**GOVERNMENT OF THE REPUBLIC OF ARMENIA**

**DECISION**

No 1593-N of 13 October 2022

**ON MAKING AMENDMENTS AND SUPPLEMENTS TO DECISION   
OF THE GOVERNMENT OF THE REPUBLIC OF ARMENIA NO 526-N   
OF 4 MAY 2017 AND MAKING AN AMENDMENT TO DECISION   
OF THE GOVERNMENT OF THE REPUBLIC OF ARMENIA   
NO 2121-N OF 23 DECEMBER 2021**

Governed by Article 33 and part 1 of Article 34 of the Law "On regulatory legal acts", the Government of the Republic of Armenia hereby ***decides:***

1. To make the following amendments and supplements to the Procedure approved by subpoint 1 of point 1 of Decision of the Government of the Republic of Armenia No 526-N of 4 May 2017 "On approving the procedure for organisation of the procurement process and repealing Decision of the Government of the Republic of Armenia No 168-N of 10 February 2011":

(1) point 3 shall read as follows:

"3. In each individual case, justifying the particularity of the procurement process, the contracting authority may apply to the Government of the Republic of Armenia (submitting the relevant draft decision of the Government of the Republic of Armenia in the manner prescribed) requesting the permission of the latter to carry out the procurement without observing one or more of the conditions prescribed by this Procedure, applying or not applying any other substituting condition(s).

In such case, the Government of the Republic of Armenia, taking into account the particularity of the procurement process, may decide to permit the contracting authority to organise the procurement process without observing one or more of the conditions prescribed by this Procedure, applying any other substituting condition(s), where necessary.

This point shall not apply to the cases provided for by paragraph (i) of subpoint 1 of point 32 and point 43 of this Procedure, as well as to the cases when the condition(s) is prescribed by law or derives from the requirement of the law.

Moreover, the condition provided for by this point may be applied unless an invitation is published or provided to the bidder, except for the case of organising the procurement under point 1 of part 1 of Article 23 of the Law.";

(2) subpoint 5 of Article 11 shall be supplemented with a new sentence which reads as follows:

"Where the procurement procedure organised in the form of electronic auction is declared as not having taken placed based on the ground provided for by subpoint 1 or 4 of part 1 of Article 37 of the Law, the given procurement may be carried out through other procurement procedure taking into account the requirements prescribed for the application of the given procurement procedure.";

(3) in point 18, the words "total amount of procurement" shall be replaced with the words "total planned (predicted) procurement price";

(4) in subpoint 1 of point 21:

a. in paragraph (a), the word "mark" shall be replaced with the word "model",

b. paragraph (d) shall read as follows:

"d. in case of single source procurement, the data of the person (persons) (potential bidder) (name, location, e-mail, if possible) to whom the invitation for the given procurement shall be sent. Where the procurement is carried out on the ground provided for by point 2 of part 1 of Article 23 of the Law, the number of persons being presented (potential bidder) may not be less than three, except for the case of arranging the procurement procedure through the e-procurement system. Moreover, in case of applying point 2 of part 1 of Article 23, where the written consent of the head of the contracting authority is available, the invitation shall be provided only to the person referred to in the procurement bid (potential bidder). The power of the head of the contracting authority provided for by this paragraph, as well as the power thereof to approve (make amendments and supplements to) the procurement plan shall be exercised by the head of the body prescribed by part 1 of Article 2 of the Law, and in case of contracting authorities having an status of a legal person — by the head of the executive body.",

c. paragraph (h) shall be supplemented with a new sentence which reads as follows:

"In case of arranging the procurement procedure on the ground of part 6 of Article 15 of the Law, the calculation of the time limit for supply of goods, performance of works or provision of services under the contract to be concluded shall be done in calendar days and the calculation shall start from the day of the entry into force of the agreement provided for by point 18 of this Procedure;",

d. paragraph (i) shall read as follows:

"i. in case of consultancy services, as well as arranging the procurement procedure in the form of two-staged tender, the criteria for evaluation of bids, the minimum and maximum points, as well as the qualification criteria for the bidder and the documents to be submitted with the bid for their evaluation. Moreover, in case of procurement of services for the development and (or) the technical supervision of the design documents required for construction projects, the criterion set for the price condition may not be less than twenty points and more than thirty points;".

(5) paragraph (b) of subpoint 2 of point 21 shall read as follows:

"b. Based on point 2 of part 6 of Article 15, the total price of the goods, works or services (total planned (predicted) procurement price) shall also be presented in the bid;",

(6) point 22 shall read as follows:

"22. When defining the descriptions of the subject of procurement, it is necessary to take into account the fact that more than one potential bidder need to meet those criteria, except for the procurements carried out in the cases agreed with the head of the contracting authority on the ground provided for by subpoint 4 of point 23 of this Procedure, and provided for by paragraph (d) of subpoint 1 of point 21 of the same Procedure. When using references in case of procurement of goods, the tradename, model and producer of the goods offered as equivalent shall be presented.",

(7) in point 23:

a. (1) subpoint 1 shall be supplemented with a new sentence which reads as follows:

"where the price of the good, work or service for final consumption included in the groups of goods, works and services referred to in the second level of the common procurement vocabulary does not exceed one hundred thousand drams, the procurement may be carried out based on point 4 of part 1 of Article 23 of the Law, irrespective of the fact whether the subject of procurement is included in the list of procurement being carried out through an electronic auction or in a centralised manner, or through a closed periodic tender;",

b. line 5 of the list approved under subpoint 4 shall be supplemented with the words "services necessary for ensuring governmental and operational communication" after the words "services necessary for providing military equipment", and line 33 shall be supplemented with the word ", radio programmes" after the word "television programmes";

c. subpoint 5 shall read as follows:

"(5) Acquisition of goods, works and services — when carrying out procurements deemed urgent — required for the purpose of meeting the needs having emerged as a result of emergency situations or natural disasters provided for by the Law “On protection of population in emergency situations” in the territory of a foreign state, of declaring martial law provided for by the Law of the Republic of Armenia "On the legal regime of martial law", establishing an enhanced working regime in the Armed Forces in cases provided for by the legislation of the Republic of Armenia, as well as due to impossibility of replacing the goods, works and services of vital importance the supply, performance and provision whereof is terminated with alternative goods, works and services, or in case of goods — due to lack in the reserves, as well as for the state needs, may be carried out, irrespective of the fact whether or not financial allocations are earmarked for the given procurement, upon the written consent of the Prime Minister of the Republic of Armenia, provided that the amounts are earmarked in the given or the following budget years.",

d. in subpoint 6, the word "software" shall be replaced with the words "professional training, software development (maintenance)",

e. subpoint 8 shall read as follows:

(8) in order to qualify the procurement procedure as acquisition of goods, works or services, the larger share thereof in the price of the contract to be concluded is taken as a basis, except for construction works and procurement of services of repair of automobiles, devices and equipment.",

(8) in point 32:

a. paragraph (b) of subpoint 1 shall read as follows:

b. confirmation approved by him or her on his or her compliance and that of persons affiliated thereto with the eligibility requirements prescribed by the invitation;",

b. paragraph (e) of subpoint 1 shall read as follows:

"e. in cases provided for by the invitation — a security bid, the amount of which shall be equal to five percent of the procurement price, and in case of arranging the procedure based on point 2 of part 6 of Article 15 of the Law or arranging the procedure based on points 1 or 2 of part 6 of Article 15 of the Law upon the written assignment of the Prime Minister of the Republic of Armenia — to five percent of the total planned (predicted) procurement price. Where the price proposal of the bidder exceeds the total procurement price (planned or predicted procurement price), the amount of the bid security shall be equal to five per cent of the price proposal. Where the procurement procedure is arranged electronically, the bid security in the form of a bank guarantee shall be submitted as a printed (scanned) copy of the original of the guarantee, provided that the original thereof shall be submitted to the Evaluation Commission before 17:00 in Yerevan time of the working day following the expiry of the deadline for submission of bids — with a letter attached thereto, unless otherwise assumed from the model form of the guarantee established by the individual legal act of the authorised body. The bid security shall be returned within five working days following the day of conclusion of the contract. In case of declaring the procurement procedure as not having taken place, the bid security shall be returned within five working days following the expiry of the standstill period, where the results of the procurement procedure are not appealed. In case of a complaint, the bid security shall be returned within five working days following the entry into force of the final judicial act of the court on upholding the decision of the Evaluation Commission on declaring the procurement procedure as not having taken place. Where the procurement procedure is arranged based on point 2 of part 6 of Article 15 of the Law, the bid security shall be returned to the person having concluded the contract within five working days following the day of conclusion of the agreement provided for by point 18 of this Procedure;".

c. subpoint 9 shall read as follows:

"(9) where the price of the goods, works or services (total planned (predicted) procurement price) subject to procurement within the framework of the given procedure under the procurement bid does not exceed the twenty-five-fold of the procurement base unit, no bid security shall be submitted and the contract security shall be submitted as a unilaterally approved statement, in the form of penalty or cash. Moreover, the amount of the contract security shall be ten percent of the procurement price of the goods, works and services provided for by the contract. Where the procurement price of the goods, works and services provided for by the contract is less than the price of the contract to be concluded, the amount of the contract security shall be calculated against the contract price. In case of procurement of services of elaboration, expert examination and technical supervision of the design documents required for construction projects, the contract security shall be submitted in the form of a bank guarantee or cash. Where the procurement price of the goods, work or service subject to procurement within the framework of the given procedure exceeds the twenty-five-fold of the procurement base unit, both the bid security and the contract security shall be submitted in the form of a bank guarantee or cash. In case of arranging the procurement procedure based on point 2 of part 6 of Article 15 of the Law, where the total planned (predicted) procurement price exceeds the twenty-five-fold of the procurement base unit, the bid security shall be submitted in the form of a bank guarantee or cash.

Where a bid security in the amount exceeding the amount prescribed by paragraph (e) of subpoint 1 of this point has been submitted by the bidder, the bid shall be deemed complying with the requirements of the invitation and shall not be subject to rejection;",

d. Point 20 shall be supplemented with the words "point 1," after the words "point 2 of part 6 of Article 15 of the Law";

e. subpoint 28 shall read as follows:

"(28) in case of consultancy services, as well as arranging the procurement procedure in the form of two-staged tender — the criteria for evaluation of bids, the minimum and maximum points, as well as the documents to be submitted with the bid by the bidder.",

(9) sentence 1 of subpoint 12 of point 33 shall read as follows:

"where the contract has been concluded on the basis of part 6 of Article 15 of the Law, but no financial resources are earmarked for the given year or the amount of the earmarked financial resources is less than the contract price, the contract shall provide that:

- in the future, the supply of goods, performance of works and provision of services shall be carried out by way of concluding a contract;

- the calculation of the six-month envisaged by the same part of the law for the provision of financial means for concluding each subsequent agreement shall start from the end of the execution of the previous agreement.",

(10) in point 40:

a. subpoint 5 shall read as follows:

"(5) the Commission shall determine and announce the selected bidders and those not recognised as such from among the bidders having submitted bids evaluated as complying with the requirements of the invitation. In case of procurement of goods the Commission shall also evaluate the compliance of full descriptions of the submitted goods to the requirements of the invitation. In case of equality of the lowest proposed prices:

a. in order to determine the selected bidders and those not recognised as such, simultaneous negotiations shall be conducted with all the bidders having presented equal prices at the session of the Commission where such bidders (representatives having the relevant powers) are present at the session;

b. the session of the Commission shall otherwise be suspended and the secretary of the evaluation commission shall concurrently — within one working day — electronically notify all the bidders having presented equal prices of the conditions, durations, date, time and venue of the simultaneous negotiations on reduction of prices;

c. the negotiations shall be conducted no sooner than the second day following the day of sending the notification and no later than the fifth working day following the day of sending the notification;

d. the price proposal of each bidder submitted at the given time shall be made available for other bidder(s) and the bidder shall be able to review his or her price proposal prior to the end of the deadline set for the negotiations;

e. at the time of expiry of the deadline set for the negotiations, the selected bidders and those not recognised as such shall be determined and announced based on the prices submitted by the bidders present at it. Where the prices presented by the bidders remain equal as a result of negotiations, the procurement procedure shall be declared as not having taken place based on point 1 of part 1 of Article 37 of the Law;",

b. subpoint 6 shall read as follows:

"(6) where the prices of the bidders having submitted bids evaluated as complying with the requirements of the invitation exceed the procurement price, the evaluation commission may declare the bidder having submitted the lowest price proposal as a selected bidder, provided that the rights and obligations of the parties to the contract being concluded with the latter shall take effect in case additional financial resources in the amount exceeding the procurement price are earmarked and an agreement is concluded between the parties on the basis thereof. Moreover, the agreement shall be concluded within fifteen working days after additional financial resources are earmarked, by extending the time limits for the supply of goods, performance of works or provision of services for a period from the day the contract is concluded to the day the agreement is concluded. The contract concluded under this paragraph shall be rescinded where additional financial resources are not earmarked within sixty calendar days after the conclusion. The requirements of this paragraph shall not be applied in case of carrying out a procurement through an electronic auction, as well in case when one only bid has been evaluated as complying with the requirements of the invitation;",

c. a new subpoint 7 shall be supplemented which reads as follows:

"(7) in case of consultancy services, as well as arranging the procurement procedure in the form of two-staged tender, the bidder having received the highest score shall be declared as the selected bidder. In case of equality of scores given to the bidders:

a. in order to determine the selected bidders and those not having been selected, simultaneous negotiations shall be conducted with all bidders having received equal scores at the session of the Commission where the bidders (representatives having the relevant powers) are present at the session;

b. the session of the Commission shall otherwise be suspended and the secretary of the evaluation commission shall concurrently — within one working day — electronically notify all the bidders having received equal scores of the conditions, durations, date, time and venue of the simultaneous negotiations on reduction of prices;

c. the negotiations shall be conducted no sooner than the second day following the day of sending the notification and no later than the fifth working day following the day of sending the notification;

d. the price proposal of each bidder submitted at the given time shall be made available for other bidders and the bidder shall be able to review his or her price proposal prior to the end of the deadline set for the negotiations;

e. at the time of expiry of the deadline set for the negotiations, the selected bidders and those not recognised as selected shall be determined and announced based on the prices submitted by the bidders present at it. Where the prices presented by the bidders remain equal as a result of negotiations, the procurement procedure shall be declared as not having taken place based on point 1 of part 1 of Article 37 of the Law.",

(11) in points 51 and 53 the words "three" shall be replaced with the words "one";

(12) the words "by paragraph “c” of subpoint 5 of point 23 of this Procedure or" shall be removed from subpoint 4 of point 56, and number "5" shall be replaced with number "7";

(13) the Procedure shall be supplemented with a new point 57.1 which reads as follows:

"57.1. In each individual case, justifying the particularity of the execution and (or) management of the contract, the contracting authority may, when supplying goods, performing works or providing services provided for by the contract, apply to the Government of the Republic of Armenia (submitting the relevant draft decision of the Government of the Republic of Armenia in the manner prescribed) requesting the permission of the latter to prescribe conditions other than those provided for by point 56 of this Procedure in the contract or not to apply the conditions prescribed.

In such case, the Government of the Republic of Armenia, taking into account the particularity of the execution and (or) management of the contract, may — by its decision — permit to prescribe conditions other than those provided for by point 56 of this Procedure in the contract or not to apply the conditions prescribed.

This point shall not apply to the cases when the condition is prescribed by law or derives from the requirement of the law.",

(14) point 59 shall read as follows:

"59. The criterion “Eligibility for participation” for bidders, provided for by part 1 of Article 6 of the Law, shall be evaluated in the following manner:

(1) where the bidder has submitted in the bid a written statement on compliance of his or her data with the eligibility requirements prescribed by the invitation, the given bidder shall be granted a right to participate in the procurement procedure;

(2) apart from the statement, no other documents may be required from the bidder, including the selected bidder, for the purpose of substantiation of the requirements provided for by subpoint 1 of this point.",

(15) in subpoint 1 of point 69, the word "five" shall be replaced with the word "seven",

(16) in point 71:

a. in subpoint 1, the words "where the procurement is carried out on the grounds provided for by paragraphs “b”, “c”, “d” and “e” of subpoint 5 of point 23 of this Procedure:" shall be replaced with the words "where the procurement is carried out on the ground of point 2 of part 1 of Article 23 of the Law:"

b. paragraph (a) of subpoint 1 shall read as follows:

"a. the invitation shall be sent to the bidders referred to in the procurement bid through simultaneous notification, also through publication thereof in the bulletin on the same day, except for the case provided for by paragraph "d" of subpoint 1 of point 21 of this Procedure;",

c. the words "paragraph "a"" shall be removed for subpoint 2,

d. paragraph "a" of subpoint 3 shall read as follows:

"a. shall not submit a bid security, or qualification and contract securities, and shall submit advance payment security in the case provided for by the invitation;",

(17) in point 82, the word “fifteen” shall be replaced with the word “five”;

(18) in point 84:

a. in subpoint 1, the word “three” shall be replaced with the word “one";

b. in subpoint 2, the word "ten" shall be replaced with the words "three working", and the word "conditions" shall be added before the words "the venue, date and time of holding the negotiations";

(19) in point 85, the word "three" shall be replaced with the word "one", and the word "thirty" shall be replaced with the word "ten";

(20) subpoint 2 of point 86 shall read as follows:

"(2) within five working days following the day of receipt of the revised procurement bid, simultaneously send the second stage invitation (the final invitation) electronically, together with a letter attached thereto, to all the bidders having submitted the first stage bids and offer to submit the second stage bid.";

(21) point 87 shall be supplemented with a new sentence which reads as follows:

"The second stage bids may, upon the written agreement of all bidders having received an invitation, be opened before the day of expiry of the time limit referred to in the invitation.";

(22) the last sentence of point 93 shall read as follows:

"The notification shall also set the day, venue, and time of the session for the opening of price proposals, but not later than the third working day following the day of sending the notification.";

(23) point 96 shall read as follows:

"96. The bids of the bidders shall be evaluated in the following manner:

(1) the financial proposal of the bidder having submitted the lowest price proposal shall be given one hundred points, and the points given to the financial proposals of the rest of the bidders shall be calculated using the following formula:

PP = LP X 100/EP,

where:

PP is the point given to the price proposal;

LP is the lowest price;

EP is the price proposed by the bidder to be evaluated;

(2) the score given to each bidder whose proposal has been evaluated as technical satisfactory shall be calculated using the following formula:

BS = (PP X EP) + (TP X TQP),

where:

BS is the score given to the bidder;

PP is the point given to the price proposal of the bidder;

TP is the point given to the technical proposal of the bidder.

EP is the point given to the price proposal prescribed by the second stage invitation;

TQP is the point given to the technical proposal and qualification criteria prescribed by the second stage invitation;

(24) point 98 shall read as follows:

"98. Where the price proposal of the selected bidder exceeds the amount of the financial allocations envisaged for carrying out that procurement, the contracting authority may offer the selected bidder to reduce his or her price proposal. In case no agreement has been reached, the bid of the given bidder shall be rejected, and the contracting authority shall invite the bidder holding the next place for negotiations, and in case of disagreement thereof, the bid of such bidder shall also be rejected, and the successively ranked bidder shall be invited for negotiations, and in case of disagreement thereof, the tender shall be declared as not having taken place.";

(25) The title of Chapter 20 shall read as follows:

"XX. AFFILIATED PERSONS AND CASES OF LIMITATION FOR PARTICIPATION OF SUCH PERSONS IN PROCUREMENT PROCEDURES";

(26) in point 120, the word "grandchildren" shall be added before the word "sister";

(27) the Procedure shall be supplemented with new point 121 which reads as follows:

"121. Inclusion of the bidder in the list provided for by point 6 of part 1 of Article 6 of the Law shall automatically lead to the restriction of the right of persons affiliated to the latter to participate in the procurement process for the period of being in the list.".

2. To repeal subpoint 5 of point 3 of the Procedure approved by Annex No 12 of Decision of the Government of the Republic of Armenia No 2121-N of 23 December 2021 "On the measures ensuring the execution of the state budget of the Republic of Armenia for 2022".

3. The requirements of this Decision shall not apply to procurement processes initiated prior to the entry into force of this Decision and to incomplete procurement processes, as well as to the concluded contracts and contracts in effect.

4. This Decision shall enter into force on the 20th day following the day of its official promulgation.

|  |  |
| --- | --- |
| **Prime Minister  of the Republic of Armenia** | **N. Pashinyan** |
| Yerevan |  |

|  |  |
| --- | --- |
|  | 13 October 2022  CERTIFIED BY  ELECTRONIC  SIGNATURE |

**Date of official promulgation: 13 October 2022**