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Regulation on Social Contracting of the City of Odessa

Adopted August 10, 2000

GENERAL PROVISIONS

1.1. Regulation on social contracting in Odessa city (hereinafter – Regulation) defines the legal, organizational and financial grounds of social contracting, and the procedures of development and implementation of social contracts on all the levels of local government within the city.

This Regulation has been developed by the permanent committee of City Council on improvement of city governance structure together with Odessa civic institution of social technologies and Association for public initiatives' promotion "Kovcheg".

1.2. The basic definitions used in this Regulation, shall mean the following:

Social contracting – the set of organizational and legal developments, aimed at solving a social problem in nationwide or within a specific territorial community and implemented by non-profit organizations for account of budget funds and other sources under the social contract with a government body or a local government. Solving social problems is carried out, as a rule, through target social programs (social projects), and tender shall select contractors of social contracting;

Target social group shall mean a special-interest group of people having the same essence or character of their joint activity, place of residence, place of staying, social status, nationality, sex, age, education etc.

Social needs – the set of needs and interests of citizens, classified under the territory, age, social and other grounds;

Social problem shall mean existence of certain non-satisfied or partially satisfied needs and interests of members of a local community provided such needs and interests are formulated as a generalized task to be solved.

Social contracting goal – meeting social needs of target social group through solving a social problem (the set of social problems);

Target social program (a national or a local one) shall mean a package of mutually connected (in respect of the targets, resources, contractors, and terms of performance) social projects and measures that shall ensure solving a social problem within the entire country or within any political subdivision (territory).

Social project shall mean a package of mutually connected (in respect of the terms, resources, and contractors) measures aimed at solving one of social problems of specific target social program or of any local problem having an independent social meaning.

The responsible for solving a social problem – bodies of national government executive branch, local governments, empowered by State or territorial community with the necessary competence and having resources (wholly or partially) for solving a social problem (set of social problems);

Applicant of social contracting shall mean a governmental or local authority (that is responsible for solving a certain social problem) to act as a party (as a applicant) to a social contract on performance of social contracting and implement the imposed functions in the course of social contract implementation;

Contractor of social contracting shall mean a nonprofit organization that is declared as a winner of the open public contest (tender) under results of which the relevant contract on performance of the social contracting is concluded.

Sub-contractor of social contracting shall mean a legal or physical person invited by the contractor to implement defined works within the social contract.

Social contracting sponsor – legal entity or individual, taking part as a sponsor in social contracting implementation providing the additional resources for this purpose under the contract with the social contract contractor;

Nonprofit organizations shall mean associations and charitable organizations established and carrying their activities in accordance with the Law of Ukraine on «Citizens' Associations» and on «charities and charitable Organizations», and which main purpose is not to make profits in order to distribute them among founders, members of the organization.

Social contract shall mean a contract that is concluded between a applicant and the contractor of social contracting; such a contract shall determine economic and legal obligations of the parties and regulate relations between the customer and contractor.

Primary resources of social contracting – resources in cash, in kind or other ones, which principal of social contracting disposes on behalf of the subject responsible for solving a social problem. Under terms of social contract, volume of primary resources is only a part of the total resources required for social contracting implementation;

2.1.2. The list of the priority social problems in the city that are to be solved with the help of target social programs, (hereinafter – list of social problems of top priority), is approved by city council after the submission of city mayor and is an integral part of the plan for social and economic development of the city. If necessary, City Council can currently amend the approved list.

2.1.3. Proposals to be filed in the list of social problems of top priority shall be submitted by permanent committees, city councilors, agencies and divisions of city government, district state administrations, community bodies, businesses, institutions, organizations and citizens' associations operating in the city. The division of economy and development of industry and maritime of executive committee responsible for drafting plan of social and economic development of the city, which summarizes up the proposals. As draft list of priority social problems of Odessa City it shall be submitted to city mayor, who submits it to the council examination.

Form of list of social problems of top priority is in appendix 2 to this Regulation.

2.2. Setting objectives for solving social problems through social contracting

2.2.1. On the basis of the list of social problems of top priority approved with city council, the division of economy and development of industry and maritime, executive committee in cooperation with the relevant divisions and agencies of city government, and, if necessary, external experts, shall agree upon with the relevant permanent committees City Council within two months after approval of the list, develop and submit the set of projects on solving social problems through social contracting to the examination of city government.

2.2.2. Each task shall include the following information:

- a) wording of social problem after the list of social problems of top priority adopted with city council;
- б) level of applying social contracting (city, district, community);
- в) data on social program designer or social project (name or reference to its detecting via contest);
- г) estimated cost of the task implementation in general, including costs of developing a social program (social project);
- д) estimated value and sources of the primary funding of social contracting (budget, non-budget funds, special funds and so on);
- е) estimated extra funding for social contracting;
- ж) support resources (premises, equipment, stocks), those principal transfers to contractor;
- з) terms of task implementation, including the terms of development and adoption of a social program (social project).

The form of task set for solving social problems through social contracting is set in appendix 3 to this Regulation.

2.2.3. During the first implementation of social contracting tool in City Council practice (district state administrations, community bodies), the set of objectives shall include 2-3 tasks for short-term activities (up to 6 months), pilot social programs or social projects for eventual practical development of technical procedures of social contracting.

2.2.4. Set of objectives for solving social problems through social contracting after approval by city government shall be submitted to the approval by City Council, as a rule, together with the draft plan of social and economic development and city budget plan for the next fiscal year.

2.2.5. After city council approved the set of objectives for solving social problems through social contracting, estimated funds to be assigned next year for funding works related to social contracting from city and district budgets, non-budget sources, as well as from special funds at city government disposal, they shall be included as specific points in the relevant drafts of budget and non-budget expenditures.

2.3. Development of target social program and social projects

2.3.1. Development of target social programs and social projects for their further implementation through social contracting can be made in two ways:

first – contest as two-tour selection of the best drafts of target social programs and projects, submitted by non-profit organizations (with further granting the winners the right to implement these programs and projects as contractors of social contracting);

second – development of social programs and social projects by the designers, appointed by resolution of city government or by order of city mayor from the divisions of City Council and city government, or task force recruited by order of city mayor from the representatives of different divisions of city government and city councilors, or external organization, including a non-profit organization having the necessary qualification. In the latter case, the matter can be solved via contest through social contracting.

3.1.3. District contest committees, headed with deputies of chairmen of district state administrations, includes the officials of district state administrations, City Council members elected in this district, representatives of businesses and institutions located in this district, as well as non-profit organizations operating at its territory.

3.2. Organization and procedures of contest committees work

3.2.1. Contest committee works at its meetings that are hold, if necessary, and are valid if two thirds of all its members take part in the meeting.

3.2.2. Contest committee makes its decisions by simple majority of its members presenting at the meeting. If votes split, chairman of committee has the decisive vote.

3.2.3. Contest committee makes its decisions by open or secret ballots, or roll calls. The type of ballot shall be selected in each case by majority of contest committee members participating in the meeting, unless contest procedures provide otherwise.

3.2.4. Meetings of contest commissions shall be held as open meetings where representatives of the press may be present. Experts and other persons who are not members of such commissions shall have the right to take part in the meetings of contest commissions without the right to vote.

3.2.5. Maintenance of city contest committee work is provided with executive committee, and district contest committees with the relevant district state administrations.

3.2.6. All the members of contest committees work as volunteers.

3.3. Powers of contest committee and its governing bodies

3.3.1. Contest commission shall:

- a) register and discuss applications and proposals presented to a contest, and on the grounds established in this regulation refuse the participation of the applicant to the contest;
- b) select applicants for development of social programs and projects at the first tour of the contest;
- c) select the best social programs and social projects at the second tour of the contest and declares their authors as winners of the contest.
- d) designate following approval of the target social programs and social projects developed by them, the applicant that shall have the right to be contractors of proper social contracting.
- e) make recommendations for sub-contractors to the contractor in respect of other contractors of social contracting (from those applicants that have submitted interesting proposals).
- f) Make recommendations to the contractor with respect to distribution of assets for use of the social contract between the contractor and sub-contractor of the social contract for their realization.
- g) Make recommendations to the city council major changes to the pre-planned budget for the accomplishment of the social project, as well as, estimate the total budget for the resolution of a specific social problem.
- h) provide practical and methodic assistance to the district commissions, including experts to evaluate projects and programs.
- i) shall have the right to engage experts on contractual basis and pay them remuneration at the expense of the resources allocated for such purposes.

3.3.2. Chairman of contest committee:

- calls for contest committee meetings;
- presides at meetings;
- represents contest committee in relations with other subjects of social contracting, as well as other legal entities, involved in the implementation of the relevant social program (social project);
- signs minutes and other official documents of contest committee.

3.3.3. Chairman deputy of contest committee:

- acts for chairman of contest committee, if chairman is absent or unable to fulfill his or her responsibilities on other causes;
- executes orders of chairman of contest committee.

3.3.4. Secretary of contest committee:

- admits contest applications;
- organizes records management of contest committee;
- runs minutes of contest committee meetings;
- secures printing bulletins for secret ballot and roll calls;

- a) notarized certificate of registration;
- b) notarized copy of the charter;
- c) application made on behalf of management of the institution in respect of participation in the contest; the application must be certified by the seal of such institution;
- d) certificate issued with proper tax authority in respect of absence of indebtedness connected with payment of taxes and deductions to the state purpose funds;
- e) Bank invoice proving the amount of co-funding required, or a copy of an agreement with a sponsor (s) of the social contract engaging in co-funding the social contract in the amounts required;
- f) license for the activity envisaged by the proper social contracting (if necessary) as well as other documents that certify that proper institution meets to the qualification requirements;
- g) recommendations (if any) issued by the state bodies and institutions as well as by non-governmental organizations;
- h) proposals on solving the social problem determined in the task; the form of the whole social problem (project) should be arranged according to attachment 5 to the regulation. (in a sealed envelope with the official stamp of the organization)

3.6.4. Applicant shall add the signed list of the submitted documents (in two copies), and while submitting the committee secretary endorses its registration by contest committee, or refusal in registration on the copy applicant retains.

3.6.5. The reasons under which an applicant may be excluded of the right to take part in a contest may be as follows:

- a) the applicant fail to correspond the requirements listed in Article 3.5;
- b) the application is submitted following expiry date of the period established for submission of documents;
- c) the package of documents submitted is incomplete (article 3.6.3);
- d) the contest commission has found that the applicant submitted falsified or incorrect information on itself.

The list of the reasons under which an applicant may be divested of the right to take part in a contest is not exhaustive one.

3.6.6. Applications and other papers submitted to the contest may be made in Ukrainian or Russian at applicants' option.

3.6.7. During three days from the date of submission of these documents, the contest commission shall discuss the essence of such documents and notify the proper applicant that it may participate in the first tour of the contest or that it has to further elaborate the documents submitted; otherwise the commission shall send a written notice to the applicant with the reasons under which it may not be a participant of the contest.

3.6.8. If documents are called back to applicant because of their shortage or improper drawing up shall not prevent resubmitting the documents to the contest after the necessary amendments within the specified term.

3.6.9. On the expiration of the period for acceptance of applications, the contest commission shall make a protocol on completion of acceptance of applications. The minutes include the list of all registered applications as well as a list of all applications rejected. The minutes are confirmed by the commission.

3.6.10. Representatives of the institutions that were divested of the right to take part in the contest shall have the right to take part in the work of proper meeting of the commission. The contest commission may hear their explanations.

3.6.11. Following approval of the minutes on completion of acceptance of applications the contest commission shall break open the envelopes containing proposals submitted to the contest. The secretary of the commission registers each application with the seal of the commission, which is kept at the direction of the commission. Then the commission shall make copies of such proposals and give them to all members of the commission as well as to the experts engaged.

3.6.12. The contest commission shall make estimations of the proposals submitted to the contest for each nomination in accordance with criteria as follows:

- a) correspondence to the task;
- b) possibility of implementation of the proposal in practice;
- c) economic, social, and other effects;
- d) originality of solving a social problem.

3.6.13. If necessary, contest committee organizes the proposal expertise by the external experts; they may be scientists, practitioners, representatives of non-profit organizations, who don't participate in this contest and have great success experience in the areas related to solving social problems selected for this contest.

3.6.14. In addition to the criteria established in article 3.6.12, the contest commission shall take into account organizational, financial, material and technical possibilities of proper institution, availability of experience of work in the specific direction of social sphere as well as availability of personnel having proper qualification.

3.6.29. Contest committee can give its recommendations to city council (as for social program) and executive committee (as for social project) concerning well-grounded changes in the funds sum, initially assigned for social contract implementation, as well as estimated costs assigned for a target social program (a social project) in whole.

3.6.30. Final minutes are made in each nomination in three copies and shall be signed by all the contest committee members, reserving the right of every member to express his or her dissenting opinion to be added to the minutes.

3.6.31. One copy of the signed minutes in each nomination is given to each contest winner, one copy to city mayor in order to submit the projects of target social programs for the City Council sessions, and social projects to executive committee. One copy of minutes with the data on contest winners shall be given to the relevant principal to draft the social contracts after the approval of target social programs and projects. One copy of the minutes shall be kept in the archive of contest committee.

3.7. Organization of Contest of Contractors of Social Contracting

3.7.1. Contests of contractors of social contracting shall be organized as one-tour contests. The aim of such contests is to find out the most efficient nonprofit organization as contractor of social contracting (in respect of implementation of the target social programs and social projects already approved) from the number of applicants.

3.7.2. List of documents to be submitted as well as procedure of submission of applications to such contest shall be similar to the same of contest (Article 3.6) except of the norm from article 3.6.3.h. Instead of such proposals participants of the contest of social contracting contractors shall submit their proposals in respect of the most efficient implementation of the target social program (social project) in accordance with requirements of such contest.

3.7.3. The participant that has substantiated and developed (from the organizational point of view) the measures to ensure the best implementation of the contest task shall be declared the winner of such contest. Taking into consideration the criteria in articles 3.6.12 and 3.6.14.

3.7.4. Contest committee evaluates the contest results in each nomination on the basis of analysis of consolidated valuation sheet, made up under individual evaluations of committee's members and expert opinions.

3.7.5. All the committee members shall sign any final minutes of contest committee in each nomination in three copies. After mayor confirms them, one copy is given to the contest winner, another one to the principal for making social contract; the third copy remains in the contest committee archive.

3.8. Promulgation of the contest results

3.8.1. Contest committee shall publish the contest results in the official newspaper "Odessa Herald" and the other media within five days.

3.8.2. Social contracts principal and chairmen of contest committee hold press conferences, briefings with participation of stakeholders concerning the contest final results.

3.9. Financial Base of Contests

3.9.1. The expenses connected with organization of contests of social programs, projects, and contractors of social contracting shall be made at the expense of the winners of such contests — the contractors (additional contractors) of social contracting and shall be included into the amount of additional resources to be raised by contractors at the expense of their own resources or with the help of sponsors.

3.9.2. Resources for financing contests shall be spent:

- a) for payment of announcements in print media,
- b) remuneration of work of the experts engaged, making copies of the documents submitted,
- c) stationery and for payment of other organizational expenses.

4. Procedure of Conclusion of Social Contract

4.1. The terms of making a social contract

4.1.1. The contractors' contest winner acquires the status of the social contract's contractor (hereinafter – contractor) and makes social contract with principal.

4.1.2. Social contract shall be signed by principal and contractor within ten days after mayor confirms the minutes on the contractors' contest results, or city council approves the target social program or city government approves social project, selected during the contest of social programs and projects.

4.1.3. Social contract shall include the following data:

- a) data on the parties of social contract;

- h) utilize the resources allocated for performance of the social contract as well as the additional resources allocated later only in accordance with direct purpose of such resources;
- i) keep books and maintain records in accordance with the legislation;
- j) Upon closure of the social contract, return unused assets to the applicant, unless provided for otherwise in the social contract
- k) monitor (following completion of the social contract and during the period fixed in the contract) the state of the target social group for solving problems of which the social contracting was aimed at.

5.3. Settling of disputes between the parties

Any disputes that may arise between the contractor and the applicant of a social contracting in the course of conclusion, performance, making amendments, or termination of a social contract, as well as disputes connected with indemnification of material and other losses and damages shall be settled in accordance with the procedure established by the legislation of Ukraine.

5.4. Co-operation of subjects, participating in the implementation of the social contract

5.4.1. A social contracting contractor, as a main contractor, shall coordinate activities of associate contractors within the framework of a specific social contracting on the basis of bilateral agreements concluded with such associate contractors.

5.4.2. The applicant of a social contracting shall coordinate activities of the social contracting contractor and other participants of implementation of a social project.

5.4.3. The coordinator of the target social program shall coordinate activities of the social contracting contractor and other participants of implementation of such program; such coordinators shall be appointed in the course of approval of such programs.

5.5. Amendments of the terms and annulment of the social contract

5.5.1. Unilateral amending of terms and provisions of a social contract as well as unilateral refusal to perform the obligations fixed in such contract shall be only possible in the cases stipulated in the social contract and in the legislation in effect.

5.5.2. Any amendments in the signed social contract may be included only by the mutual agreement of principal and contractor on the basis of well-grounded proposals, which each party may submit on the external or internal causes in the course of social contract implementation.

5.5.3. If one party believes amending or termination of social contract be necessary, it shall send the relevant proposal to another party, and the latter shall consider and answer the proposal within the term defined with the author. Amending terms of the signed social contract are made in written under the same procedures as social contract itself.

5.5.4. If one party informs another party, that it can not fulfill its obligations under certain reasons (or without good causes) the guilty party of dissolution of a social contract is subject to legal regulations on repudiation, under penalty of applying tort sanctions.

5.5.5. Should force major circumstances occur that prevent one of the parties or both parties at the same time to perform their obligations under the social contract, then issue on further continuation of the contract validity shall be presented for consideration of the coordinator of the target social program or for consideration of the chairperson of the body of the state power or of the body of local self-governance of proper level; then such chairperson shall have the right to make decision on appointment of special committee authorized to clear up factual background and prepare recommendation on that issue.

5.6. Reporting, supervision, responsibilities of the parties

5.6.1. Routine and final reports on performance of work under social contracting shall be prepared in accordance with the forms and submitted within the terms that are fixed in proper social contracts.

5.6.2. The list of indicators, that allow contractor to hold control over the implementation of social contract terms by the contractor, shall be included in the contract.

5.6.3. Should one of the parties fail to perform terms and provisions of a social contract or should it perform such terms and provisions in improper manner, such party shall bear responsibility stipulated in the social contract and the legislation in effect.

6. ASSESSMENT AND RESULTS OF PERFORMANCE OF A SOCIAL CONTRACT

6.1. Control of the quality of implementation of works and services

6.1.1. Applicant shall supervise on quality of the work the contractor performs and services it renders during implementation of a social contracting in accordance with the procedure and figures that are stipulated in the proper social contract.