

Changes in the procedure for public procurement

On 25 December 2015, the Verkhovna Rada of Ukraine adopted the law which provides for the public procurement to be made in electronic format. This law was adopted pursuant to the Association Agreement between Ukraine and the EU in part of implementation of some EU directives.

Thus, pursuant to provisions of the law, the system of electronic procurement is introduced, which shall ensure rapid exchange of documents and information, disclosure of all proposals of participants following completion of the auction, and is designed to create a model of e-procurement involving state and private business and reduce corruption during such procedures.

In addition, the law stipulates that public procurement shall be conducted via two competitive regulation procedures, namely open tender and competitive dialogue, and one non-competitive procedure, which is a negotiation purchase procedure. Open tender is held using a mandatory auction on the lowest price and non-price based criteria. If the customer is unable to specify the necessary technical or qualitative characteristics of the products and specify the type of work or services, and in cases where negotiations with the participants of public procurement is required, the competitive dialogue procedure shall be applied. Negotiation purchase procedure shall be applied without prior publication with publication of the notice of intention to conclude the agreement following negotiation with the participant of public procurement.

The law will come into force in two stages: from 1 January 2016 the provisions of the law shall apply to all central authorities and state entities operating in certain industries, and from 1 January 2017 to all customers of public procurement.