bid' shall be understood as a proposal in respect of a certain procurement object, which is prepared and submitted by the bidder to the client in accordance with requirements of tender documents;

- 'Alternative bid' shall be understood as a proposal submitted by the bidder to the client as an additional component of the bid, if the tender documents provides and if such proposal is different from the main proposal made according to the terms and conditions of the tender documents;

- 'Acceptance of the bid -- acceptance by the customer of the bid recognized as the best by the results of assessment and the consent to pay therefor. The bid shall be deemed accepted, if the client handed a bid acceptance notice in writing to the bidder in the term specified in tender documents

after the bidder had been declared winner of the procurement procedure

- 'Bidding (tender)' shall be understood as the competitive selection of participants in order to identify a successful bidder in accordance with procedures (except for the procedure of procurement from a single participant) established here (Paragraph 15 of Article 1 in the wording of Law of Ukraine # 434-IV(434-15) of January 16, 2003)

- 'Procurement contract' shall be understood as the contract between the contracting party and the successful bidder for the procurement procedure, which provides for the provision of services, performance of works, or the acquisition of the title to commodities against an appropriate payment; (Paragraph 17 of Article 1 in the wording of Law of Ukraine # 434-IV(434-15) of January 16, 2003)

- 'Bid security (hereinafter tender security)' shall be understood as the provision of guarantees by the bidder to the client as to the bidder ensuring the performance of his commitments that arise in connection with the submission of bids, including such security instruments as bank guarantees, standby letters of credit, checks under which any bank has to meet prim

1. This Law shall apply to every procurement of goods, works and services, which are undertaken in full or in part for public funds, provided that the purchase value of the good (goods), service (services) makes up or exceeds UAH 20,000, and for works – UAH 50,000.

This Law shall not apply to procurement of goods and services, carried out by enterprises of the defense-industrial complex.

2. Conditions for the procurement of goods, works and services for public funds may be established or changed exclusively by this Law and exclusively in cases stipulated by this Law.

Amendments to this Law should be officially announced by August 15th of the year preceding the new budget year.

3. The procurement procedures, set forth in this Law, shall not apply to cases, if the object of procurement is as follows:

Central water supply and sewerage.

Central heat energy supply.

Postal services, as well as stamps and stamped envelopes.

Goods, works and services, the procurement of which is carried out by clients abroad.

Telecommunication services, including transmission of radio and TV signals (with the exception of mobile communication and Internet services).

Use of railroad tracks.

Goods, works or services, which due to their special designation are classified as state secrets.

Services for transportation of oil and oil products by pipelines.

Services for transportation of natural gas by pipelines and its distribution.

Services for transportation of other substances by pipeline transport.

Transfer and distribution of electrical energy.

Services for management of air traffic.

Services for maintenance and emergency repair of transportation facilities beyond the borders of Ukraine.

Services for air conveyance of official state parliamentary, government and diplomatic delegations.

Precious metals and stones, the procurement of which is regulated by relevant laws of Ukraine.

Food products, fodder crops, funds and services for direct carrying out of concert tours by artistic groups and performers, which are conducted

4. It shall be prohibited to conclude contracts, which envisage the spending of public funds and/or payment by administrator of public funds for goods, works and services prior to/without carrying out procedures, set forth in this Law, with the exception of cases, provided by this Law.

5. Should the object of procurement be a food

- Procedure for reduction and two stage tender the term for submission of previous proposals by bidders can, in the procedure set forth in Article 6 of this Law, be set at not less than 10 calendar days from the date of publication of the announcement on planned procurement. The term for submission of bid proposals for the second stage be set at not less than 5 calendar days from the date bidders were informed about the results of the first stage.

8) Particularities for procurement of raw material, materials, completing items for production and development of industrial and consumer goods by the enterprises in conformity with designing and technological documentation can be determined by the Interdepartmental Commission on Public Procurement with the availability of respective positive conclusions of the body of state power, managing enterprise property through which (head of which) activity of the central body of executive power, performing these functions is carried (coordinated), and in conformity with Section II of this Law.”

Article 2-1. Principles of Public Procurement

1. Public procurement shall be carried out on the basis of the following principles:

- Maximum economy and efficiency;
- Fair competition among bidders;
- Openness and transparency in all stages of public procurement;
- Non-discrimination of bidders;
- Objective and impartial assessment of tender offers.
- prevention of manifestations of corruption;
- free access, openness and availability of information on procurement issues, including for citizens of Ukraine and social organizations

Article 2-2. Stages of Public procurement and their Planning

1. The stages of public procurement shall be as follows:

- 1) Approval of cost estimates (program, plan of public funds utilization);
- 2) A copy of the annual plan, which is approved by the customer not later than within one month following approval of the budget (program, plan for public funds utilization), and changes to it shall be forwarded to the Antimonopoly Committee of Ukraine in cases and under a procedure established by this agency made public through posting in at least one information system in the Internet within 15 calendar days from the date of its approval
- 3) Selection and execution of procurement procedures on the basis of approved cost estimates (program, plan of public funds utilization) and the annual public procurement plan;
- 4) Determination of the procurement procedure winner;
- 5) Conclusion of procurement contracts;
- 6) Compilation of reports on procurement procedure results;
- 7) Performance of procurement contracts;
- 8) Control over the performance of procurement contracts.

2. Procurement shall be executed in accordance with the annual plan approved by the client not later than within one month after the approval of the cost estimates (program, plan of public funds utilization). A copy of the annual plan shall be forwarded to the Antimonopoly Committee of Ukraine in cases and under procedure set out by agency. The annual procurement plan shall be made public by posting it on at least one Internet information system within 15 calendar days from the date of its approval.

Article 3. The System of State Supervision, Monitoring and Coordination in the Procurement Area

State supervision, monitoring and coordination in the procurement area shall be carried out by the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the authorized central executive body on coordination of procurement of goods, works and services, the Accounting Chamber, the State Auditing and Inspection Service of Ukraine, the State Treasury of Ukraine, the Ministry of Agrarian Policy of Ukraine, the authorized central executive body for statistics, pursuant to the Law of Ukraine On National Statistics

- the form of a register of received bids;
- the procedure for conducting checks on spending agencies' procurement legislation compliance and for interaction with law-enforcement authorities;
- the form of register of unscrupulous bidders.

Article 3-2. Other Authorities Dealing with Supervision and Monitoring in the Procurement Area

1. The public authorities, in addition to the Antimonopoly Committee of Ukraine, dealing with state supervision and monitoring in the procurement area within their jurisdiction shall include: the State Auditing and Inspection Service of Ukraine, the State Treasury of Ukraine, the Ministry of Agrarian Policy of Ukraine, the authorized central executive body of statistics, pursuant to the Law of Ukraine On National Statistics, and law-enforcement authorities.

2. The bodies dealing with state supervision and monitoring in the procurement area within the limits established by the Constitution, laws of Ukraine and this Law, shall perform the following functions:

the State Auditing and Inspection Service:

- conducts checks on spending agencies' procurement legislation compliance in accordance with this Law and other laws of Ukraine;
- cooperates with public authorities to prevent manifestations of corruption in the procurement area;
- monitors legislation compliance in the procurement area;
- draws up reports about administrative offenses violations of legislation in procurement of goods, works and services for public funds;
- submits materials to law-enforcement authorities as provided by law;
- carries out other functions in accordance with Ukraine's laws.

The State Treasury of Ukraine:

- checks the availability and conformity of concluded contract with the report on effected procurement and other documents as provided by law;
- verifies grounds for making payments, specifically: the availability, and procurement legislation compliance, of an annual procurement plan and the documents proving the conduct of procurement procedures as well as accuracy of payment documents;
- participates in the economic justification of individual expenditure items of the State Budget of Ukraine;
- monitors procurement legislation compliance;
- submits materials to law-enforcement authorities as provided by law;
- takes action to prevent payments from the customer's account in compliance with obligations under the contract case of cancellation of procurement procedure upon decision as to consideration of

enckraine;

1. In order to provide transparency and openness of public procurement, the Interdepartmental Commission on Public Procurement (hereinafter: the Commission.)

The Commission shall comprise one representative each from the Accounting Chamber, the State Auditing and Inspection Service, and the State Treasury, Antimonopoly Committee of Ukraine, Ministry of Economy of Ukraine, three representatives responsible for regulating public procurement market nominated by the respective Verkhovna Rada committee that deals with issues for regulating public procurement market, and three representatives of the Tender Chamber of Ukraine.

2. The Commission shall:

issue opinions to the customer on the practicality of using the restricted tender procedure or single source procurement procedure pursuant to Article 14 herein;

consider complaints about violations of procurement procedures or adopted decisions by the customer, acts or omissions to act, and make precise decisions in cases and under a procedure set

keep list of tender committee members, which were expelled from composition of tender committee for committing violations;

keep register of unscrupulous bidders and register of participants of procurement procedure, in conformity with this Law;

takes decision and (or) give recommendations for putting into practice scientific-technical developments, technologies, inventions, methods and procedures in the public procurement area, and undertakes action for ensuring the observance of norms of the effective legislation in this sphere;

determine the procedure and take relevant steps on including enterprises, establishments and organizations into the list of enterprises, establishments and organizations on the basis of which training and advance training organization and carrying out of procurement procedures are conducted, keeps their list and posts it on its official Internet site;

determine procedure and carry out attestation of teachers conducting training or advance training on organization and carrying out of procurement procedures, approves programs for training and advance training on organization and carrying out of procurement procedures;

enjoy the right to draw conclusions and take decisions on other issues related to public procurement area.

3. The Commission shall be headed by a Chairman. A Chairman and a Secretary shall be elected among members thereof by a majority of two thirds of the votes of Commission members.

Each Commission member shall have one vote.

4. The Commission shall approve the Regulation on the Interdepartmental Commission on Public Procurement.

5. The Commission shall be independent in its work. It shall be prohibited to interfere into the activity of the Commission and exert pressure on its members. The activity of the Commission shall be transparent for society.

6. A Commission meeting shall be deemed valid when attended by not less than three-quarters of its members. Commission decisions on issues set in paragraph two, part two of this Article and paragraph three, part two, Article 44 of this Law shall be considered as accepted if not less than two thirds of the members, present at the Commission sitting, voted in its favor, on other issues it shall be deemed passed when they are voted for by half of its members in attendance. In case the votes of members are equally divided, the chairman's vote shall be a deciding one, in case of absence – the vote of a person presiding at the meeting. All decisions of the Commission, signed by the Commission Chairman and Secretary, shall be registered simultaneously.

Should signs of felony be discovered during the consideration and analysis of documents and materials related to public procurement, the Commission shall have the right to submit such documents and materials to law enforcement authorities.

7. All decisions and conclusions of the Commission, adopted within its competence, in conformity with requirements of this Law, shall be obligatory for implementation by clients, bidders, and other persons, which these decisions concern.

In order to ensure public control in the public procurement area, the Commission shall furnish the Tender Chamber of Ukraine with copies of all decisions and conclusions in the course of 2 days

Article 4. International Commitments of Ukraine in Respect of the Procurement

If an international treaty of Ukraine affirmed as compulsory by the Supreme Council of Ukraine contains provisions other than the provisions of, then the provisions of the international treaty of Ukraine shall prevail.

Article 4-1. Transparency of the State Procurement and Publication of the Information on the Procurement of Commodities, Work and Services for State Funds

1. in order to prevent manifestations of corruption and develop an efficient competitive environment in the procurement area, the customer is required to ensure the transparency of the state

2. Clients shall ensure equal access of all bidders to the information about procurement issues.

Article 7. Inappropriate and Uncompetitive Coordinated Actions of Bidders

1. The client shall be bound to ensure the creation of conditions for conducting transparent public procurement and making public the information about the procedure stipulated by the present Law.

2. The client shall be bound to reject a bid or qualification offer, if he has conclusive evidence that a bidder offers, gives or agrees to give any official of the client or to a state agency a reward in any form (employment offer, a valuable object, a service, etc.) in order to influence the decision-making on declaring a procurement procedure winner or for the client to apply a certain type of procurement procedure.

3. The client shall be bound to reject a bid or qualification offer if he has conclusive evidence that:

- An individual/bidder was convicted for a crime committed during the procurement procedure or another crime committed for mercenary motives, the conviction record of which has not been expunged or cancelled under established procedure;
- An official of the bidder, who was appointed by him to be in charge of the procurement procedure, was convicted for a crime committed for mercenary motives, the conviction record of which has not been expunged or cancelled under established procedure;

Affiliated person – a person answering any of the below mentioned characteristics:

- legal entity, which exerts control over participant or is controlled by such participant, or is under joint control with such participant;
- individual or relatives of individual, which exerts control over participant;
- official of the participant, authorized to undertake legal action on behalf of the participant directed at establishing, amending or curtailing legal relations, as well as his relatives.

Article 9. Format of Communications during Procurement Procedures

1. Only statements and communications executed in writing in the format prescribed by the client shall be deemed valid.

2. If parties exchanged information other than in writing in the course of procurement procedures, the contents of such information shall be confirmed in writing by such parties.

3. If the client executes electronic public procurement, information and notifications shall be exchanged with the use of electronic documentation and electronic digital signature in the online mode.

Article 10. Language to be Used during the Procurement Procedure

1. Announcements about the procurement procedure, invitations for bids, notifications of the pre-qualification of participants, as well as tender documents shall be prepared in the Ukrainian language and one of foreign languages used in international trade in cases envisaged by this Law. The texts should be authentic; the text in the Ukrainian language shall prevail. (The Paragraph

7. Within six months from the date they joined the tender committee, the tender committee members shall receive corresponding warrants of an established mode of their ongoing training or advanced training for organizing and executing procurement procedures. Repeated advanced training or training shall be held not less than once every two years.

Teachers at training and advance training courses on organization and carrying out of procurement procedures can be persons, which were attestation by the Commission at least once every 2 years in order to determine the sufficiency of their education, qualification and experience for training qualified personnel. Information on the issuance of certificates shall be posted on the official Internet site of the Commission in the course of 3 business days from the moment a respective decision is taken by the Commission.

The client shall send information on the training or advance training of members of the tender committee for organization and carrying out procurement procedures with copies of relevant certificates to the Commission not later than January 15th of the year, following the accounting year.

Should the Commission encounter violations resulting from the activity of the tender committee, carried out procurement thereby, which lead to the cancellation of procurement procedures and (or) recognizing the contract as invalid (worthless), the Commission shall have the right to adopt decision on expelling from the composition of the tender committee persons, members of its composition; on certain action taken by the client to eliminate the detected violations, and in the course of 3 business days inform the client, Antimonopoly Committee of Ukraine, State Treasury of Ukraine (or servicing bank), and Tender Chamber of Ukraine thereof. All decisions and action of such a tender committee, from the moment the decision of the Commission was received on expelling from the composition of the tender committee of persons, members of its composition, shall no longer be effective, and the contracts concluded after receiving such a decision shall be considered worthless (invalid).

The decision on the Commission on expelling from the composition of the tender committee of persons, members of its composition, leads to entry information on members of such tender committee into the list of tender committee members (hereinafter referred to as list) that were expelled from the composition of the tender committee for committing violations, and banning such persons from becoming members of any tender committee for a term of 2 years.

The list shall be posted on official Internet site of the Commission. Information shall be entered into the list in the course of 3 business days from the moment a respective decision was adopted by the Commission. The date of inclusion of information on members of such tender committee into the list shall be the adoption date of respective decision of the Commission.

The client, in the course of 3 business days from the moment the decision of the Commission as to expulsion from the composition of the tender committee of persons, members of its composition, shall be obliged to approve a new composition of the tender committee and in the course of 1 business day inform the Commission, Antimonopoly Committee of Ukraine, the State Treasury of Ukraine (servicing bank) and Tender Chamber of Ukraine on the adoption of the decision.

The State Treasury of Ukraine (servicing bank) shall

persons, for performance (non-performance) of procurement contracts concluded on the basis of decisions of the client's tender committee, as well as for the consequences caused by such decisions, actions or inaction.

Article 13. Procurement Procedures

The following procedures may be used for the procurement:

- Open bidding with price reduction;
- Restricted tender;
- Two-stage tender;
- Request for price proposals (quotations);
- Procurement from a single participant;
- Reduction.

Article 14. Specific Features of the Application of Some Procurement Procedures

1. The main procedures of public procurement are the reduction and open bidding with price reductions with reduction of price.

2. The application of the limited bidding procedure for procuring commodities, work and services, whose expected purchase value exceeds UAH 500,000 shall require relevant conclusion of the Commission in conformity with Article 3-3 of this Law, except for the case, when the limited bidding procedure is applied after pre-qualification of participants.

The application of the procedure of the procurement from a single participant shall require relevant conclusion of the Commission in conformity with Article 3 of this Law, if the expected purchase value exceeds UAH 30,000 for goods and services, and UAH 3000,000 for works.

The client shall be liable for the application of these procurement procedures.

3. The contracting party may not split the procurement of commodities, work and service into parts in order to avoid holding an open bidding with price reduction.

Article 14-1. Procurement of Goods on the Principles of Inter-agency Coordination

1. The Cabinet of Ministers of Ukraine shall approve the list of goods and services procured on the basis of interagency coordination, the procedure of procurement and the general client. If two and more chief managers of state budget funds intend to procure specific goods on terms of interagency coordination in the total amount exceeding UAH 700,000, the Antimonopoly Committee of Ukraine shall submit to the Cabinet of Ministers proposals for identifying the general client.

2. The general client shall:

- Execute the procedures of procurement of corresponding goods in accordance with legislation and determine the bidders and the results of the procurement procedures;
- Inform all interested chief managers of state budget funds about the results of procurement procedures.

3. The chief managers shall conclude contracts for the procurement of goods with the bidders, who were determined as the winners by the general client by the results of the procurement procedures they executed, except for cases when the goods do not meet the requirements of the chief manager of state budget funds with technical characteristics, time, terms of delivery, prices and the like. In this case, the chief manager shall be entitled to refuse concluding a procurement contract, inform the general client to this effect, and independently execute the procedure of procurement of such goods.

4. Upon receiving from the clients notifications about the acceptance of tender offers and concluding a contract or refusing to accept the tender offer, the general client shall submit to the Antimonopoly Committee of Ukraine and all interested clients a report on the results of procurement procedures, stating all clients in it.

Article 15. Qualification Requirements to Bidders

- 1.

The customer may request that the participants provide information, proven by documents, that they meet the qualification requirements. Such requirements may include:

- a license/permit to engage in a respective activity (in cases prescribed by law);
- availability of the equipment and staff that have the necessary skills and experience;
- payment of taxes and impositions (mandatory payments) as provided by law;
- the conduct of business by participants in compliance with their charters;
- absence of a decision on officially declaring the participant bankrupt or bankruptcy proceedings against him

2. The qualification requirements specified by this article shall be indicated in the documents required for the pre-qualification of participants (if applied), the tender documents and other documents related to the submission of bids (Part 2 of Article 15 changed and amended according to Law of Ukraine # 434-IV/434-15) of January 16, 2003)

3. The Client shall not establish discriminatory requirements to bidders.

Article 16. Register of Unscrupulous Bidders

1. Included into the register of unscrupulous bidders shall be information on participants, as follows:

- that groundlessly refused to sign contract;
- with whom agreement was abrogated in connection with essential violation thereby of contract terms without relevant grounds;
- that performed unapproved and anti-competitive coordinated actions, specified in this Law;
- that violated legislation on protection of economic competition in the public procurement at Article 14 of the Law # 11-1/1995-III of 12/12/95 (Part 1 of Article 12 of the Law # 12/96-III of 12/12/96)

consideration of the same, its suspension of the procurement procedure; the complement of the tender committee; The Paragraph changed and amended according to Law of Ukraine # 434-IV(434-15)of January 16, 2003)

- The date of tender proposal acceptance and conclusion of the procurement (Contract. Paragraph added to Part 1 according to Law of Ukraine # 434-IV(434-15)of January 16, 2003)

(Part 2 of Article 17 has been deleted on the basis of Law of Ukraine # 2188-IV (2188-15) of November 18, 2004)

- the addresses of Internet information systems selected by the customer and the code numbers assigned by Internet information systems
- Information on absence of participant – winner of procurement procedure in the register of unscrupulous bidders.
- Information on presence of participant – winner of procurement procedure in thematic category of participants of procurement procedures.

2. In order to prevent violations of current legislation, the customer shall, in making payments under contracts concluded on the basis of bidding results, attach the following documents to the report on bidding results:

- the copies of the advertisement planned procurement (announcement on holding qualification procedure, announcement on receipt of proposals /quotation/), announcement (notification) and the notice of bidding results that were published in the specialized publication, attested by this publication, and in the information bulletin that is published by the Tender Chamber of Ukraine, attested by the Chamber and in cases should the value of the contract exceed the sum, specified by paragraph 1 of Article 8 of this Law, as well as copies of announcement on planned procurement and tender results, which were published in the International Information Bulletin put out by the Tender Chamber of Ukraine, certified by the Tender Chamber of Ukraine;
- the copy of the document proving the posting of the documents specified in Article 4-1 herein, attested by the Internet information system.

When payments are made under contracts concluded by enterprises, the banks shall check the availability of the report on bidding results and other documents that prove compliance with this Law on the part of such enterprises.

Should tenders with restricted participation be carried out or procurement procedures in one bidder, treasury agencies (servicing bank) shall not be obliged to effect payment from the account of the client according to obligations under contract, if procurement was carried out with violation of the requirements of Article 14 of this Law. Information on such contracts shall in the course of business days be furnished by the State Treasury of Ukraine (servicing bank) to law enforcement authorities, as well as to the Commission, Antimonopoly Committee of Ukraine and the Tender Chamber of Ukraine

The report on bidding results (except for information containing a state secret) shall be made public by the customer in the Internet information system within ten days of the date of the report approval

3. The time of storage of documents on the performance of procurement procedures shall be three years.

SECTION II-1 PUBLIC CONTROL IN PUBLIC PROCUREMENT

Article 17-1. Participation of the Public in Formulating and Implementing State Policy in Public procurement

1. Citizens, public organizations and their unions shall take part in formulating and implementing state policy in public procurement by:

- o Participation in the design and discussion of laws and other regulations on public procurement;
- o Ensuring free access of the public to the information about expended public funds for the procurement of goods, works and services;
- o Ensuring publicity, openness, and transparency in the activity of the Cabinet of Ministers of Ukraine, the Antimonopoly Committee of Ukraine and the managers of public funds in the sphere of public procurement;
- o Holding consultations with the public and taking into account public opinion;
- o Establishing a systematic dialogue with the Cabinet of Ministers of Ukraine, the Antimonopoly Committee of Ukraine, the managers of public funds and the public;
- o Using other forms stipulated by operative Ukrainian legislation.

2. The Cabinet of Ministers of Ukraine, the Antimonopoly Committee of Ukraine and the managers of public funds shall be bound to ensure proper response to the appeals of citizens, public organizations and their unions.

3. The citizens, public organizations and their unions shall not be entitled to interfere in the client's determination of a tender's winner.

4. The Tender Chamber of Ukraine shall be one of the forms of the public's participation in formulating and implementing state policy in public procurement.

Article 17-2. Legal Status of the Tender Chamber of Ukraine

1. The Tender Chamber of Ukraine shall be a non-profit union of public organizations operating in compliance with operative Ukrainian legislation. The Tender Chamber of Ukraine shall not pursue any entrepreneurial activity and shall not be entitled to provide any payable services, but operate exclusively for the purpose of achieving the objectives under the present Law and its statute. The activity of the Tender Chamber of Ukraine shall be transparent for society.

2. Participation in the Tender Chamber of Ukraine shall be voluntary.

3. The Tender Chamber of Ukraine shall be a legal entity, have its own seal, blank form, and accounts in banking institutions.

4. The city of Kyiv shall be the location of the Tender Chamber of Ukraine.

Article 17-3. Goals and Objectives of the Tender Chamber of Ukraine

1. The Tender Chamber of Ukraine shall operate for the purpose of promoting: the development of the public procurement system in Ukraine, transparency of public procurement, higher efficiency and rational utilization of public funds, informational and methodological backing of public procurement, formation of a modern infrastructure of public procurement, advancement of the professional skills of specialists in public procurement, and exercise of public control. The Tender Chamber of Ukraine shall be independent in its activity.

2. The Tender Chamber of Ukraine shall at no charge:

- o Design methodological material on organizing and holding tenders by managers of public funds;
- o Offer proposals for improving regulations on public procurement;

o

- Processing public proposals and remarks ~~series~~ of formulating and implementing state policy in public procurement.

10. The Tender Chamber of Ukraine shall be the founder of an information bulletin, international information bulletin and other mass media.

The Tender Chamber of Ukraine shall issue a monthly collection of methodic materials "Collection of Methodic Material on Public Procurement of Ukraine," subject to publication in which shall be information on activity of the Commission and results of its activity. The

Article 17-4. Managerial and Control Bodies of the Tender Chamber of Ukraine

1. The managerial bodies of the Tender Chamber of Ukraine shall be its congress and managerial board.
2. The control body of the Tender Chamber of Ukraine shall be its auditing commission.
3. The Statute of the Tender Chamber of Ukraine and the present Law shall specify the powers of the managerial and control bodies of the Tender Chamber of Ukraine.

Article 17-5. Supervisory Council and State Supervision over the Activity of the Tender Chamber of Ukraine

1. The composition of the Tender Chamber of Ukraine shall include three representatives from the Antimonopoly Committee of Ukraine and one representative each from the Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Main Auditing Administration of Ukraine, Accounting Chamber, State Treasury of Ukraine, as well as three MPs by petition of a corresponding parliamentary committee concerned with regulation of public procurement market. The Tender Chamber of Ukraine may by its decision also include in its composition other persons.

4. Members of the Supervisory Council may not be members of the managerial board of the Tender Chamber of Ukraine.

5. Members of the Supervisory Council shall discharge their functions on a voluntary basis.

6. The Supervisory Council shall be an advisory body.

7. The Supervisory Council shall:

- Offer to the managerial board of the Tender Chamber of Ukraine recommendations and proposals on ensuring the efficient work of the Tender Chamber of Ukraine;
- Approve by its decisions regulations for the work of the Supervisory Council;
- When necessary, demand the convocation of a Congress;
- Exercise within its competence supervision over compliance by the Tender Chamber of Ukraine with the requirements of the present Law;
- Take part in public discussions and hearings;
- Assist the Tender Chamber of Ukraine in achieving its objectives and discharging its functions;
- Perform other functions under the statute of the Tender Chamber of Ukraine and the present Law.

8. The Supervisory Council shall act exclusively within the scope of the powers under the statute of the Tender Chamber of Ukraine and the present Law. The recommendations of the Supervisory Council shall be binding for consideration by the Tender Chamber of Ukraine insofar as they are consistent with the law.

SECTION III PROCEDURES OF OPEN AND RESTRICTED TENDERS

Article 18. Conditions of the Application of Open and Restricted Tender Procedures in Respect of the Procurement of Goods, Work, Services

1. While holding an open bidding with participation, the tender proposals may be submitted by all the interested participants information on whom is included into the catalogue invited by the contracting party by means of the publication of an announcement under provisions of Articles 4-1 and 8 hereof.

2. In the course of the restricted tender, only bidders information on whom is included into the catalogue invited by the client to participate in the procurement procedure shall be entitled to submit bids.

3. The restricted tender procedures may be applied, if:

- Goods, work or services may be offered by a limited number of bidders due to their complicated or specialised nature;

4. In case of holding a bidding process with limited participation, the contracting party shall invite only those participants information on whom is included into the catalogue to take part in the procurement procedure, whose number could ensure selection of the most beneficial proposal and the competition, but not less than three.

Article 18-1. Pre-Qualification during Tenders with Restricted Participation

1. When holding tenders with restricted participation the client shall be entitled to conduct a pre-qualification of the bidders.

2. The information about the pre-qualification of bidders shall be made public and published by the clients in accordance with articles 4-1 and 8 of the present Law.

3. The announcement of the pre-qualification of bidders shall under binding condition state the following:

- o Name and legal address of the client;
- o Type, quantity and place of delivery of goods and location for the performance of works, or type and location for provision of services;
- o Time of delivery of goods, performance of works, and provision of services;
- o Methods and place of receiving qualification documents, and the amount to be paid for them (if such a payment is established);
- o Place and time for the submission of qualification proposals;
- o Place and date of opening qualification proposals;
- o Addresses of the Internet Network information systems chosen by the client and code assigned to the Internet Network information systems.
- o Registration account, opened with State Treasury agencies (for enterprises – name, MFO of the servicing bank and full list of opened current accounts)."

4. The qualification documentation shall be furnished (forwarded) to the bidder within three working days from the date of payment for it or from the date of receipt of corresponding request, if payment was not established. The documentation for the qualification documentation shall be forwarded or furnished to the bidder within three days from the date a corresponding request has been received from him. Qualification documents shall contain on binding condition the following:

- o Instructions for the preparation and submission of qualification proposals;
- o Qualification requirements;
- o Brief of criteria and procedures for assessing conformity with qualification requirements;
- o Information about the documents a bidder needs to confirm his conformity with established qualification requirements;

- Information about the necessary technical and qualitative characteristics of the procurement item, including the following:
 - corresponding technical specification, plans, blueprints, drawings, and descriptions;
 - quantity of goods;
 - location where works will be performed or services provided;
 - additional services to be provided;
 - time of delivery of goods, performance of works, provision of services;
- Description of a separate part parts of the item of procurement (lot) for which tender offers can be made if bidders are permitted to submit tender offers only related to a part of the goods, works or services that are procured;
- Stated language (languages) in which qualification proposals have to be made;
-

of Ukraine, a copy of which shall be distributed to all bidders within one business day following receipt of the relevant request of a bidder. This information shall be given in the report on the bidding results

8. The client shall within five days after completion of the pre-qualification of the bidders inform each of the latter about its results.

9. Only those bidders information on whom has been included into the catalogue who were selected by the results of the pre-qualification shall be admitted to further participation in the tender procedure with restricted participation. The time of submitting tender offers after pre-qualification shall be not less than 10 calendar days.

Article 19. Information of Bidders about Open and Restricted Tenders

1. An announcement of an open bidding with competition and invitation to participate in the limited-participation bidding procedure must contain the Paragraph changed and amended according to Law of Ukraine # 434-IV (434-15) of January 16, 2003)

- The name and the legal address of the tender client;
- The type, number and place of delivery of goods, or the type and location of the performance of work or the provision of services;
- The deadline for the delivery of goods, the performance of work, or the provision of services;
- The qualification requirements to bidders;
- The methods and the place of the receipt of tender documents and the amount payable therefor (if charged by the client);
- The place of and the deadline for the submission of bids;
- The place and the date of the bid opening;
- The conditions of the provision of the tender collateral and the channels of the communication for obtaining the additional information;
- Addresses of information systems on the In

provision of the tender documents, the ascertainment of its value, and the procedure of payments shall comply with provisions of the civil law.

2. In case of the limited participation bidding for the procurement of commodities and services, the contracting party may send the tender documents simultaneously with the invitation to take part in the bidding (Part 2 in the wording of Law of Ukraine # 434-IV (434-15) of January 16, 2003)

3. (Part 3 of Article 20 has been deleted on the basis of Law of Ukraine # 2188-IV (2188-15) of November 18, 2004)

4. In case of holding tenders for the procurement of work, the tender documents shall be sent after the payment of the expenses for their preparation by the bidder.
(Part 5 deleted according to Law of Ukraine # 434-IV (434-15) of January 16, 2003)

5. In case of carrying out the qualification procedure, the tender documents shall be sent to all bidders, who passed the selection.

Article 21. Tender Documents

1. Tender documents must contain:
 - an instruction to bidders for the preparation of bids;
 - a list of criteria, which the tender committee will apply during the assessment of the compliance of bidders with the established qualification requirements;
 - the information about the need to provide documentary evidence of the bidders' compliance with the specified qualification requirements;
 - the information about the character and required technical and quality characteristics of the object of procurement, including:
 - the appropriate technical specifications, plans, drawings, diagrams developed according to parts two and three of this article;
 - the quantity of the goods;
 - the place where the work should be performed or the services provided;
 - the additional services to be provided;
 - the schedule of the goods delivery, work performance or services provision;
 - a list of criteria and the evaluation methodology applied to determine the best bid;
 - a list of principal conditions, which will be included in the procurement contract;
 - a description of an individual part or parts of the object of procurement, in respect of which bids may be submitted, if the bidders are allowed to submit bids only for a part of goods, work, or services being procured;
 - the method of the evaluation and the comparison of alternative bids;
 - the methodology of the bid price calculation and the specification, whether it should include other elements in addition to the value of goods, work or services themselves; such as transportation, insurance, loading and unloading costs, the customs tariffs, taxes, etc.;
 - the information about the currency (currencies), in which the bid price should be calculated and indicated;
 - the language (languages), in which the bids should be prepared;
 - the client's requirements as to the provision of the bid security and the performance bond;
 - the conditions of the repayment or non-repayment of the bid security;
 - the specification of the method, location and deadline of the submission of bids;
 - the specification of the procedure of providing explanations as to the tender documents, and the information about the client's intent to hold a meeting with bidders;

- the indication of the period, during which the bids are deemed valid;
- the indication of the place, date and time of the bid opening;
- the indication of the name, position and address of one or several officials or employees of the client authorised to communicate with bidders;
- the information about additional conditions needed for the acceptance of the bid.
- other information the client deems necessary to include in the tender documentation.
- Scale for calculating the price of tender or reduction

2. The technical specification, plans, drawings, diagrams or descriptions of the object of procurement required by the client shall contain:

- a detailed description of the goods, works, services being procured with the specification of objective technical and qualitative characteristics;
- requirements to the technical characteristics of the operation of the object of procurement, if it is not possible to compile a description or if it is more appropriate to provide such indicators;
- references to standard characteristics, requirements, conventional signs and terminology of goods, work or services being procured using the existing international or national standards, norms and rules.

3. The technical specification shall not contain references to specific brands or companies, patents, designs or types of the object of procurement, the source of its origin or the manufacturer. Should such a reference be needed, the specification should contain the statement 'or its equivalent'.

4. In the tender documentation may be specified interrelations and settlements between the client, experts, consultants and bidders, as well as

offers, and notify thereof in writing all the bidders who were provided with tender documents by the client.

3. If the client holds a meeting to explain any questions related to the tender documents, he shall keep minutes of such a meeting containing the explanations to inquiries and send the said minutes to bidders, who were provided with tender documents, regardless of their presence on the meeting.

4. In case of the client's failure to provide explanations regarding the contents of the tender documents in time, the changes thereof if the changes to the tender documents are substantial, the client shall extend the time for submission of bids. The decision to extend the time for bid submission shall be made by the client taking into account the requirement that such time should be sufficient for the incorporation

- the conclusion of the procurement contract with the successful bidder;
- the revocation of the bid before the expiry of the time for bid submission, if the tender documents so provide;
- the completion of the procurement process without conclusion of the procurement contract with any of bidders.

7. The funds provided as a bid validity bond (in case they are not returned to the bidder) are subject to transfer to the revenue of the general fund of the relevant budget

Article 24. Bid Submission Procedure

1. A bid shall be submitted in writing with a signature of the authorized representative of the bidder in a sealed envelope or in another form indicated in tender documents. Upon bidder's request, the client shall acknowledge the receipt of the bid and state the date and time of such receipt.

Each bidder shall be entitled to submit only one tender offer (related to the lot specified in the tender documentation included) and also to submit an alternative tender offer if stipulated in the tender documentation. The received tender offer shall be entered by the client in a register, the form of which shall be specified by the Antimonopoly Committee of Ukraine.

2. The bid must be accompanied by a document confirming the provision of the bid security by the bidder.

3. The bids received by the client after the expiry of the time for submission shall be returned to respective bidders unopened.

4. The client shall have the right to extend the specified time for bid submission prior to its expiry, if one or several bidders are not able to submit their bids at the specified time for objective reasons. The notification of the extension, eventual changes in

a bid validity bond in any form acceptable to them and the customer that is not at variance with current legislation

2. The amount of the performance bond shall amount to 15 per cent of its estimated value in respect of goods and services and 5 per cent in respect of work.

3. The funds provided as a performance security (in case they are not returned to the bidder) are subject to transfer to the revenue of the general fund of the relevant budget

Article 26. Opening, Evaluation and Comparison of Bids

1. The tender proposals shall be opened on the day of the tender proposal submission deadline at the time and place indicated in tender documents (Part 1 in the wording of Law of Ukraine #434-IV (434-15) of January 16, 2003)

2. All bidders or their authorized representatives, as well as representatives of bodies of state authority (deputies of all levels included), shall be allowed to attend the procedure of the bid opening by the client. The absence of a participant or its authorized agent from the tender proposal opening procedure shall not constitute the basis for non-opening, non-reviewing or rejecting its tender proposal.

3. In the course of the bid opening, the availability of the necessary documents envisaged by the tender or qualification documentation shall be checked. Should the client carry out open bidding with price reductions with reduction of price or the second stage of two-stage bidding, the client, after opening of tender proposals, shall propose the present representatives of bidders to reduce the proposed price of tender proposals by corresponding sizes of tender stage, determined by the scale. If after three times announcement of the current price a lower price is not proposed in the procedure, determined by the scale for calculating the stage, the client shall allow the present representatives of the bidders to voluntarily lower the price of proposals, until each of the bidders announces that he proposed the final price. This should be indicated in the protocol on the opening of tender proposals. If the procurement object is goods, works and services, which technically have a complicated nature, the client, during the period of open bidding with price reductions with reduction of price or other stage of two-stage tender, shall have the right not to apply norm as to reduction of price of tender proposals under condition that relevant conclusion was issued by the Commission

The correctness of filling in tender (price, qualification) proposals by bidders, degree of conformity of requirements and terms of tender (qualification) documents or demands of the client, indicated in the request (announced) as to price proposals (quotation), shall be indicated in the protocol on rejected tender (price, qualification) proposals, which is an appendix to the protocol on assessment of proposals of bidders

The client shall announce to the present representatives of the bidder the names and addresses of each bidder and the price of each. While opening the tender proposals, a protocol shall be drawn up in the form specified by the Antimonopoly Committee of Ukraine, and a copy of this protocol shall be provided to all participants within one business day following the date of receipt of the relevant request from a bidder. The data shall be provided in the procurement result report. The protocol opening tender offers shall be made publicly by the client in the Internet Network information systems throughout five working days from the date of opening of the tender offers.

4. The client shall have the right to request bidders to detail the contents of their bids in order to facilitate the consideration, evaluation and comparison thereof.

Antimonopoly Committee of Ukraine, Commission or Tender Committee of Ukraine, a court, or for the consideration of a complaint.

Article 27. Rejection of Bids

1. The client shall reject a bid, if:
 - the bidder fails to meet the qualification requirements indicated in Article 15 hereof;
 - the bid fails to meet the conditions of tender documents;
 - the bidder fails to agree to the rectification of an arithmetic error detected by the client;
 - the bidder brought about the circumstances indicated in Article 7 hereof by his actions
 - the bidder did not provide tender security in cases envisaged by this Law,
 - the bidder did not pay for the tender (qualification) documentation, if such payment was established.
 - the bidder was entered into the register of unscrupulous bidders.
 - actions of the bidder resulted in the emergence of circumstances, indicated in part nine, Article 26 of this Law.
 - information on bidder that submitted the proposal is absent in the catalogue
2. The client may reject all bids before the bid acceptance, if the tender documents so provide.

Article 28. Cancellation of Tender or Declaration of Tender Invalid

1. The tender shall be cancelled if:
 - less than three bids were submitted, respect of the procurement object defined by the principal in the tender documents'.
 - all bids were rejected pursuant to requirements of Article 27 hereof
 - the client violated the requirements of the present Law to making the information public.
 - if less than three participants submitted their bids ;
 - the Commission or the court made a decision about cancellation of biddingTenders shall be cancelled partially (for lots) if less than three tender offers for a corresponding lot were made.
2. The client may declare a tender invalid, if:
 - the price of the most lucrative tender offer exceeds the sum foreseen by the client for financing the procurement;
 - the procurement ceased to accord with the requirements in consequence of unforeseen objective circumstances (force majeure circumstances);
 - after the rejection of a tender offer, the offer only one bidder is admitted for assessment even in the presence of an alternative tender offer.
 - other cases as decided by the customer

(Part 3 of Article 28 has been deleted according to Law of Ukraine # 2664-IV (2664-15) of June 16, 2005)

4. The notification of the tender cancellation or the declaration of tender invalid shall be sent by the client to all participants within three working days since the date of the relevant decision.

Article 29. Acceptance of the Bid and Conclusion of the Procurement Contract

1. The contracting party shall accept the tender proposal found to be the best as a result of the evaluation (Part 1 in the wording of Law of Ukraine # 434-IV (434-15) of January 16, 2003)

2. Within five calendar days of the acceptance date, the contracting party shall send a notice to the successful bidder of the acceptance of the tender proposal, whose validity period has not expired, and send a notice in writing (including the information systems on the Internet) to all the participants of the open tender, two-stage bidding, restricted participation bidding procedures to inform them of the name and location of the successful bidder, whose tender proposal was found to be the best as a result of the reevaluation.

The contracting party shall conclude a procurement contract with the participant, whose tender proposal was accepted, in accordance with requirements of the tender documents not earlier than in five working days of sending a written notice to all the participants of the open bidding with price reduction, two-stage bidding, restricted participation bidding procedures to inform them of the results thereof, but not later than 21 working days of the acceptance date. All expenses related to the contract conclusion may be laid upon the successful tenderer in the procurement procedure on conditions specified in tender documents and in accordance with provisions of the Civil Code of Ukraine (435-15). Any expenses incurred by the bidder in the procurement procedure winner related to his participation in the tender and conclusion of contract, including expenses for notarization by demand of the client, shall not be considered as losses and shall be subject to compensation

(Part 2 in the wording of Law of Ukraine # 434-IV (434-15) of January 16, 2003)

(Part 3 of Article 29 has been deleted according to Law of Ukraine # 2664-IV (2664-15) of June 16, 2005)

4. In case of the successful bidder's refusal to sign a procurement contract according to requirements of the tender documents, the client shall determine the best bid from among those, which are still valid, except if all bids have been rejected.

Article 29-1. Informing Bidders about the Tender Results

1. The announcement of the results open and two-stage tenders, restricted tender and price reduction shall be made public and posted in the Internet Network information systems and published in the specialized publications and the information bulletin published by the Tender Chamber of Ukraine and in cases when the value of the contract exceeds the sum, specified in part three, Article 8 of this Law, as well as in the International Information Bulletin, put out by the Tender Chamber of Ukraine, and other relevant international periodicals within 10 calendar days after the conclusion of a procurement contract or after a decision on canceling tenders or declaring them invalid.

2. The announcement of the tender results shall be binding and shall state the following:

- name and legal address of the tender's client;
- the type, number and place of delivery of goods, the type and location of the performance of work or the provision of services;
- date of publication of the announcement of the planned procurement (announcement of pre-qualification) in the specialized publications and the information bulletin published by the Tender Chamber of Ukraine and in cases when the value of the contract exceeds the sum, specified in part three, Article 8 of this Law, as well as in the International Information Bulletin, put out by the Tender Chamber of Ukraine, and other relevant international periodicals;
- addresses of the chosen Internet Network information systems in which the information has been placed as stipulated by the present Law, as well as information placement codes assigned to Internet Network information systems;

Number of bidders that received tender documentation and number of bidders that submitted tender (qualification) proposals
date of acceptance of the tender offer recognized as the best;
date of conclusion of the procurement contract;
date and reasons for canceling tender recognizing them invalid;
value of the procurement contract;
full name of tender winner.

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7. The client shall reject the proposals that do not meet his requirements stated in the request (announcement), or the bidder caused by his action the emergence of circumstances stated in Article 7 of the present Law.

Article 34. Principal Requirements to Procurement Contracts

1. The procurement contract shall become effective from the date of its being signed by the contracting party and the participant found to be the successful bidder in the procurement procedure in accordance with this Law.

2. The procurement contract shall be made only in writing and in compliance with provisions of the Civil Code of Ukraine (1540-06). The validity of a purchase contract may be extended for a period sufficient for carrying out procurement procedure in the next budget period in the amount not more than 15 percent of the cost of the contract concluded in the previous budget period that does not exceed the relevant assignment in the previous budget period. All expenses related to the contract conclusion (including expenses related to notarization thereof) may be laid upon the successful tenderer in the procurement procedure upon conditions specified in tender documents and in accordance with provisions of the Civil Code of Ukraine (435-15). Notarization of a contract shall not be binding, by request of the client the procurement contract shall be subject to binding notarization.

The client shall conclude the procurement contract upon approval of a corresponding budget. An essential condition of the procurement contract shall be the possibility of reducing the volumes of procurement depending on the financing of expenditures.

The client shall have the right to stipulate advance payment for a term which cannot exceed 90 calendar days in the contracts, concluded as a result of procurement procedure, should procurement be carried out of goods and services, for procurement of works – for a term which cannot exceed 180 calendar days, under condition of respective positive conclusion of the Commission is received.

The terms and conditions of the procurement contract must not be different from the conditions of the tender (or) offer of the bidder/procurement procedure winner, except for cases of price reduction of the tender offer in accordance with the procedure envisaged by this Law, and they must not change after the procurement contract was signed, except for cases when the contract price is adjusted should the Commission issued the positive conclusion.

In case a purchase contract is concluded on the results of tender procedure that provides for price reduction, the parties may agree that the contract will specify the quantity of goods or the volume of services that do not exceed the value of procurement at the price of accepted bid. At that, changes in the terms and requi

5. If the bidder/procurement procedure winner refuses to perform the contract, the client shall be entitled to unilaterally revoke the contract and is required to execute a new procurement procedure).

(Article 35 deleted according to Law of Ukraine # 434(434-15) of January 16, 2003)

6. The client shall be obliged to furnish the Commission and Tender Chamber of Ukraine with information on conclusion of contract and performance of contract in the course of 5 business days from the moment of inclusion and performance, respectively.

Information on conclusion of contract shall contain: full name and location of the client; source of financing of procurement; object of procurement, date the holding of procurement procedures; date of acceptance; date of conclusion and price of contract; information on tender winner (full name, location, telephone and SSRE Code (for legal entities), surname, name and patronymic, place of registration, telephone, SRIU identification number (for individuals).”

SECTION VII APPEAL AGAINST APPLICATION OF PROCUREMENT PROCEDURES

Article 36. Right to Appeal Against Actions of the Client

1. In order to protect infringed, unrecognized and questioned rights and freedoms in the

for extension of procurement procedure termination, shall be grounds for canceling such procurement procedure.

The receipt of a complaint from the claimant, which did not acquire the status of bidder or did not participate in procurement procedure, shall not terminate procurement procedure. The consideration of such a complaint shall be carried out by the Commission in the term, set for the consideration of complaints, received from bidders. The Commission, according to the results of the consideration of such a complaint, shall have the right to suspend the procurement procedure for the term that may not exceed 20 working days, or take other decision pursuant to this Law..

3. Should procurement procedure be appealed according to which a contract was concluded, the Commission shall immediately inform the State Treasury of Ukraine (servicing bank), which is obliged, prior to the adoption of a decision on complaint by the Commission, to terminate payments under this contract, and inform the Commission and Tender Chamber of Ukraine thereof.

4. Tender Chamber of Ukraine shall have the right to submit conclusion on the consideration of the complaint.

The opinion on consideration of the complaint shall be forwarded to the Commission within one business day of the date of approval of the opinion.

5. Based on the results of consideration of the complaint, the Commission, shall make a decision about full /partial satisfaction of the complaint, which results in elimination of violations in conformity with the effective legislation, abolishing illegal decision of the client, cancelling procurement procedure, carrying out other acts by the client, including those connected with development of bidding documentation, assessment of bids, or takes a decision on recognizing the complaint as unsatisfied or leaving it without consideration.

If the complaint is of a complex or specialized nature, the Commission may involve independent qualified (technical) experts and advisors in the relevant fields and extend the suspension of the procurement procedure until experts and advisors reach final conclusion on the questions posed to them.

The Commission shall have the right to leave complaint without consideration if it was submitted later than 15 days from the date announcement (notification) was published on results of tenders in compliance with Article 29-1 of this Law.

6. The Commission shall send to the customer a copy of the decision on consideration of the complaint to each other as well as to the complaint, the State Treasury (servicing bank) and the Tender Chamber within three business days of the date of adoption of the decision.

7. The Commission`s decision may be appealed according to a procedure established by legislation.”

Article 37-1. Appeal to a Court of Law against Procurement Procedures, Decisions, Acts or Omissions to Act of the Customer

Procurement procedures, decisions, acts or omissions of the customer may be appealed against to a court of law with due consideration for the statements of this Law.

The complainant shall forward to the State Treasury, the Antimonopoly Committee of Ukraine, the customer as well as the Tender Chamber an attested copy of a statement of claim within three business days of the date of submission to the court, with the document proving its submission to the court enclosed, as well as attested copy of the court decision on initiation of proceedings. If, at the time of forwarding of the copy of the statement of claim, the court decision has not come yet, the complainant is required to forward an attested copy of the court decision within 20 calendar days of the date of forwarding of the copy of the statement of claim.* .0005 py of ti[(coTD 0 Tc 0 TTc .2159.86

the same person`s complaint on the same matter Commission has made a decision under a procedure established by Law in Article 37.

As of the date of receipt of a copy of the statement of claim, the State Treasury of Ukraine and its bodies are required not to effect the payment relate

Officers of principals and tenderers shall be liable for the violation of requirements of this Law and other regulations developed on its basis according to the administrative law of Ukraine.

Specialists, lawyers, economists, consultants or other individuals or legal entities, which engaged to work on tender committees on a contractual basis in compliance with legislation, as well as notaries, who attest procurement contracts (in case of notarization of procurement contracts by request of the client), shall not be liable for the decisions, actions or inaction of the tender committee and the client's officials, bidders or other persons and for performance (non-performance) of procurement contracts concluded on the basis of decisions of the client's tender committee, as well as for the consequences caused by its decisions, actions or inaction.

SECTION VIII FINAL PROVISIONS

1. This Law shall become effective three months after its publication.
2. Within three months upon this law's becoming effective, the Cabinet of Ministers of Ukraine shall:
 - prepare and submit to the Supreme Council of Ukraine proposals as to bringing the laws of Ukraine in compliance herewith;
 - bring its regulations in compliance herewith;
 - ensure the review and abrogation by executive authorities of their regulations contradicting this Law;
 - ensure the adoption of regulations needed for the implementation of provisions hereof.

L. Kuchma, President of Ukraine
City of Kyiv, February 22, 2000
#1490-III

Updated by O. Hik

The Economic Code of Ukraine (Vidomosti Verkhovnoyi Rady Ukrainy, 2003, ##18-22, p.144):

- in paragraph two of part two, Art. 12, the words “state contract” shall be deleted;
- Art. 13:
 - the words “state contract” shall be deleted from the title;
 - part four shall be deleted;
 - in part three of Art. 67, the words “which was not included in the state contract or state commission” shall be deleted;
 - in part one of Art. 75, the words “ and state commission” and the words “considering the specific features and under a procedure established by the Cabinet of Ministers of Ukraine” shall be deleted;
 - in part five of Art. 79, the words “considering the specific features and under a procedure established by the Cabinet of Ministers of Ukraine” shall be deleted;
- in the text of Art. 13, part two of articles 47 and 264, the second sentence of part one of Art. 276 and part six of Art. 331, the words “state need

paragraphs four and five shall be deleted.

in paragraph one of part four, the words “meeting the state needs for respective products” shall be replaced by the words “meeting the priority state needs for respective goods, works and services”;

part five shall have the following language:

“5. Coordination of activities associated with the formation of a state contract and monitoring of its execution shall be the responsibility of the Antimonopoly Committee of Ukraine on coordination of procurement of goods, works and services for public funds”;

parts six and seven shall be deleted;

5) Article 3 shall have the following language:

“Article 3. Encouraging the Fulfillment by National Producers (Resident) of Delivery of Goods, Works and Services for Priority State Needs

1. The national producer (resident) of goods, works and services, who carries out a state contract, shall be encouraged and protected in accordance with the Law of Ukraine On Procurement of Goods, Work and Services for Public Funds;

b) Article 4 shall have the following wording:

“Article 4. Financial Support for State Contract Execution

1. The execution of a state contract shall have financial support from the State Budget of Ukraine”;

7) Articles 5 and 6, having the following language, shall be added:

“Article 5. Liability for Untargeted Use of State Budget Funds

1. Responsibility for untargeted use of the state budget funds allocated for a state contract shall be borne by relevant officials as provided by law.

Article 6. Reporting and Publication of Information on State Contract Execution

1. Reports on state contract execution shall be prepared and submitted in accordance with a procedure set forth in the Law of Ukraine On Procurement of Goods, Works and Services for Public Funds.

2. Government customers are required to publish information on state contract execution and the efficiency of use of the state budget funds in accordance with a procedure set forth in the Law of Ukraine On Procurement of Goods, Work and Services for Public Funds.

II. Final Provisions

1. This Law shall become effective as of the date of its promulgation.

2. The Cabinet of Ministers of Ukraine shall, within one month from the date of publication of this Law, bring its legal and regulatory documents into consistency with this Law.

3. The Ministry of Economy of Ukraine shall stop the performance of the functions of the Antimonopoly Committee of Ukraine on coordination of procurement of goods, works and services for public funds as of the effective date of this Law.

4. The National Bank of Ukraine shall ensure control of compliance by banks with the requirements of the Law of Ukraine On Procurement of Goods, Work and Services for Public Funds and adopt the relevant regulatory and legal documents within a month from the effective date of this Law.

5. The Accounting Chamber, the State Auditing and Inspection Service, the State Treasury and the Tender Chamber shall, within five days from the date of promulgation of this Law, delegate its authorized representatives to the Interdepartmental Commission on Public Procurement.

6. Pending bringing other regulatory and legal documents into consistency with this Law, they shall be effective where they are not at variance with this Law.