



## **This document has been provided by the International Center for Not-for-Profit Law (ICNL).**

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at  
<http://www.icnl.org/knowledge/library/index.htm>  
for further resources and research from countries all over the world.

### Disclaimers

**Content.** The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

**Translations.** Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

**Warranty and Limitation of Liability.** Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

# ARMENIA

Approved by decision #531  
of August 31, 2000  
of the Government of the RA

## PROCEDURE of the Formation and Activity of Competition Committees

### I. General Provisions

1. In accordance with the requirements of article 32 of the RA law "On Procurement" (hereinafter, the law) this Procedure defines the procedure of the formation and activity of competition committees.

2. The concepts defined by the law are used in the same meaning in this Procedure.

3. The relations associated with the formation and the activity of competition committees are regulated by the legislation on procurements, this Procedure and by the decisions of the Authorized Body in the cases specified by this Procedure.

### II. The Procedure of Formation of Competition Committees

4. Before the publication of the competition announcement and (or) competition invitation, the customer forms a committee comprising at least 5, but no more than 12, members. The committee is set up by the respective order of the head of the customer. In case of centralized procurements the order of the head of the State Procurement Agency shall be approved based on the written recommendations of the heads of State Bodies on nominations for the members of the competition committee, and in cases provided by this Procedure, also based on the records of the results of the conference held to discuss the nominations of the members of the competition committee.

5. In case of decentralized procurements the following representatives of the customer are the members of the committee:

- a) the head or his/her deputy (Chairman of the committee);
- b) the head of the legal department or his/her representative (secretary of the committee);
- c) the head of the financial-economic department or his/her representative;
- d) the procurement specialist (specialists);
- e) other officials, at the discretion of the head.

6. In case of centralized procurements members of the committee are the representative of the State Procurement Agency upon the recommendation of the head of the Agency, as well as the representatives of those state bodies for the needs of which the procurement is to be made. Each state body is represented on the competition committee by only one member, upon the written recommendation of the head of the respective state body.

7. In case of centralized procurement for the needs of more than 11 state bodies, the following persons are members of the committee:

- a) the representative of the State Procurement Agency upon the written recommendation of the Agency head;
- b) one representative from each of those five state bodies whose share of goods, works and services being acquired for their needs in that particular procurement is comparatively larger;
- c) six representatives elected from the remaining state bodies.

The representatives are selected at the conference held by the head of the State Procurement Agency. The representatives of all of those state bodies, upon the recommendation of the heads of those bodies, for whose needs the particular procurement is to be made shall be present at the conference with the exception of the representatives of the state bodies specified in subparagraph b) of this paragraph. The persons invited to the conference elect six members of the committee through reservation of powers. If the members of the committee are not elected through the reservation of powers, those persons are selected by lottery.

A protocol of the results of the conference is drawn up, which is signed by all the participants of the conference. If the participants of the conference have a different opinion (a special opinion) about the results of the conference, which is not included in the protocol, and they find it necessary to express this opinion, they shall present it in writing, sign it and attach it to the protocol. While signing the protocol, the persons who have submitted a special opinion include a notation in it as to the existence of the special opinion. The special opinion is an inseparable part of the protocol.

8. In case of implementing centralized procurement for the needs of 3 or fewer state bodies, those state bodies and the State Procurement Agency are represented on the competition committee by a maximum of 3 members.

9. In case of centralized procurements, after the formation of the committee by the defined procedure, the Chairman and the Secretary of the committee are elected by the decision of the committee.

10. Upon their own initiative deputies of the National Assembly of the Republic of Armenia can also participate in the activities of the competition committee with the right to a consultative vote.

11. Other persons can also participate in the activities of the committee with the right of a consultative vote (hereinafter, consultants). The list of the consultants is approved by the decision about the formation of the competition committee. If the competition committee adopts any decision based on the findings of the consultant, then a notice to that effect is included in the records of the procurement proceedings, and the members of the committee, by the procedure defined by legislation of the Republic of Armenia, are held responsible for the decision adopted if not otherwise stipulated by the contract between the consultant and the customer, should there be such a contract.

12. The composition of the committee remains intact until the last day of the activities specified by paragraph 13 of this Procedure with the exception of the cases when carrying out of the responsibilities by its members or part thereof is impossible.

### **III. Authorities and Basic Principles of the Activity of the Competition Committee**

13. The competition committee:
- a) approves the texts of the competition announcement and competition invitation documents;
  - b) opens and evaluates bids;

- c) determines the winner of the competition.

14. The activity of the competition committee is conducted based on the principle of joint and shared responsibility. The session of the committee is competent, if at least three quarters of the members of the committee are present at the session. The decision of the committee is considered adopted, if more than half of the members of the committee have voted for it. Each member of the committee is entitled to one vote, and in case of a tie vote, the vote of the Chairman (the person presiding over the session) is decisive.

15. By its decision the competition committee sets the schedule of the sessions. An extraordinary session is convened by the Chairman of the committee at his/her initiative, or by the request of at least one third of the members of the committee, within the time limit specified by them. The Chairman of the committee notifies in writing the members of the committee about convening an extraordinary session at least 24 hours before the session, submitting the proposed agenda of the extraordinary session.

#### **IV. The Approval of the Competition Announcement and Solicitation Documents**

16. To solicit bids while engaging in open competition procurement the text of the competition announcement is approved by the decision of the competition committee within 5 working days after the formation of the competition committee. If the pre-estimated price of the goods and services to be procured exceeds the base unit of procurement ninety-fold, and in the case of works, five hundredfold, then based on the conclusion of the respective department of the customer, the text of the competition announcement is approved in Armenian, Russian and English.

The customer publishes the text of the competition announcement by the procedure defined by the Authorized Body in the official procurements newsletter. The announcement about the competition must contain the following information:

- a) the designation (name) and the location of the customer;
- b) type of competition;
- c) competition code;
- d) brief description of the content of the contract to be entered into, subject of the contract and technical, qualitative and economic specifications;
- e) the preferable or mandatory time limit for the performance of the contract to be entered into;
- f) statement as to the equal right of participants to participate in the competition regardless of their country of residence or as to restriction of that right in accordance with the law;
- g) the conditions for being provided with an invitation to competition, including the amount charged for it, procedure, time periods and the currency of payment;
- h) the language or languages in which the bids must be submitted;
- i) basic requirements of qualification characteristics of participants;
- j) the location and time for submission of bids;
- k) other information believed necessary by the customer.

By the decision indicated in paragraph 16 of this Procedure, the competition committee by the procedure of approving the competition announcement also approves the text of the solicitation documents, which shall include:

- a) reference to the published competition announcement, in addition to which the given solicitation documents are provided;
- b) instructions to prepare competition bids;
- c) criteria for qualifications required from participants and their evaluation procedure;
- d) requirements of documents evidencing the qualification data of the participants or other information demanded for this purpose;
- e) the specifications characterizing the nature, constitution and structure of the goods, works and services to be procured, including the technical features, plans, designs;
- f) the procedure for selection of the winner, including the criteria used by the customer and the possibility and terms of preference provided in accordance with this law;
- g) draft of the contract to be entered into;
- h) if the participants are allowed to bid only for a portion of goods, works and services to be procured, terms and procedure thereof;
- i) method of calculation of the bid price and its form and currency of expression;
- j) indication to the effect that the proposed price, in addition to the cost of goods, works and services, includes transportation and insurance fees, duties and taxes;
- k) customer's requirements to bid and performance security, and nature, form, amount and other principal conditions of any security to be provided by bidder;
- l) conditions of bid submission, including the method, location, costs, as well as the language of the competition;
- m) the means by which participants can request clarifications of the solicitation documents and information about the customer's meetings with the participants, including maintaining direct communication between the customer and the participants and the names, positions, addresses and office phone numbers of officials (employees) authorized to receive procurement-related information;
- n) conditions of submitting bids, the day and time of their opening, the consideration (evaluation and comparison) procedure;
- o) references made to the provisions of the law and other legal acts related to procurements;
- p) conditions of the proposal to enter into a contract with the selected participant;
- q) clarification of the participant's right to appeal the customer's actions and (or) decisions, procedures employed by him;
- r) information about the right reserved to the customer to reject bids;
- s) other information related to bid preparation, submission and evaluation.

In case of a closed competition, a notice to that effect must be included in the solicitation documents.

In engaging in a two-stage competition, a notice to that effect is included in the competition announcement in case of an open competition, and in the solicitation documents in case of a closed competition.

## **V. Terms and Procedure for Providing Solicitation Documents**

The official of the customer, who is a member of the competition committee, provides the solicitation documents to persons who requested solicitation documents. In that case:

a) a fee is charged for providing solicitation documents in an open competition, which cannot exceed the costs of photocopying and delivery of solicitation documents;

b) the solicitation documents are provided within 2 business days after the required payment is made.

21. In engaging in a closed competition the solicitation documents are sent to all possible persons.

22. Should the pre-estimated price of the procurement contract, in the case of goods and services exceed the base unit of procurement ninety-fold, and, in the case of works, five hundredfold, the persons intending to participate in the competition are entitled to request from the customer solicitation documents in Armenian, Russian and English.

#### **VI. Clarifications and Modifications of Solicitation Documents**

23. The participant is entitled to request clarification of solicitation documents according to the defined procedure. The clarifications are provided by the decision of the competition committee within 5 working days after receipt of the request. Such a decision is published in the official printed media within the same time period and provided to the persons who have submitted bids.

24. Clarifications are not provided if the request was made invitation of the time period established by the law, as well as if the request goes beyond the content of the solicitation documents, or if the clarification of the request entails the danger of divulging state secrets.

25. Before the expiry of half of the time limit for submitting bids, modifications can be made in solicitation documents by the decision of the competition committee by the procedure defined by law. The decision is published in the official newsletter, as well as provided to persons who submitted bids. In case of making modifications in solicitation documents, the expiry date for submitting of bids is calculated from the day of the publication of the decision about modifications.

#### **VII. Submission, Evaluation and Comparison of Bids**

26. While receiving bids by the procedure specified by the law, the official specified in the solicitation documents registers the bids in a separate record book, in their incoming order, indicating on the envelope the registration number, day and hour. At the request of the participant reference information on it is issued. The format of the record book and the procedure of keeping it are defined by the Authorized Body.

27. Bids received in violation of the requirements of the law, as well as after the expiry of the deadline for bid submission, are rejected and returned unopened to the participant who submitted them.

28. Bids are opened on the day of expiry of the deadline indicated in the solicitation documents, at a special session of the competition committee. The day and hour of opening the bids must coincide with the deadline of their submission.

29. At the bid opening session, the following is publicized by the competition committee:

- a) the designation (name) of each participant who submitted the bid;
- b) preliminary information on compliance of the submitted bids, with the requirements of the solicitation documents;
- c) information about the availability of envelopes containing price quotations, consistency of their form and submission format with the requirements of the law of the Republic of Armenia;
- d) summary information on notifications about respective modifications in the submitted bids.

30. After bids have been opened, the competition committee compiles a protocol, which is an inseparable part of the records of the procurement proceedings. The protocol is signed by the competition committee members and by the participants present at the session. The protocol must include:

- a) indication of the location, day and hour of the bid opening;
- b) the designation (names) and the residency (addresses) of the participants who submitted bids;
- c) preliminary information on the compliance of the bids with the requirements of the solicitation documents;
- d) notation of every bid as to the availability of envelopes containing price quotations, consistency of their form and submission format with the requirements of this law, of other basic terms of each bid;
- e) in case of declaring the competition invalid, justification thereof;
- f) in case of rejection of a bid, justification thereof;
- g) information about inquiries concerning the bids and responses to these inquiries;
- h) the location, day and hour of the session at which the results of the competition will be finalized;
- i) the first names, last names and positions of the competition committee members;
- j) other necessary information.

31. If the members of the competition committee and (or) the participants have an opinion (special opinion) about the bid opening proceedings that is not included in the protocol of the bid opening session, then they present it in writing and it is attached to the protocol as its inseparable part.

32. The participants and their representatives are entitled to be present at the bid opening session. The participants or their representatives are entitled to request the copy of the protocol of the bid opening session, which must be provided promptly by the competition committee.

33. Within two working days following the bid opening session, the results of bid opening are communicated to the participants, who or whose representatives did not participate in the session.

34. After opening the bids, the competition committee can request explanations (clarifications) from all participants concerning the submitted bids, as well as reconfirmation of the qualification data presented by them. To be provided with the explanations the competition committee convenes a session, inviting all the persons who submitted bids to attend. With respect to the explanations and clarifications a protocol is drawn up, which is an inseparable part of the records of the procurement proceedings. The explanations cannot include proposals on the modifications of prices or bid conditions.

If the participant does not reconfirm his qualifications, the bid of the participant is rejected. In such cases a protocol is compiled, indicating the justification

for the bid rejection, the copy of which is provided to the participant upon such request. This protocol is an inseparable part of the records of the procurement proceedings.

35. The competition committee evaluates and compares the bids based on the methodological instructions approved by the Authorized Body. Bids consistent with the requirements of solicitation documents are first evaluated technically. Bids evaluated as satisfactory technically are evaluated economically. During bid evaluation and comparison, use of no criteria other than the criteria envisaged in the solicitation documents is allowed.

36. If in the satisfactory bids, there is discrepancy in the amounts expressed in letters and figures, the competition committee regards the amount written in letters as a basis.

37. The competition committee rejects the submitted bids of the participants in the cases envisaged in this law and if the participant who submitted the bid:

a) does not conform to the qualification and (or) other procedural requirements established in the solicitation documents;

b) does not agree with the corrections made in accordance with paragraph 36 of this Procedure.

38. In order to determine the winner of the competition, the competition committee compares the satisfactory bids. The participant whose proposal technically and qualitatively satisfies the requirements of the solicitation documents is considered the winner, if the bid of this participant is more beneficial than the others. When recognizing the bid more beneficial, the competition committee takes into account only the bid price, and the bid price of the selected participant, all other conditions being equal, must be the lowest one.

39. If the proposed prices are presented in 2 or more currencies, they are compared in the Dram equivalent of the Republic of Armenia at the exchange rate set by the Central Bank of the Republic of Armenia on the day of opening the bids.

40. In case of procurement of goods and services, with the approval of the Authorized Body, the margin of preference up to 20% of the proposed price is granted to the participant who undertakes to use more than 50% of labor and production resources of Armenian origin during the contract performance. This preference can be used, if during open competition procurement, this is envisaged in the competition announcement, and during closed competition, in the solicitation documents.

41. Within 30 working days after the deadline for submission of bids, at the session of finalizing the competition results, the competition committee shall make a decision on awarding the contract or declare the competition invalid in accordance with the law.

42. At the result finalization session, the competition committee publicizes the designation (name) of the winner, and information about the justification of the latter's selection.

43. Having selected the winner, the competition committee compiles the protocol of the result finalization session, which is an inseparable part of the records of the procurement proceedings. The protocol is signed by the members of the competition committee. If the members of the competition committee and (or) the participants have a different opinion (special opinion) about the finalization of the competition results and they believe that it is necessary to express this opinion, they present it in writing and attach it to the protocol. The special opinion is an inseparable part of the records of the result finalization session.



44. The competition committee declares the competition invalid by its decision, if:

- a) none of the submitted bids is consistent with the conditions of the solicitation documents;
- b) procurement is impossible in an emergency situation;
- c) no bids were submitted;
- d) only one bid was submitted.

45. After declaring the competition invalid, the bids are not opened and they must be returned to the participant in the form they were submitted. Within 15 working days after adopting the decision on declaring the competition invalid the decision is published in the official newsletter.

46. Before the entry into the contract negotiations between the competition committee, customer and participants are prohibited, except in the cases envisaged in the law.

### **VIII. The Procedure for the Dissolution of the Competition Committee**

47. After the finalization of the competition results the committee approves a report on the activities carried out by it, which is signed by all the members of the committee. If the members of the competition committee have a different opinion (special opinion) and they believe it necessary to express this opinion, they present it in writing and attach it to the protocol. While signing the decision about signing the report, the persons who have submitted a special opinion include a notation in it as to the existence of the special opinion. The special opinion is an inseparable part of the report.

All the documents (decisions, protocols, consultants findings and other documents) drawn up in the process of activities of the committee are attached to the report. By the decision of the committee the report is given to the head of the customer.

48. Having received the report specified in paragraph 47 of this Procedure, the customer, based on it, dissolves the competition committee.

49. The members of the competition committee, in the person of the Chairman of the committee, shall ensure the recording of the committee's activities through drawing up respective documents.

50. The members of the committee are personally liable for the activities of the committee, by the procedure defined by legislation of the Republic of Armenia.