

Engineering by foreign companies in Ukraine

Introduction

1. Engineering in Ukraine
2. Works requiring certified performers
3. Works not requiring certified performers
4. Performers' certification
5. Recommendations for foreign engineering companies

B

Despite the difficult circumstances of wartime, the reconstruction of Ukraine has already begun. The destruction of Ukrainian infrastructure, energy facilities, agricultural enterprises, housing, hospitals, schools, etc. requires immediate rebuilding measures.

The construction industry in Ukraine is already in need of relevant services and works, which foreign construction companies can actively engage in providing and performing. Engineering is an important category of such services in construction.

1. Engineering in Ukraine

Under Ukrainian law, engineering activities are defined as the provision of engineering and technical services, which include, in particular:

- conducting preliminary feasibility studies and research;
- project audits;
- development of programmes for construction financing;
- organising the development of project documentation;
- conducting tenders and bidding;
- conclusion of contractor agreements;
- coordination of activities of all construction participants;
- technical supervision of the construction of an architectural object;
- economic, financial, and other consulting services.

Under Ukrainian law, business activities related to the construction of facilities that are classified as having medium (CC2) and significant (CC3) consequences (liability) are subject to licensing. The list of activities subject to licensing is determined by the Cabinet of Ministers of Ukraine.

However, this provision is outdated and does not actually work since the construction industry has been undergoing reform. As a result, the licensing conditions for construction activities and the list of types of work subject to licensing are currently not in effect.

This situation creates uncertainty as to the need and procedure for licensing and

the list of works that require a licence. At present, the development and implementation of project documentation, construction supervision, and commissioning fall within the competence and responsibility of architects (engineers).

Such architects (engineers) are specialists who:

- have received a certificate based on the results of certification, which gives them the authority to conduct personal activities in the field of architecture; and
- are personally responsible for the results of their work.

In practice, in order to carry out engineering activities in Ukraine, it is necessary to have a specialist who has passed the relevant certification and holds the relevant qualification certificate.

Foreigners who have not received the relevant qualification certificate may perform engineering works and participate in the development of urban planning documentation, design architectural objects, and develop working documentation for construction only on the basis of agreements with specialists holding a qualification certificate.

More information on licensing of construction activities in Ukraine can be found in our article [Rebuilding Ukraine: construction projects](#)

2. Works requiring certified performers

Ukrainian legislation defines a list of types of works (services) related to the creation of architectural objects, performers of which must be professionally certified. This list includes:

- development of urban planning documentation;
- architectural and civil engineering design;
- audit and survey in construction;
- technical supervision;
- engineering activities in the field of construction with regard to coordination of actions of all the construction participants;
- performing technical inventory of immovable property.

3. Works not requiring certified performers

A qualification certificate is not required to perform certain design works for the creation of architectural objects. Such works include:

- design work by specialists under the supervision of an architect or other specialist who holds a qualification certificate for the performance of relevant works;
- development of design materials not intended for implementation (draft, exploratory, conceptual materials, etc.), proposals for the possible development of any land plot and its conditions;
- performing works related to participation in architectural and urban planning competitions, unless their terms and conditions provide otherwise;
- designing facilities that, under the law, do not require obtaining permitting

documents for construction works.

Also, construction works that are potentially of importance for the reconstruction of Ukraine and the needs of wartime do not require permitting documents for their performance. The list of such works includes, in particular:

- works on the refurbishment and redevelopment of a residential building or premises, as well as non-residential buildings, structures, premises therein, the implementation of which does not involve interference with enclosing and load-bearing structures and/or public utility systems – for objects that, according to the class of consequences (liability), are considered objects with minor (CC1), medium (CC2) and significant (CC3) consequences;
- replacement of roofs of buildings and structures in accordance with building codes without interfering with load-bearing structures;
- reconstruction, overhaul, technical re-equipment of internal systems;
- connection to engineering networks in accordance with the technical specifications of individual houses (homestead), garden houses, country houses, outbuildings and structures, garages located on the household, dacha, or garden land plots and land plots for the construction of individual garages;
- construction of temporary buildings and structures on a land plot without foundations;
- dismantling of objects damaged or destroyed as a result of emergencies, hostilities, or terrorist acts;
- restoration of separate structures of buildings and structures in order to eliminate the consequences of emergencies (accidents) and to restore the functioning of facilities intended to ensure the vital activity of people without changing their geometric dimensions;
- replacing units and assemblies of technological equipment and their engineering networks, control and automation systems that are outdated and whose technical life has been exhausted in existing workshops and premises;
- construction of military engineering and fortification structures for defence purposes;
- new construction, reconstruction, restoration, overhaul of barracks and housing facilities of military settlements (except for residential buildings), military airfields, arsenals, bases and warehouses, utility facilities, engineering networks, which, according to the class of consequences (liability), belong to the objects with minor (CC1) and medium (CC2) consequences and are carried out directly within the territory of military units (subdivisions), institutions and organisations of the Armed Forces, the National Guard and the External Intelligence Service during the implementation of measures to ensure national security and defence, repulsion and deterrence of Russia's armed aggression in Donetsk and Luhansk regions.

Temporary structures and their complexes intended for the purposes listed below are installed in accordance with a separate procedure:

- ensuring vital functions of the population affected by emergencies, hostilities, or terrorist acts;
- evacuated population;
- internally displaced persons;
- persons involved in the inspection and restoration of damaged facilities, performance of restoration works to eliminate the consequences of emergencies, hostilities, or terrorist acts.

Such works do not require the generally applicable permitting documents for construction works.

At the same time, construction works involving new construction, reconstruction, restoration, overhaul, and technical re-equipment must be carried out in compliance with the requirements of the law, building codes, standards, and rules and in line with the project documentation developed and approved under the procedure established by law.

4. Performers' certification

For professional certification, a performer must submit an application for admission along with the following documents:

- copies of passport and taxpayer registration number;
- duly certified copies of the document (documents) on higher education (bachelor's, master's or specialist's degree) in the field of professional certification as per the qualification requirements;
- duly certified copies of documents on labour activity and work experience in the speciality for at least 3 years;
- duly certified copies of the document on advanced training within the past 5 years under the relevant programmes in the field of professional certification;
- duly certified copies of a brief report on the performer's professional activities and/or creative achievements.

5. Recommendations for foreign engineering companies

Taking into account the peculiarities of construction activity licensing in Ukraine, foreign companies intending to provide engineering services should keep in mind that:

- the provision of engineering services in Ukraine requires a specialist who has passed the relevant certification and holds the relevant qualification certificate pursuant to the laws of Ukraine;
- foreigners who have not received such a certificate may perform engineering work and participate in the development of urban planning documentation, design architectural objects, and develop working documentation for construction only on the basis of contracts with specialists who hold a qualification certificate in accordance with Ukrainian law;
- not all types of construction activities in Ukraine require such specialists.

In order to provide engineering services in Ukraine, a foreign company can:

- hire a specialist who has passed the relevant certification and holds the relevant qualification certificate;
- create a consortium with a Ukrainian company that has such an employee;
- enter into an agreement with such a specialist.

For large-scale projects and participation in public procurement in the construction sector, it is advisable to create a consortium with Ukrainian companies that employ such specialists. In addition to solving the licensing issue, this could also provide a competitive advantage due to the proven experience of a Ukrainian consortium member in similar projects.