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Law of the Kyrgyz Republic

On the Social Services Contracting

The present Law regulates the general principles, legal and organizational basis of formation, arrangement/placement and execution of the social services contracting aimed at the realization of social programs (projects).

The present Law is directed to increase the efficiency of spending the state budgetary funds allocated for solution of social and economic problems, and improvement of the quality of social services

Article 1. The basic concepts used in the present Law

In the present Law the following basic concepts are used:

the social program (project) – a set of organizational, economic and technical measures directed to the achievement of the goals in the field of education, science, information, public healthcare, sports, preservation of the environment; youth, demographic, gender policy; social protection; human rights protection activities; culture and other socially significant spheres;

The social services contracting - the form of realization of social programs (projects) and the separate activities directed to the solution of social and economic problems and rendering of services, backed at the cost of the state budgetary funds;

The state customer (further - customer)– state bodies and organs of local self-government that are authorized to conclude contracts on performance of the social services contracting and responsible for performance of social programs;

The authorized state bodies- ministries and agencies/departments of the Kyrgyz Republic and their territorial departments whose terms of reference cover the issues on social development.

competition on performance of social services contracting (further - competition) - the form of arrangement/placement of social services contracting by defining its executor, offered the most efficient methods of performance of the social program in its submitted social project.

The executor of the social services contracting (further - the executor) – a duly registered noncommercial organization (except political parties, trade unions and religious associations), which have concluded a contract with the customer on performance of the social services contracting;

The contract on performance of the social services contracting - the contract concluded between customer and executor with a view of ensuring the state's needs in social sphere in the procedure established by the present Law and other normative legal acts of the Kyrgyz Republic;

Article 2. The legislation on the social services contracting

The legislation of the Kyrgyz Republic on the social services contracting is based on the Constitution of the Kyrgyz Republic, and consists of the present Law and other normative legal acts of the Kyrgyz Republic.

If the international treaty which has entered into legal force in the established procedure contains other rules, other than those provided for by the present Law then the rules of the international treaty shall apply.

Article 3. The purposes of the social services contracting.

The purposes of the social services contracting are:

- solution of socially significant problems not covered or covered not enough by activities of state bodies;
- involvement into the social sphere additional human, material, financial resources from non-governmental sources;
- increasing of executors' responsibility for target spending of the allocated funds;
- increasing of addressing the social protection measures;
- creation of the legal mechanisms for effective and permanent rendering of social services to population;
- promotion of competition among the executors of social services contracting and increasing of social services' quality
- efficient usage of state funds
- creation of market on rendering the social services

Article 4. Principles of conducting of social contracting process.

Conducting of social contracting process shall be carried out according to the following principles:

- 1) legality, fairness and transparency of the processes of the social services contracting;
- 2) equal and free access to information on social contracting;
- 3) increasing of efficiency of social programs' realization;
- 4) providing the opportunities for citizens of the Kyrgyz Republic to participate in solution of social problems;
- 5) development of the social partnership
- 6) consideration of the personal individuality and specific needs of the recipients of social services
- 7) freedom of selection of social services in conjunction with the social needs
- 8) ensuring the equal opportunities and nondiscrimination with respect to access and provision of social services
- 9) rapprochement of the organizations that render social services with recipients of social services
- 10) promotion of competition in rendering the social services

Article 5. Spheres of realization of the social services contracting.

Realization of social services contracting is carried out in the following directions:

- 1) achievement of goals in the field of education, science, information, physical training and sports;
- 2) health protection of citizens, propagation of a healthy way of life;
- 3) environmental protection;
- 4) support of youth policy and children's initiatives;
- 5) solution of problems of demography
- 6) solution of gender problems
- 7) support of vulnerable groups of people
- 8) rendering assistance to orphan children, children from incomplete and multi-children families
- 9) assistance in citizen's recruitment
- 10) protection of rights and interests of citizens and organizations
- 11) development of culture and art;
- 12) protection of historical and cultural heritage;
- 13) strengthening of the public accord;

14) other socially significant directions which are not contradicting the legislation of the Kyrgyz Republic

Article 6. Performance of the social services contracting

Social services contracting shall be performed by noncommercial organizations by execution of state social programs (projects) and separate activities directed to the solution of social and economic problems.

Noncommercial organizations undertaking activities in the fields stipulated in Article 5 of the present Law are admitted to participate in competition.

Article 7. Formation of the social services contracting

Formation of the social services contracting shall be made by state customer on the basis of features of each social programs. The state customer shall:

- work out a description of terms/conditions of social contracting which allocation will be determined by conducting a competition;
- conclude contracts with executors on performance of the social contracting;
- maintain financing the realization of project by executor of social contracting;
- supervise the course of realization of the social contracting and conduct assessment of its quality.

Article 8. Financing of programs(projects) realized under the social services contracting.

Financing of the social contracting shall be carried out at the cost of the state(republican) and local budgetary funds of the Kyrgyz Republic in the form of grants.

Resources for financing of programs (projects) under social services contracting must be annually stipulated in the state(republican) budget.

Organs of local self-government shall have a right to stipulate the resources for financing of the programs (projects) under the social services contracting in their annual local budget.

The budgetary resources stipulated for realization of the programs (projects) under the social services contracting, shall be used for the purposes and according to the procedures established by the present Law and other normative legal acts of the Kyrgyz Republic, and also in compliance with a contract on performance of social services contracting.

Article 9. Arrangement/Placement of a social services contracting.

Arrangement/placement of a social contracting shall be made in the form of open public competitions.

The certain competition commissions shall be formed for organizing and carrying out a competition on social programs (projects). The structure of competition commission shall be approved by the state customer that responsible for realization of the appropriate social program. The procedures for carrying out a competition shall be defined by the regulation approved by Government of the Kyrgyz Republic.

The informational report on competition shall be published in the state and official languages in mass media, the number of printed copies of which will allow receiving the sufficient knowledge by all possible applicants engaged in such activities.

Article 10. Formation of the competition commissions

Competition commissions shall be annually formed for organizing and carrying out the competitions on social programs (projects).

The authorized state bodies form competition commissions for state(republican) programs (projects), and also for regional/local programs (projects) which are contemplated to be realized in the territories of two or more oblasts of the Kyrgyz Republic.

Territorial departments of the authorized state bodies shall form territorial competition commissions for programs (projects) financed at the cost of state(republican) budget if the realization of those programs (projects) will be carried out solely in the territory of their responsibility.

Organs of local self-government shall form competition commissions for programs (projects) financed at the cost of local budget if the realization will be carried out in the territory of their responsibility.

The competition commissions shall consist of representatives of customer and independent external experts. The number of members of competition commission shall be determined by the customer. However, the number of independent external experts shall not be less than 50% of the total number of members of commission.

The candidatures of the independent external experts shall be proposed by the nongovernmental organizations. The nongovernmental organizations shall have a right to forward written proposals relating to competition commissions' structure (the candidatures of the independent external experts) from the moment of publication an announcement about competition.

If the number of proposed independent external experts exceeds required quantity of the competition commission's structure the customer has the right to select the independent external experts by means of open sortitions, conducted with the participation of the nongovernmental organizations that proposed the candidatures for the competition commission.

Article 11. Competition requirements.

Participants of competitions can be noncommercial organizations which undertake the activities in the fields stipulated in Article 5 of the present law and have not less than one year experience in the announced field of competitive program (project).

Participant of competition shall have own bank account.

Several participants (irrespective of form of ownership) can form joint project group on a contractual basis and submit the joint application for participation at competition. In this case in the application and project proposal the distribution of the responsibilities between participants in realization of a project and inputs of each participant should be identified.

12. Revelation and elimination of the conflict of interests during the selection of winner

The procedures/mechanisms of selection of competition's winners shall provide fair estimation of candidates in order to avoid the allocation of the budgetary funds of social services contracting on an arbitrary basis, including on political or personal motives.

If the member of the competition commission has direct or indirect interest to any participant (existence of a conflict of interests) he/she is obliged to disclose it to other members at the meeting of the competition commission and declare that he/she will not vote and take part at discussions of project proposal of the given participant.

The decisions of the competitive commission adopted with existence of the conflict of interests of members can be cancelled by the court. The appropriate petition/writ can be submitted to the court by the participants or any interested party not later than one month from the date of adoption of decision by competition commission. In case of cancelling the competition commission's decision, adopted with existence of the conflict interest, by the court the contract on performance of social services contracting (if concluded) nullifies and the competition commission conducts new selections of the winner of competition. However, the member of the

competition commission who has hidden the existence of conflict of interest will be made answerable according to the legislation of Kyrgyz Republic and the participant the victory of which was abolished by the court decision will not be allowed to participate at the competition.

Article 13. The executor of social contracting

Winners of competitions receive the status of executors of the social contracting and conclude with the customer a contract on performance of the social services contracting.

The rights and obligations of the executor of the social services contracting shall be defined by the contract on performance of the social services contracting taking into consideration requirements established by the present law.

Article 14. The contract on performance of social services contracting

In order to guarantee the partnership between the parties the terms of the social contract shall be discussed by both parties and shall not be imposed on executor without its consent. Fair terms of contract are the major factor for ensuring the relationships between parties to be constructive and mutually beneficial.

The contract shall reflect the total sum of the grant provided by customer to executor for realization of social contracting, and also the detailed budget and implementation schedule.

The contract shall envisage the rights and obligations of the customer on the one hand, and the rights and obligations of the executor on the other hand.

The contract shall provide the terms of transfer of budgetary funds. At the parties' discretion and project features the budgetary funds can be transferred by customer to executor in one payment or several payments by stages. However, the conditions of the second and the subsequent payments can be adhered to the quality and volume of performance of the contract by executor at each preceding stage.

In order to ensure the transparency of activity carried out by executor the contract shall stipulate its (executor's) obligation to provide the customer with the report on activity and the financial report. Thus, depending on duration of program (project) terms and stages of submission of such reports can be stipulated.

The contract shall provide the customer with the right to organize financial audit of executor on granted budgetary funds at any time and to carry out monitoring of executor's performance of social services contracting.

In the contract it is necessary to specify consequences for infringement of terms of social contracting.

Article 15. State support of executors of social services contracting.

During performance of social contracting by executor the state bodies and organs of local self-government within the limits of their competence established by the laws of the Kyrgyz Republic, shall provide information, advisory, methodical, organizational technical support in realization of programs (projects) on social services contracting.

Informational and advisory support is provided through the explanation of normative legal acts of the Kyrgyz Republic, giving the information on activities of the state bodies undertaken with regard to realization of social services contracting, development and realization of the state, branch and regional programs, providing statistical data and any other information necessary for the realization of programs (projects) of social services contracting.

Methodical and organizational-technical support are provided by means of development of reference and methodical materials, technical assistance in organizing seminars, conferences, trainings and other actions concerning realization of the social contracting.

Article 16. Control over the execution of social contracting.

Control over the execution of social contracting shall be carried out by customer and other authorized state bodies within the limits of their competence determined by the legislation of the Kyrgyz Republic.

State bodies shall be responsible for ensuring the use of budgetary funds by executor in accordance with the terms of contract. The control over the executor's proper use of budgetary funds and its project activity shall be carried out by the state bodies with the observance of executor's autonomy.

Article 17. Consideration of disputes

Disputes between the executor of social services contracting and state customer regarding conclusion, execution, changing and termination of contract on performance of social contracting, and also disputes on compensation of property or other damages shall be considered by court in the established order.

Article 18. The responsibility for infringement of the legislation on the social services contracting.

Violation of the legislation of the Kyrgyz Republic on social services contracting entails the responsibility established by the legislation of the Kyrgyz Republic.

The executor of social contracting bears responsibility for use of the budgetary funds in accordance with the contract on performance of social services contracting.

For improper use of the budgetary funds allocated for execution of social contracting executor shall be made answerable according to the legislation of the Kyrgyz Republic.

Article 19. The procedure of introduction into force the present Law.

The Present Law enters into legal force from the date of its official publication.

The government of the Kyrgyz Republic in three-month term must develop and adopt appropriate normative legal acts with respect to implementation of the present Law.

President of the Kyrgyz Republic K.Bakiev

**Adopted by Jogorku Kenesh
of the Kyrgyz Republic**

on June 5, 2008