

FEDERAL LAW NO. 94-FZ  
of July 21, 2005

ON PLACEMENT OF ORDERS  
TO SUPPLY GOODS, CARRY  
OUT WORKS AND RENDER  
SERVICES FOR MEETING STATE  
AND MUNICIPAL NEEDS

# CONCEPT

- **State needs** shall mean the Russian Federation's needs for commodities, works and services required for the exercise of the functions of the Russian Federation (in particular, for implementation of federal targeted programs), for fulfillment of international obligations of the Russian Federation, in particular for implementation of the international targeted programs where the Russian Federation participates or the similar needs of the constituent entities of the Russian Federation.
- Municipal needs shall mean the needs of municipal establishments for commodities, works and services required for resolving problems of local importance and exercise of individual state powers transferred to local self-government bodies by federal laws and (or) laws of the constituent entities of the Russian Federation that are satisfied with the use of local budget funds in compliance with the expenditure obligations of municipal establishments.
- The official page of the Russian Federation in the data telecommunications network “Internet” to inform about placement of orders to supply goods, carry out works, and render services is [www.zakupki.gov.ru](http://www.zakupki.gov.ru).

As **participants in placement** of orders shall be deemed the persons claiming to make a state or municipal contract. Any legal entity regardless of its organization and legal form, property form, location and the capital's place of origin or any natural person, in particular, an individual businessman, may participate in the placement of an order.

**Obligatory requirements** with respect to participants in the order's placement:

1) compliance of the participants in the order's placement with the requirements established by the legislation of the Russian Federation with respect to the persons engaged in supplying the commodities, carrying out the works and rendering the services which constitute the subject of the sales;

2) the participant in the order's placement which is a legal entity must not be in the process of liquidation or a participant in the order's placement, which is a legal entity or individual businessman, and must not be subject to bankruptcy proceedings;

3) non-suspension of activities of the participant in the order's placement in the procedure provided for by the Code of Administrative Offences of the Russian Federation on the date of considering the application for participation in a tender or the application for participation in an auction;

4) the participant in the order's placement must not have arrears in payment of charged taxes, fees and other obligatory payments to budgets of any level and to off-budget funds within the expired calendar year whose amount exceeds twenty five per cent of the balance sheet value of assets of the participant in the order's placement according to the data of business accounting report documents for the last complete reporting period.

# An order can be placed:

1) by way of holding sales in the form of a tender or auction, including an auction in an electronic form;

2) without holding sales (by a call for bids, with a single supplier (performer, contractor), at commodity exchanges).

In all instances an order shall be placed by way of holding sales, except for the instances provided for by Federal Law No. 94-FZ.

When placing an order by way of holding a tender or an auction, as well as by way of a call for bids in respect of commodities, works or services (hereinafter referred to as a call for bids), a tender, auction or bidding commission shall be established.

The natural persons who are personally interested in the results of placing an order (including the natural persons who have filed applications for participation in a tender, applications for participation in an auction or applications for participation in a bidding (hereinafter referred to as bids) or those on the staff of the organizations that have filed the said applications) or the natural persons who can be influenced by participants in the placement of an order (including the natural persons who are participants (stockholders) of these organizations, members of their managerial bodies, creditors of participants in placement of an order) may not be members of the commission.

# Auction.

Orders to supply commodities, carry out works and render services for meeting state or municipal needs which are not accordingly supplied, carried out and rendered on the basis of specific applications of a customer or authorized body, **for which there is a functioning market and which can be compared solely on the basis of prices thereof**, shall be placed **by way of holding an auction**. Lists of the commodities, works and services in respect of which orders accordingly to supply, carry out and render them are placed by way of holding an auction shall be established by the Government of the Russian Federation.

# Tender.

A tender shall mean sales whose winner shall be deemed the person which has offered the best terms and conditions of implementation of a state or municipal contract and to whose application for participation in the tender the first number is awarded.

**A call for bids** shall mean the way of placing an order when information concerning the needs in commodities, works or services for meeting state or municipal needs is delivered to an unlimited circle of persons by way of inserting to the official site a notice of the call for bids, and as the winner of the call for bids shall be declared the participant in an order's placement bidding for the lowest contract price.

This way of order placement shall not be exercised to the amount of a contract exceeding five hundred thousand rubles.

## Tender Documentation

**A notice of holding a public tender** shall be published by a customer, authorized body or specialized organization in the official media and placed on the official site at least thirty days before the date of opening envelopes with applications for participation in a tender and providing access to applications for participation in a tender filed in the form of electronic documents.

# Contents of Tender Documentation

Tender documentation must contain the following:

- requirements with respect to the description by participants in an order's placement of the commodities to be supplied which constitute the subject of the tender, their functional characteristics (consumer properties), as well as their quantitative and qualitative characteristics;
- requirements with respect to the contents and form of an application for participation in the tender, including an application filed in the form of an electronic document;
- requirements to the description by participants in an order's placement of the works to be carried out and services to be rendered which constitute the subject of the tender, their quantitative and qualitative characteristics;
- the requirements as to the time and (or) extent of guarantees with respect to the quality of commodities, works and services, to servicing commodities, to outlays on commodities' operation;
- the place, terms and time (time periods) for supplying commodities, carrying out works and rendering services;
- initial (ultimate) price of the contract (price of a the lot);
- form, terms, and order of payment for commodities, works, and services;
- sources of financing of order;
- substantiation of initial (ultimate) price of the contract (price of the lot);
- the procedure for forming the price of the contract (price of the lot), in particular when taking into account and not taking into account outlays on transportation, insurance, payment of customs fees, taxes and making other obligatory payments;

# Contents of Tender Documentation

- the catalogue of spare parts for machinery, equipment;
- the data on the currency used for forming the price of the contract and for making settlements with suppliers (performers, contractors);
- the procedure for applying the official exchange rate of foreign currency with respect to the Russian ruble established by the Central Bank of the Russian Federation and used for payment of a state or municipal contract made;
- the data on the customers' right to change unilaterally the volume of the works to be carried out and of the services to be rendered under the contract;
- the procedure for place, starting and finishing dates of the time period for filing applications for participation in the tender;
- the procedure and time for withdrawal of applications for participation in the tender, procedure for amending such applications;
- the forms, procedure, starting and finishing dates of the time period for explaining to participants in an order's placement of the provisions of tender documentation;
- the place, procedure, date and place of opening envelopes with applications for participation in the tender and of providing access to applications for participation in the tender filed in the form of electronic documents;
- criteria for assessing applications for participation in the tender;
- procedure for assessment and comparison of applications for participation in the tender;
- amount of the application security for participation in the tender, terms and procedure of depositing for securing such a tender, account details for that financial resources transfer in case of requirement by the customer, authorized body to secure the application for participation in the tender;
- time period as of the date of signing a record of assessment and comparison of applications for participation in the tender within which the tender winner must sign a draft state or municipal contract. The said time period must be at least ten days.

The draft contract should be applied to the tender documentation (in case of conducting tender on several lots the draft contract should be applied for every lot) which is an integral part of tender documentation.



**Tender documentation must not involve** (including in the form of requirements to quality, technical characteristics of commodities, works and services, requirements to functional characteristics (consumer properties) of commodities):

- requirements to manufacturer of commodities, to participants in an order's placement (including requirements to qualification of participant in an order's placement including professional experience of participant in an order's placement);

- requirements to business reputation of participant in an order's placement;

- requirements for participant in an order's placement to possess production capacity, technological equipment, labour, financial and other resources which are necessary for manufacture of commodities which supplies compose the subject of contract, carrying out works and rendering services which compose the subject of contract.

**Tender documentation must not indicate** trade marks, service marks, firm's names, patents, utility models, industrial models, names of commodities' places of origin or their manufacturers' names, as well as requirements with respect to commodities, their manufacturer, to information, works and services, if such requirements entail limitation of the number of participants in the order's placement.

# PROCEDURE

To participate in a tender, a participant in an order's placement shall file an application for participation in the tender at the time specified in a notice of holding a public tender according to the form established by the tender documentation.

The tender commission on the day, at the time and place indicated in a notice of holding a public tender shall publicly **open envelopes** with applications for participation in the tender and shall provide access to the applications for participation in the tender filed in the form of electronic documents. Envelopes with applications for participation in the tender shall be opened and access to the applications for participation in the tender filed in the form of electronic documents shall be provided on the same day.

The tender commission shall consider applications for participation in a tender as to their compliance with the requirements established by the tender documentation and as to the compliance of participants in an order's placement with the requirements established in conformity the Federal Law. The time period for consideration of applications for participation in a tender may not exceed ten days as of the date of the opening of envelopes with applications for participation in the tender.

On the basis of the results of considering applications for participation in a tender, the tender commission shall render a **decision on admittance to the tender** of a participant in the order's placement and on declaring the participant in the order's placement that has filed an application for participation in the tender, a tender participant or on the refusal to admit such participant in the order's placement to participation in the tender.

The tender commission shall **assess and compare the applications** for participation in a tender filed by the participants in an order's placement declared to be the tender participants. The time period for assessment and comparison of such applications may not exceed ten days as of the date of signing the record of considering applications.

# Procedure

The following may be deemed the criteria for assessing applications for participation in a tender apart from contract's price:

- 1) functional characteristics (consumer properties) and qualitative characteristics of commodities;
  - 1.1) quality of works, services and (or) qualifications of the participant in the order's placement for carrying out works, rendering services;
- 2) outlays on operation of commodities;
- 3) outlays on technical maintenance of commodities;
- 4) time (time periods) for supplying goods, carrying out works and rendering services;
- 5) time for granting a guarantee of the quality of commodities, works or services;
- 6) extent of granting guarantees of the quality of commodities, works and services.

**The winner of a tender** shall be declared the tender participant which has offered the best terms and conditions of the contract's implementation.

# AUCTION

**A notice** of holding a public auction shall be published by the customer, authorized body and specialized organization in the official media or placed on the official site at least 20 days before the finishing date for filing applications for participation in the auction.

## **Auction Documentation:**

Apart from the information that tender documentation contains, auction documentation shall include:

- information on “an auction step”;
- the image of commodity, on which supply the order is placed, in tridimensional measurement in case the auction documentation contains requirement of correspondence of the supplied commodity with the commodity image, on which supply the order is placed, in tridimensional measurement.

**A time period for consideration of applications** for participation in an auction may not exceed five days as of the finishing date for filing applications for participation in the auction.

The participants in an order's placement declared to be participants in an auction may only take part in the auction. A customer or authorized body **shall be obliged to provide auction participants with an opportunity to participate in the auction directly or through their representatives.**

**An auction shall be held** by a customer or authorised body in the presence of the auction commission's members, auction participants or representatives thereof.

As **the winner of an auction** shall be deemed the person that has offered the lowest contract price.

An auction may be held in the **electronic form** as well.

# CALL FOR BIDS

A customer or authorized body shall be obliged to place on the official site a **notice of making a call for bids** and a draft contract signed by results of making such a call at least seven working days before the date of expiry of the time period for filing bids, and while placing an order for commodity supplies, carrying out works or rendering services to the amount not exceeding two hundred fifty thousand rubles at least four working days before the date of expiry of that period.

**The bidding commission** within the day following the finishing date for filing bids shall consider bids as to their compliance with the requirements established by a notice of making a call for bids and shall **assess** the bids.

**The winner** of a call for bids shall be declared the participant in an order's placement that has filed the bid complying with all the requirements established in a notice of making the call for bids and in which the lowest price of commodities, works and services is indicated.

# Commodities Coming from a Foreign State or a Group of Foreign States

When placing orders, the national treatment shall be applied to commodities coming from a foreign state or a group of foreign states, as well as to works or services carried out or rendered by foreign persons, if not otherwise established by an international treaty made by the Russian Federation, this Federal Law or other federal laws.

The treatment provided for by Part 1 of this Article shall apply to commodities originating from a foreign state or a group of states, to works or services carried out or rendered by foreign persons, if a similar treatment is established by the foreign state or the group of foreign states in respect of commodities of Russian origin, as well as works and services carried out or rendered by Russian persons.

# REGISTERS

Federal Treasury shall keep **registers of contracts** made on the basis of the results of placing orders.

The Federal Antimonopoly Service shall keep a **register of unfair suppliers** that shall include data on the participants in the placement of an order evading conclusion of a contract, as well as on the suppliers (performers or contractors) with which contracts are dissolved in connection with their essential failures to execute state or municipal contracts.

**Control over the observance of the legislation of the Russian Federation and other normative legal acts of the Russian Federation concerning placement of orders by a customer, authorized body or specialized organization, as well as by tender, auction or bidding commissions, authorized by federal executive bodies to create, maintain, develop and service the official site, by the organization rendering services of maintenance and service of the official site by federal executive body keeping registers of contracts, by operators of electronic platforms shall be exercised by way of conducting planned and extraordinary inspections.**