

DECREE
OF THE PRESIDENT OF THE RUSSIAN FEDERATION
NO. 305 OF APRIL 8, 1997
ON THE PRIORITY MEASURES FOR PREVENTION CORRUPTION AND REDUCING
THE BUDGETARY EXPENSES IN THE ORGANIZATION OF THE PURCHASE OF PRODUCTS
FOR THE STATE NEEDS

For the purpose of ensuring efficient spending of the funds of the federal budget, the budgets of the entities of the Russian Federation, the State non-budgetary funds and the non-budgetary funds of the entities of the Russian Federation, and also restraining the abuses of their official position by government employees in the organization of the purchases of products for the State needs and pending the adoption of a federal law on the organization of tenders for the purchase of goods, works and service for the State needs, I hereby decree:

1. To establish that the orders for the purchase of goods, works and services (hereinafter referred to as products) for the State needs shall be placed at tender (bidding), unless otherwise expressly provided for by federal laws and decrees of the President of the Russian Federation.

2. To approve the annexed [Regulations](#) on the Organization of the Purchase of Goods, Works and Services for the State Needs.

3. To establish that the relations arising in connection with the bidding placement of orders for the purchase of products for the State needs from the funds of the federal budget, the budgets of the entities of the Russian Federation, the State non-budgetary funds and the non-budgetary funds of the entities of the Russian Federation, which have not been regulated by the [Civil Code](#) of the Russian Federation, and also by any other federal laws on the delivery of products for the State needs shall be determined by the present Decree.

The provisions of the present Decree shall apply also to the customers using the funds of the federal budget and the budgets of the entities of the Russian Federation being granted as State support, including the State guarantees.

4. To consider it necessary to hold tenders (bidding) for the placement of orders for the purchase of products for municipal needs in the procedure approved by the present Decree for the placement or orders for the purchase of products for the State needs.

5. The bodies of the executive power of the entities of the Russian Federation and the bodies of the local self-government shall bring their normative legal acts on the deliveries of products respectively for the regional and municipal needs in conformity with the present Decree.

6. The Government of the Russian Federation shall:

bring, within two months, their normative legal acts on the deliveries of products for the State needs in conformity with the present Decree;

[Decision](#) of the Government of the Russian Federation No. 628 of May 26, 1997 was issued for the purpose of implementation of this Decree

prepare and submit within two months to the State Duma of the Federal Assembly of the Russian Federation a draft federal law on the organization of tenders for the purchase of goods, works and services for the State needs;

approve within two months the composition and volumes of the products to be purchased for the State needs without holding tenders (bidding);

On the products purchased for state needs without trading (tender) see [Decision](#) of the Government of the Russian Federation No. 1222 of September 26, 1997

to entrust the Ministry of Economics of the Russian Federation with the interbranch coordination of the activity in the organization of the tenders (bidding) for the placement of orders for the purchase of products for the State needs;

to submit to the President of the Russian Federation a draft decree of the President of the

Russian Federation on the establishment of the title Supplier of Products for the State Needs of Russia giving its holder the right to corresponding marking of the products and the use of the said title for the advertising purposes.

7. The Regulations on the Organization of the Purchase of Goods Works and Services for the State Needs, approved by the present Decree, shall enter into force as from may 1, 1997 and shall be effective pending the entry into force of a federal law on the organization of tenders for the purchase of goods, works and services for the state needs.

President of the Russian Federation
Moscow, the Kremlin

Boris Yeltsin

Annex

**REGULATIONS
ON THE ORGANIZATION OF THE PURCHASE OF GOODS, WORKS
AND SERVICES FOR THE STATE NEEDS
(Approved by the Decree of the President of the Russian Federation
No. 305 of April 8, 1997)**

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I. General Provisions

1. The present regulations shall govern the relations arising in connection with the placement of orders, including by way of organizing and holding a tender (bidding), for the purchase and delivery of goods, works and services (hereinafter referred to as products) for the State needs.

2. The present Regulations shall determine the procedure for the placement of orders for the purchase of products for the State needs carried out by:

State customers from the funds of the federal budgets, the budgets of the entities of the Russian Federation, the federal non-budgetary funds and the non-budgetary funds of the entities of the Russian Federation, including by way of holding a tender (bidding);

See Federal Law No. 97-FZ of May 6, 1999 on Tenders for the Placement of Orders for the Supply of Goods, Performance of Works, Provision of Services for State Needs

juridical persons to which certain State customers have, on a bidding contractual basis, transferred the performance of part of their functions in the purchase of products for the State needs from the funds of the federal budget, the budgets of the entities of the Russian Federation, the federal non-budgetary funds and the non-budgetary funds of the entities of the Russian Federation.

3. The composition and the volumes of the products to be purchased for the State needs without holding a tender (bidding) shall be established by the Government of the Russian Federation.

On the products purchased for state needs without trading (tender) see [Decision of the Government of the Russian Federation No. 1222 of September 26, 1997](#)

4. For participating in the procedure of the placement of orders in the purchase of products for the State needs, juridical persons and individual businessmen (hereinafter referred to as suppliers) must meet the qualification requirements determined in accordance with the present Regulations for each procedure of the placement of orders separately.

5. The supplier:

must have the necessary professional knowledge and qualification, financial funds, equipments and other material possibilities, experience and positive reputation, be reliable, possess the necessary labour resources for executing a State contract, fulfill the obligations in the payment of the taxes to the budgets of all levels and the obligatory payments to the State non-budgetary funds;

must not be insolvent, be in the process of liquidation (for a juridical person), or be declared insolvent (bankrupt).

A supplier may not be an organization whose property has been attached and/or whose economic activity has been suspended.

6. A State customer or a juridical person carrying out, under an agreement with a State customer, the placement of orders for the purchase of products for the State needs (hereinafter referred to as the customers) may demand from the supplier participating in the indicated procedure the furnishing of documents or any other information necessary for certifying the qualification in accordance with the criteria stipulated by the present regulations, unless that does not violate the rights of the suppliers to the protection of their intellectual property and other legally protected rights.

Any requirement stipulated by the present regulations must be contained in the qualification documents in case of the conduct of a qualification selection, in the bidding documents or in any other documents in the attraction of applications for participation in a tender (bidding), bids, offers or quotations and must apply to all suppliers.

It shall be impermissible to establish any other criteria, requirements or procedure concerning the determination of the qualification of the suppliers.

7. The evaluation of the qualification of the supplier shall be carried out in accordance with the criteria, requirements or procedures established in the qualification documents in case of the conduct of a qualification selection or in the bidding documents or in any other documents in the attraction of applications for participation in a tender (bidding), bids, offers or quotations.

It shall be impermissible to establish any criteria, requirements or procedure of discriminatory character with respect to the qualification of the supplier or certain categories thereof, unless that is stipulated by federal laws or decrees of the president of the Russian Federation.

The customer must debar a supplier from the participation in the procedure of the placement of the orders for the purchase of products for the State needs in case the latter intentionally submits false information about his qualification. The customer may debar a supplier from the participation in the procedure of the placement of orders in case the latter submits incomplete or inaccurate information about his qualification.

8. The customer may conduct a qualification selection for revealing the supplier whose qualification corresponds to the established requirements prior to the submission of applications for

participation if a tender (bidding), bids offers or quotations in accordance with the present Regulations.

In case of the conduct of a qualification selection the customer must furnish a set of qualification documents upon a demand of each supplier that requests them in connection with an invitation to participate in a qualification selection and makes the payment for the documents being furnished if such payment has been established. The payment for the qualification documents shall include only the expenses borne by the customer in the publication of such documents and their delivery to the suppliers.

9. The qualification documents must contain:

- a) instructions on the preparation and submission of applications for participation in a qualification selection;
- b) an abstract of the basic conditions of a State contract to be concluded for the deliveries of products for the State needs;
- c) any documents or any other information that may be submitted by the suppliers in confirmation of their qualification;
- d) the procedure for submitting the applications for participation in term a qualification selection and the for their submission (with the indication of the place and time) giving the suppliers sufficient time for submitting the applications;
- e) any other requirements established by the customer in accordance with the present regulations and any other normative legal acts concerning the preparation and submission of applications for participation in a qualification selection and relevant procedures.

10. The customer must answer any request of a supplier for an explanation of the qualification documents received no later than 10 days before the expiry of the term for submitting the applications for participation in a qualification selection. The answer of the customer must be sent within a term permitting the supplier to submit duly an application for participation in the qualification selection. In case an answer of a customer to a request of a supplier is of interest for the supplier, it shall be brought to the notice of all supplier to which the customer has furnished the qualification documents, without indicating the source of the request.

11. The customer shall evaluate the qualification of all suppliers and take a decision with respect to each supplier that has submitted an application for participation in qualification selection. When taking such decision the customer shall be guided only by the criteria, requirements or procedures established in the qualification documents.

The customer must immediately notify each supplier that has submitted an application for participation in a qualification selection about the results of the passage by him of such selection and furnish, at his request, a list of all suppliers that have passed the selection.

The customer must answer a request of a supplier that has not passed a qualification selection with a justification for the adoption of such decision.

12. Prior to concluding a State contract the customer may demand from a supplier that has passed a qualification selection and with whom he intends to conclude a contract, a confirmation of the qualification in accordance with the same criteria, requirements or procedures that have been used in the conduct of the qualification selection with the said supplier.

13. The exchange of documents, notifications, decisions and other materials stipulated by the present Regulations and being sent by the customer or a body of the executive power to a supplier or a by a supplier to the customer must be carried out in a form ensuring the recording of the content of a communication, with regard to the other norms of the present Regulations and any requirements with respect to the form set by the customer at the first initiation of suppliers to participate in the procedure of the placement of orders for the purchase of products for the State needs. The exchange of documents between the supplier and the customer may be carried out through communications facilities which do not ensure the recording of the content of a communication, provided that immediately thereafter the recipient of the communication shall be sent a confirmation in a from ensuring the recording of its content. The customer may not permit discrimination with respect to the suppliers on the ground of the form in which they transmit or receive documents, notifications, decisions or other materials if the form corresponds to the

requirements of the present item.

The customer may not set any additional requirements to supplier with respect to the establishment of the authenticity of the documents confirming their qualification other than those established by federal laws.

14. When placing the orders for the purchase of products for the State need, in case it is supposed that the price of a State contract will exceed 2500 statutory rates of the minimum monthly remuneration of labour, the customer must keep the minutes of the procedures of the purchase of products which shall contain the following information:

a) a short description of the products being purchased or the requirements of the purchase in whose respect the customer has requested bids or offers;

b) the names and addresses of the suppliers that have submitted applications for participation in a tender (bidding), bids, offers or quotations, and also the name and address of the supplier with whom a State contract is to be concluded, and the price of such contract;

c) the information on the qualification of the suppliers that have submitted applications for participation in a tender (bidding), bids, offers or quotations, or information on the absence of such data;

d) the price or the ground for establishing a price and an abstract of the other basic conditions of each application for participation in a tender (bidding), bids, offers or quotations and a State contract;

e) an abstract of the evaluation and comparison of the applications for participation in a tender (bidding), bids, offers or quotations, including the information on the granting of preferences in accordance with the present Regulations;

f) the information with the indication of the motives of an adopted decision in accordance with the present Regulations, in case all applications for participation in a tender (bidding), bids, offers or quotations have been rejected;

g) the information with the indication of relevant reasons, in the case the result of the conduct of the procedure of the placement of orders for the purchase of products for the State needs, based on the methods of purchases different from a tender (bidding), is not the conclusion of a State contract;

h) the information on the unfair actions of suppliers, in case the application for participation in a tender (bidding), a bids, offer or quotation have been rejected in accordance with the present Regulations;

i) the information with the indication of the grounds guided by the customer in the choice of a method of placing the orders for the purchase of products for the State needs, in case besides a tender (bidding) there have been used other methods of placing the orders stipulated by the present Regulations;

j) the information with the indication of the grounds and circumstance guided by the customer in case of the application of restrictions on the participation of suppliers in a tenders (bidding) on the ground of the country of their location or on any other grounds;

k) a summarized statement of the requests for an explanation of the qualification or bidding documents, the answer thereto, and also an abstract of the changes in the documents.

15. After opening the envelopes with the applications for participation in a tender (bidding) and getting acquainted with the bids, offers or quotations the information stipulated in Subitems (a) and (b) of Items 14 of the present Regulations shall be furnished on demand of any supplier that has participated in the procedure of the placement of orders for the purchase of products for the state needs.

After summing up the results of the procedure of the placement of orders for the purchase of products for the State needs the information stipulated in Subitems (c), (d), (e), (f), (g) and (k) of Item 14 of the present Regulations shall be furnished on demand of the suppliers that have submitted the applications for participation in a tender (bidding), bids, offers or quotations or have filed applications for participation in a qualification selection, or after the termination of the said procedure, which have not led to the conclusion of a State contract.

With the exception of the cases when the furnishing of the information stipulated by Subitems

(c), (d), (e), (f) and (k) of Item 14 of the present Regulations is being carried out by a court decision, the customer may not furnish:

a) the information whose disclosure is contrary to the federal laws, hampers the fulfilment of the legislation of the Russian Federation, inflicts damage to the legitimate commercial interests of the parties or impedes fair competition;

b) the information on the consideration, evaluation and comparison of applications for participation in a tender (bidding), bids, offers or quotations or on the price of the said applications, bids offers or quotations, with the exception of the information stipulated by Subitem (e) of Item 14 of the present Regulations.

The absence of certain data in the minutes of the procedures of purchases of products shall not be a ground for the emergence of the right of a supplier to demand a compensation for losses.

16. When carrying out the procedure of placing the orders for the purchase of products for the State needs in those cases when it is supposed that the price of a contract will be less than 2500 statutory rates of the minimum monthly remuneration of labour, the customer must keep short records with the indication of the main actions that have taken in the conduct of the said procedure and their justification.

17. The customer in accordance with the present Regulations may reject all applications for participation in a tender (bidding), bids, offers or quotations at any time before the summing up of the procedure of placing the orders for the purchase of products for the State needs in the presence of relevant indication in the bidding or any other documents.

The notification about the rejection of all applications for participation in a tender (bidding), bids, offers or quotations shall immediately be sent by the customer to all the supplier that have submitted the said applications, bids, offers or quotations.

18. Before concluding a State contract the customer shall send a notification to the supplier that has won the tender (bidding).

Conformably to all the other methods of the purchases of products for the State needs the suppliers shall be notified about the procedure for concluding a State contract when requesting bids, offers or quotations.

If a State contract stipulates a delivery of products to a buyer (or buyers), then such delivery shall be made on the basis of an agreement of delivery of products for the State needs concluded between the supplier and the buyer (or buyers) determined by the customer.

19. A State contract must stipulate the right of the customer to cancel the contract on his initiative in the procedure established by the legislation of the Russian Federation. In case of cancellation of a contract on the initiative of the customer the latter must compensate the supplier for the expenditures thereon incurred by him as on the moment of the cancellation of the contract, including the lost profit. The supplier must be paid the contract cost of the goods fully or partly produced in accordance with the contract and having no demand on the market at the moment of its cancellation, and all the goods must be transferred to the customer. In case the goods are in market demand the supplier must be compensated for the losses inflicted as a result of the sale of the goods.

20. The customer must publish the information about the winner of a tender (bidding) no later than 10 days after the summing up of its results. Such information must include the name of the supplier the winner of the tender (bidding), the subject and price (supposed price) of the State contract. The procedure for the publication of the decision on the conclusion of a contract shall be established by the Ministry of economics of the Russian Federation.

The requirement to publish the said information shall not be applicable if the price of a State contract being concluded is less than 2500 Statutory rates of the minimum monthly remuneration of labour.

21. Unfair actions of suppliers shall comprise the actions expressed in that a supplier that has submitted an application for participation in a tender (bidding), a bid, offer or quotation directly or indirectly offers, gives or agrees to give any present or past official (or employee) of the customer or of any other State body a remuneration in any form (a proposal of being hired or any other service or material remuneration) for the purpose of exerting influence on the conduct of the

procedure of the placement of orders for the purchase of products for the State needs, the performance of any other action, the adoption of a certain decision or application of a certain procedure by the customer. The customer, if he establishes the said actions of a supplier, shall debar him from participation in the procedure of the placement of orders. The information thereon and the motives of the adopted decision shall be indicated in the minutes of the procedures of the purchase of products and shall immediately be communicated to the supplier.

22. The technical specifications and other characteristics of the products being purchased must give a clear idea about the object of the purchases for the purpose of creating the conditions for fair and open competition between the suppliers. There must be precise exposition of the requirements of the customer with respect to the quality, standards and results of the work, testing, safety dimensions, conventional signs, terms, packing, shipment, marking or processes and methods of production, and also any other actions connected with the determination of the conformity of the products being purchased to such requirements.

The technical specifications, plans drawings, sketches or descriptions required by the customer shall contain:

- a) a direct description of the products being purchase based on objective technical and qualitative characteristics;
- b) the indexes of the functioning of the products in the case when a direct description is inexpedient or when it is more expedient to give the indexes of their functioning;
- c) the standards, requirements, conventional signs and terms; the standard conditions of the transactions concerning the technical and qualitative characteristics of the products being purchased (if any), with regard to the international standards or wide-spread national standards or construction norms (if any).

The technical specifications must not contain any references to concrete trademarks, firm names, patents, sketches or models, source of origin or to the producer. In the cases when such references are caused by objective necessity the specification must contain the words "or its equivalent".

23. The qualification, bidding and any other documents in the attraction of applications for participation in a tender (bidding), bids, offers or quotations shall be drawn up in the Russian language.

II. Methods of the Purchases and the Conditions of Their Application

24. The customer shall carry out the procedure of placing the orders for the purchase of products for the State needs by way of conducting an open tender (an open bidding) as the most preferable method of purchases.

25. The customer may use other procedures of placing the orders for the purchase of products for the State needs apart from the conduct of an open tender (an open bidding) only in accordance with [Items 26](#) to 30 of the present Regulations.

26. The customer may place orders for the purchase of products for the State needs by way of conducting a two-stage tender in the following cases:

a) the customer has no possibility of drawing up detailed technical specifications of goods or services, or to determine the characteristics of services for the purpose of the fullest satisfaction of the demand for purchases. For this reason be must:

Attract applications, bids or offers;

hold negotiations with the suppliers in virtue of the peculiarities of the technical characteristics of goods or construction works or in virtue of the character of services;

b) the customer intends to conclude a State contract for the purpose of carrying out scientific investigations, experiments, studies or developments, with the exception of the cases when a contract stipulates the manufacture of products in volumes that are sufficient to ensure their profitability or to compensate for the expenses on the indicated works;

c) there are circumstances permitting the customer to hold a specialized closed tender (a

closed bidding) in accordance with the present Regulations, if the customer has established that the chosen method is the best one;

d) the suppliers have not submitted any applications for participation in a tender (bidding) or all such applications have been rejected by the customer in accordance with the present Regulations, if in so doing the holding of a new tender (bidding) does not in the customer's opinion, lead to the conclusion of a State contract.

27. The customer may place orders for the purchase of products for the State needs by way of conducting a closed tender (a closed bidding) in the following cases:

a) the products, in virtue of the technical complexity or a special character, may be bought only from a limited circle of suppliers;

b) the price of a State contract is less than 2500 statutory minimum monthly remuneration of labour, and also of the time and expenses necessary for considering and evaluating a great number of applications for participation in a tender (bidding) are substantial as compared with the cost of the products being bought - in agreement with the Ministry of Economics of the Russian Federation or with a territorial body authorized by the said Ministry.

28. The customer may place orders for the purchase of products for the State needs at a specialized closed tender (closed bidding) if a State contract is being concluded for the acquisition of products for the needs of the national defence or for ensuring the national security in the part constituting a State secret in accordance with the legislation of the Russian Federation.

29. The customer may place orders for the purchase of products for the State needs with the use of the method of requesting quotations in the purchase of available products which are manufactured or furnished not by concrete orders of the supplier and for which there exists an established market, provided that the price of a State contract does not exceed 2500 statutory minimum monthly remuneration of labour.

See the Procedure for Approving the Purchase of Goods, Work and Services by Holding Closed Tenders (Contest) and Placing the Order with the Only Source (Supplier) approved by the Ministry of Economics of the Russian Federation on July 9, 1997

30. The customer may place orders for the purchase of products for the State needs from a single source in agreement with the Ministry of Economics of the Russian Federation or with a territorial body authorized by the said Ministry in the following cases:

a) if there is an urgent demand of products, in connection with which the holding of a tender (bidding) or the use of any other method of the placement of orders for the purchase of products for the State needs is inexpedient, provided that the circumstances that have conditioned the urgent demand could not have been foreseen beforehand and they have not been the result of slow actions of the customer;

b) if due to certain emergency circumstances there has arisen a pressing demand of a certain product, in connection with which the use of any other methods of placing the orders for the purchase of the product for the State needs is inexpedient with regard to the expenses of time.

c) if a product may be obtained only from one supplier or if a single supplier enjoys exclusive rights with respect to a product and an equivalent substitute is inexistent;

d) if there are circumstances permitting the customer to hold a specialized closed tender (a closed bidding) in accordance with the present Regulations, in case the customer has established that the making of purchases from a single source is the best method thereof.

31. The customer may hold an internal tender (an internal bidding) if:

a) only Russian suppliers are taking part in the purchases in accordance with the legislation of the Russian Federation;

b) the customer considers that only Russian suppliers will be interested in participating in the tender (bidding).

III. Procedure for the Holding of a Tender (Bidding)

On training of specialists in the organization and holding tenders (contests) for the purchase of

products for government needs see [Decision](#) of the Government of the Russian Federation No. 1443 of November 18, 1997

Attraction of Applications for Participation in a Tender and Applications for a Qualification Selection

32. The customer shall attract applications for participation in a tender (bidding) or in a qualification selection by way of publishing in the printed mass media the invitations to participate in a tender (bidding) or in a qualification selection.

Such invitations, by decision of the customer, may also be published in the English language in the printed mass media having international circulation.

33. An invitation to participate in a tender (bidding) must contain the following information:

- a) the name and address of the customer;
- b) the specification, quantity and place of the delivery of the products;
- c) the desirable or required time of the delivery of the products;
- d) the criteria and the procedure for the evaluation of the qualification of the supplier;
- e) a subsequently unchangeable advertisement about the possibility of the participation in the purchase of products for the State needs of suppliers regardless of their location or about the necessity of being restricted to a certain circle of suppliers;
- f) the method, procedure and place for obtaining the bidding documents;
- g) the rate of the fee, if any collected by the customer for the obtention of the bidding documents;
- h) the procedure, place and time for submitting the applications for participation in a tender (bidding).

34. An invitation to participate in a preliminary qualification selection must contain the information stipulated by [Item 33](#) of the present Regulations, if such information is known, and also the following information:

- a) the procedure and place for obtaining the qualification documents;
- b) the rate of the fee, if any, collected by the customer for the obtention of the qualification documents;
- c) the place and time for submitting the applications for participation in a qualification selection.

35. The customer shall furnish the bidding documents to the suppliers that have passed the qualification selection (if any) and paid the fee (if any) for the documents in accordance with the rules and requirements established in the invitation to participate in a tender (bidding). The rate of the fee collected by the customer for the furnishing of the bidding documents may not exceed the rate of the expenses for their manufacture and the delivery to the suppliers.

36. The bidding documents must contain the following information:

- a) the instructions for the preparing the applications for participation in a tender (bidding);
- b) the criteria and procedure for evaluating the qualification of the suppliers, and also the procedure for a repeated confirmation of the qualification of the suppliers;
- c) the requirements set to the documents or any other information submitted by the supplier in confirmation of his qualification;
- d) the character and the necessary technical and qualitative characteristics of the products being purchased, and also, where necessary, the technical specifications, plans, drawings and sketches, the quantity of the goods, any renderable accompanying services, the place of the performance of the works or services, and the desirable or necessary time for the delivery of the products;
- e) the criteria taken into account by the supplier when determining the winning application, including the granting of the preferences and any other factors (apart from the price);
- f) the conditions of a State contract known by the customer, and the form of a State contract, if any;
- g) relevant description of the method of the evaluation and comparison of alternative

applications, if alternative characteristics of products are permissible and such possibility is stipulated by the conditions of the contract or any other provisions of the bidding documents;

h) a description of a part (or parts) of the products being purchased, if the suppliers are permitted to submit applications only for a part of the products being purchased;

i) the method of the calculation or expression of the price of a State contract, including the indication as to whether the price includes, apart from the cost of the products themselves, the expenses on the transportation, insurance, and the payment of the customs duties, taxes and other obligatory charges;

j) the requirements set by the customer to the person furnishing a security of an application for participation in a tender (bidding) and with respect to the character, form, quantity and any other basic conditions of any security of the performance of an obligation furnished by the customer submitting such application, and also any like requirements concerning the security of the performance of a State contract, including the availability of the necessary labour and material resources;

k) the relevant explanation in case a supplier has not been granted the right to change or recall an application for participation in a tender (bidding) prior to the expiry of the period for submitting the applications without losing the right to the granted security of such application;

l) the procedure, place and time for submitting the applications for participation in a tender (bidding);

m) the methods used by the suppliers for requesting the explanations of the bidding documents and the information on whether or not the customer intends to hold a meeting with the suppliers at this stage;

n) the period of validity of the applications for participation in a tender (bidding);

o) the place, date and time for opening the envelopes with the applications for participation in a tender (bidding);

p) the procedure for opening the envelopes and considering the applications for participation in a tender (bidding);

q) references to the items of the present Regulations and also other normative legal acts on purchases. The absence of any such reference shall not be a ground for an appeal or for the emergence of responsibility of customer;

r) the name, position and address of one or several officials (employees) of the customer authorized to maintain relations directly with the suppliers and receive therefrom without intermediaries the information concerning the purchases of products;

s) any obligations that a supplier must assume besides those stipulated by a State contract, for example, the obligations under barter trade or in the transfer of technologies;

t) the explanations of the right to appeal unlawful actions or decisions of the customer or the procedures used by him;

u) the relevant order in case the customer retains the right to reject all applications for participation in a tender (bidding);

v) any other requirements established by the customer in accordance with the present Regulations and any other normative legal acts on purchases with respect to the preparation and submission of applications for participation in a tender (bidding), and also on the issues connected with purchases.

37. A supplier may demand from the customer an explanation of the bidding documents. The customer must answer any inquiry of a supplier for an explanation of the bidding documents received within a reasonable period before the expiry of the term for submitting the applications for participation in a tender (bidding). The customer must send a reply a reasonable term permitting the supplier to submit in due time an application for participation in a tender (bidding), and bring such explanation to the notice of all the suppliers that have been furnished with the bidding documents, without indication of the source of the inquiry.

At any time before the expiry of the term for submitting the applications for participation in a tender (bidding) the customer may on his own initiative or in reply to an inquiry of a supplier amend the bidding documents by way of issuing a supplement. The supplement shall immediately be

brought to the notice of all the suppliers that have been furnished with the bidding information by the customer, and shall be binding for them.

In case of having a discussion with a supplier the customer shall draw a protocol, in which there shall be entered the inquiries, submitted in the course of the meeting, for an explanation of the bidding documents without the indication of the sources of their receipt and the answers to the inquiries. The protocol shall immediately be sent to all the suppliers that have been furnished with the bidding documents by the customer, for the purpose of taking into account the information contained in the protocol when preparing the applications for participation in a tender (bidding).

Submission of Applications for Participation in a Tender (Bidding)

38. The customer shall establish the place of submitting the applications for participation in a tender (bidding), the date and time of the termination of the reception of the said applications. The date of the submission of applications for participation in a tender (bidding) may not be established before the expiry of 45 days from the day of the issuance of the bidding documents.

If the customer issues an explanation of the bidding documents (or amends them) or has a discussion with a supplier, then he, prior to the expiry of the term for submitting the applications for participation in a tender (bidding) shall, where necessary, establish for the suppliers a reasonable term for the purpose of taking into account in the said applications those explanations (amendments) or the information contained in the protocol of the discussion, and shall prolong the period for the submission of applications for participation in the tender (bidding).

The customer, at his discretion, prior to the expiry of the term for submitting the applications for participation in a tender (bidding) may prolong the period for their submission.

The notification about the prolongation of the term for submitting the applications for participation in a tender (bidding) shall immediately be sent to each supplier that has been furnished with the bidding documents by the customer.

An application for participation in a tender (bidding) shall be drawn up in written form, countersigned and submitted in a sealed envelope in the procedure and by a method indicated by the customer in the bidding documents. The customer shall, at a request of the supplier, issue thereto a receipt with the indication of the date and time when the application was received.

An envelope with an application for participation in a tender (bidding) received by the customer after the expiry of the term for the reception of applications shall not be opened and shall be returned to the supplier that has submitted it.

39. The applications for participation in a tender (bidding) shall be considered valid in the course of the term established by the bidding documents. Prior to the expiry of the period of validity of the applications for participation in a tender (bidding) the customer may propose to the suppliers to prolong the said period. A supplier may reject such proposal. In this case he shall not lose the right for securing his application, but its validity shall terminate at the initially established time.

The suppliers that consent to the prolongation of the period of validity of the applications for participation in a tender (bidding) shall prolong or secure the prolongation of the period of validity of the security, furnished by them, of the applications, or shall furnish a new security for covering the prolonged period of effect of such applications. A supplier the period of validity of the security of whose application is not prolonged or who does not furnish a new security shall be deemed to be a supplier that has rejected proposal for prolonging the period of validity of the applications for participation in a tender (bidding).

Unless otherwise provided for by the bidding documents, a supplier may change or recall his application for participation in a tender (bidding) before the expiry of the period for submitting the applications without losing the right of securing the said application. Such a change or a notification about a recall shall be valid if it comes to the customer before the expiry of the period for submitting the applications for participation in a tender (bidding).

40. When purchasing products for the State needs the customer must demand from the suppliers the furnishing of security for the applications for participation in a tender (bidding) simultaneously with the submission of the said application. This requirement shall apply to all

suppliers.

A bank guarantee, a pledge, and also a surety may be a security of an application for participation in a tender (bidding).

The bidding documents may stipulated that a person that has furnished a security of an application for participation in a tender (bidding) and the guarantor (if any) of the security of the application, and also the form and conditions of the security of the application must be acceptable for the customer.

Prior to the submission of an applications for participation in a tender (bidding) a supplier must demand from the customer a confirmation of the acceptability of the person willing to furnish a security for an application, or of the supposed guarantor. The customer must immediately send an answer to such inquiry.

The confirmation of the acceptability of a person willing to furnish a security for an application for participation in a tender (bidding), or of a guarantor shall not deprive the customer of the right to reject the security of the application on the ground that the said person or guarantor have become insolvent or have lost creditworthiness.

When purchasing products to an amount of less than 2500 statutory rates of the minimum monthly remuneration of labour the customer shall have the right not to demand from a supplier the furnishing of a security for participation in a tender (bidding).

The rate of the security of an application for participation in a tender (bidding) must not exceed 3 per cent of the supposed price of a State contract.

41. The customer shall immediately return the document on the security of an application for participation in a tender (bidding) or shall ensure its return after the onset of one of the following events:

- a) the expiry of the period of validity of the security for the applications for participation in a tender (bidding);
- b) the conclusion of a State contract and the furnishing of a security for the performance of the said contract, if the furnishing of such security is stipulated by the bidding documents;
- c) the termination by the customer of the tender (bidding) without the conclusion of a State contract;
- d) the recall of the applications for participation in a tender (bidding) before the expiry of the term for submitting the applications, unless the bidding documents stipulate that such recall shall impermissible.

42. The customer shall form a bidding commission, which shall carry out the opening of the envelopes with the applications for participation in a tender (bidding) and the evaluation of the said applications, and shall take a decision on the winning application (bid, offer or quotation) in accordance with the present Regulations. A bidding commission shall comprise at least three officials of the customer and representatives of the suppliers.

43. The customers shall be prohibited from carrying out the coordination of the activity of the suppliers which will or may lead to a restraint of competition or an infringement upon the interests of any suppliers. One or several suppliers may not be accorded preferential conditions, including by way of giving access to confidential information and material base, and also decreasing the rate of securing an application for participation in a tender (bidding).

Restricting access to, barring or suspending the participation in a tender (bidding) for any suppliers may be carried out only in the cases stipulated by the present Regulations.

The officials (employees) of the customer may not be participants of a tender (bidding) or comprise one group of persons with a participant of a tender (bidding), in this case all participants of a tender (bidding) comprising one and the same group of persons shall be considered as one person.

A tender (bidding) in which there have participants only one supplier or one group of persons shall be deemed as not having taken place.

The customers must keep the commercial secrets of the suppliers and furnish accurate information about a tender (bidding) in the procedure and on the conditions stipulated by the present Regulations.

Evaluation and Comparison of Applications for Participation in a Tender (Bidding)

44. The envelopes with the applications for participation in a tender (bidding) shall be opened upon the onset of the time indicated in the bidding documents as the date for the submission of the applications (or upon the expiry of a prolonged term) in accordance with the procedure stipulated by the bidding documents.

All suppliers that have submitted applications for participation in a tender (bidding) or their representatives may be present at the opening of the envelopes with applications.

The name, address and price of an application for participation in a tender (bidding) of each supplier whose envelope with an application is being opened shall be announced to the persons who are present at the opening of the envelopes with the applications and shall immediately be entered in the minutes of the procedure of the purchases. These data shall be communicated to the suppliers that have submitted applications but are absent or have not sent their representatives, if they so request.

45. To simplify the procedure of considering, evaluating and comparing the applications for participation in a tender (bidding) the customer may demand from the suppliers an explanation of the provisions of the applications. Any demands directed to changing the content of an application, including the change of the price, shall be impermissible.

The customer may consider an applications for participation in a tender (bidding) as meeting the formal requirement only if it:

- corresponds to all the requirements stipulated by the bidding documents;

- contains insignificant deviations which do not change essentially the characteristics, conditions and any other requirements stipulated by the bidding documents, or if it contains mistakes or inaccuracies which may be removed without changing the essence of the application.

46. The customer shall reject an application for participation in a tender (bidding) if:

- a supplier that has submitted an application does not meet the qualification requirements;

- a supplier that has submitted an application does not agree to the correction of a revealed mistakes;

- the application does not meet the formal requirements stipulated by the bidding documents;

- unfair actions of a supplier have been revealed.

47. The bidding commission shall evaluate and compare the applications for participation in a tender (bidding) for determining the winner of the tender (bidding) in accordance with the procedure and criteria stipulated by the bidding documentation. The use of any criteria other than those stipulated by the bidding documents shall be impermissible.

When determining the most preferable application for participation in a tender (bidding) the customer may take into account only the following:

- the price of an application with regard to the preferences established in accordance with the present Regulations;

- the expenses on the operation, technical servicing and repair of the products, the time for the delivery of the goods, completion of the works or rendering of the services, the functional characteristics of the products, the procedure and time for making the payments and the conditions for furnishing the guarantees for the products;

- the ensuring of the national defence and security.

48. The customer may demand from the supplier with which he intends to conclude a State contract a confirmation of the qualification in accordance with the criteria, requirements or procedures stipulated by the present regulations regardless of the conduct by the customer of the qualification selection. For the confirmation there shall be used the criteria, requirements or procedure which have been used by the customer in the conduct of the qualification selection.

If the supplier does not confirm his qualification on demand of customer, then the application for participation in a tender (bidding) of such supplier shall be rejected and the establishment of the winning application shall be carried out in accordance with the present regulations from among the

remaining effective applications. In this case the customer may reject all the applications on the basis of the present Regulations.

49. The information about the consideration, explanations, evaluation and comparison of the applications for participation in a tender (bidding) shall not be subject to disclosure for the supplier or any other persons that are not participating officially in the consideration, explanations, evaluation and comparison of the applications, with the exception of the cases stipulated by the federal laws and the present Regulations.

50. The conduct of talks between the customer or a bidding commission and a supplier concerning his application for participation in a tender (bidding) shall be impermissible.

51. The written notification about the declaration of an application for participation in a tender (bidding) as winning shall be sent immediately to the supplier that has submitted it. By that moment the customer must be ready to furnish to the supplier the text of a draft State contract.

The State contract shall be concluded in conformity with the requirements of the [Civil Code](#) of the Russian Federation.

52. If the supplier to whom there has been sent a written notification that his application has won has not signed a State contract within the established period or has not furnished, within the period established by the bidding documents, an appropriate security for the performance of the obligations under a State contract, then the customer shall reject such application and shall choose a winning application from among the remaining effective applications. In this case the customer may reject all the applications on the basis of the present Regulations.

53. The notification about the conclusion of a State contract with the indication of the name and address of the supplier that has concluded the contract, and also of the price of the contract shall, within 10 days from the day of the conclusion of such contract, be brought to the notice of all the other suppliers that have participated in the tender (bidding).

IV. Procedures of Other Methods of Placing the Orders for the Purchase of Products for the State Needs

54. A two-stage tender (bidding) shall be subject to the rules of [Section III](#) of the present Regulations, unless otherwise provided for by the present Item.

The bidding documents shall stipulate that at the first stage of a two-stage tender (bidding) all suppliers shall submit initial applications for participation in the tender (bidding) containing bids without the indication of the price. The bidding documents may stipulate the inclusion of bids concerning the technical, qualitative or any other characteristics of the products, and also the proposed conditions and in relevant cases the professional and technical competence and qualification of the suppliers.

At the first stage of a two-stage tender (bidding) the customer may conduct talks with any supplier whose application for participation in a tender (bidding) has not been rejected in accordance with the present Regulations, on any issues, with the exception of the requirements to qualification.

At the second stage of a two-stage tender (bidding) the customer shall invite the suppliers that have taken part in the first stage to submit the final applications for participation in the tender (bidding) with the indication of the price for one and the same type of products. When drawing up the specifications of a given product the customer may delete or change any provision initially established in the bidding documents, including the functional, technical or qualitative characteristics of the products being purchased, and also any initially established by those documents criteria of the evaluation and comparison of applications and the determination of the winning application and may supplement the bidding documents with new characteristics or criteria corresponding to the requirements of the present Regulations. Any deletions (changes or supplements) in the bidding documents shall be brought to the notice of the suppliers in the invitation to submit the final applications for participation in the tender (bidding). A supplier having no intention to submit the final application for participation in the tender (bidding) may discontinue his participation in the tender (bidding) without losing in so doing the right to secure the application.

The final applications for participation in a tender (bidding) shall be evaluated and compared for determining the winning application in accordance with [Section III](#) of the present Regulations.

55. When holding a closed tender (a closed bidding) in accordance with the present Regulations the customer shall attract applications for participation in the tender (bidding) from all supplier that may furnish the required products.

56. When holding a specialized closed tender (a closed bidding) on the grounds stipulated by the present Regulations it shall be impermissible to publish the information constituting a State secret in accordance with the legislation of the Russian Federation.

57. The request of the price quotations shall be made from at least three suppliers. If after the relevant request it has been established that only two suppliers will be considered as candidates for the delivery of the required products, the request shall be sent to those suppliers. If the products may be purchased only from one supplier, he shall be sent a request in accordance with [Item 58](#) of the present Regulations. Each suppliers to whom a request of the price quotations is being sent must be informed whether there are included in the cost of the products the expenses on the transportation, insurance, payment of the customs duties, taxes, fees and any other obligatory charges.

Each supplier may submit only one price quotation which may not be changed subsequently. No talks shall be conducted between the customer and a supplier with respect to the price quotation submitted by the said supplier.

The supplier that has submitted the lowest price quotation meeting the customer's requirements shall be declared to be the winner.

58. In the cases stipulated by the present Regulations the customer may purchase products by way of requesting a bid or a price quotation from one supplier.

V. Appeal

59. Any supplier that states that he has suffered or may suffer losses as a result of the violation of the requirements of the present Regulations by the customer shall have the right to appeal in accordance with the [Civil Code](#) of the Russian Federation, other federal laws and in the procedure stipulated in the present Section.

The following may not be the subject of an appeal in accordance with the present Section:

- a) the choice of the method of the placement of the orders for the purchase of products for the State needs from among the methods stipulated by the present Regulations;
- b) the decision of the supplier in accordance with the present Regulations to reject all applications for participation in a tender (bidding), bids, offers or quotations.

60. Prior to the conclusion of the State contract the complaint shall be sent to the head of the supplier in written form. If the complaint is based on an action or a decision of the supplier or on a procedure used by him which have been approved by the authorized territorial body in accordance with the present Regulations, then it shall be sent to the Ministry of Economics of the Russian Federation.

See the [Procedure for Consideration at the Ministry of Economics of the Russian Federation of the Suppliers' Complaints on the Issues, Involved in the Customers' Violation of the Established Rules and Procedures for Conducting the Sales \(a Tender\) on the Purchase of Commodities, Works and Services for the State Needs, approved by the Ministry of Economics of the Russian Federation of July 9, 1997](#)

If a dispute on a complaint has not been settled by mutual agreement of a supplier and the customer, the latter or the authorized territorial body shall, within 30 days from the day of the submission of the complaint shall render a written decision which must contain:

- a) the reasoning of the decision;
- b) the measures directed to the satisfaction of the stated demands in case of the full or partial satisfaction of the complaint.

61. A supplier whose complaint has not been considered by the authorized territorial body or

who is not satisfied with the decision taken by the said body, or if the decision on the complaint of the supplier has not been taken within the established period, shall have the right of appeal to the Ministry of Economics of the Russian Federation.

The Ministry of Economics of the Russian Federation shall immediately inform the customer or the authorized territorial body about the receipt of the complaint.

The Ministry of Economics of the Russian Federation, unless it has rejected the complaint, may take one or several of the following decisions:

a) oblige the customer that has committed unlawful actions, or has applied unlawful procedures, or has taken an unlawful decision, to take actions or to apply procedures on the legal basis or to make a legal decision;

b) repeal, in full or in part, or review an unlawful decision of the customer, with the exception of the decision invalidating a decision on the conclusion of a State contract or a decision dissolving a State contract after its conclusion;

c) oblige the customer to compensate for the losses suffered by a supplier that has filled a complaint, in connection with the carrying out of the procedure in the placement of orders for the purchase of products for the State needs and as a result of an unlawful action or decision of the customer or an unlawful procedure used by him;

d) oblige the authorized territorial body to compensate for the expenses stipulated by the present Item if the causing of the losses has been a results of unlawful actions or decisions of the customer committed in agreement with the said territorial body;

e) order the termination of the procedure in the placement of orders for the purchase of products for the State needs.

The Ministry of Economics of the Russian Federation shall within 30 days render a written reasoned decision on the complaint.

62. A supplier or any State body whose interests have been or may be infringed as a result of appeal may participate in the appeal procedure. A supplier that has not taken part in such procedure shall subsequently be deprived of the right to file a similar complaint.

63. The provisions of the present Section may not be considered as a restriction of the right of direct reference to the court for supplier and any other interested persons.