



# PUBLIC PROCUREMENT REFORM STRATEGY: PROGRESS AND FUTURE STEPS

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- ● The new Public Procurement Law

On April 29, Verkhovna Rada sent the draft Public Procurement Law for its second *re-reading*.

The vote is expected to take place this month.

- The secondary Legislation (>40 sub. laws)
- The final Public Procurement (Classic + Utilities) Law (until the end Q3 2027)

# ALIGNMENT WITH EU DIRECTIVES: KEY MOMENTS

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  - Procurement methods aligned.
  - Award criteria aligned.
  - Clarified rules on contract modifications during the contract term.
  - Reduced scope of exclusions from procurement legislation; broader use of standard procurement tools.
  - Specific procurement rules during martial law with a narrower scope than the current regime.

# PROCUREMENT METHODS

- ● Procurement procedures:
  - open procedures;
  - restricted procedures;
  - competitive dialog;
  - innovative partnership;
  - competitive procedure with negotiation;
  - the negotiated procedure without prior publication.
- Procurement for awarding reserved contracts.
- Procurement under framework agreements.
- Procurement using a Dynamic Purchasing System (DPS).
- Joint procurement.
- ● Design contests.

# THE MOST IMPORTANT CHANGE

## ■ From MEAT to MAT (BPQR)

The Draft Public Procurement Law provides a new provision of the *best-value* tender proposition:

it means a tender proposition which, following the evaluation of tenders in accordance with provisions of this Law, is identified as the *most economically advantageous*

*either* on the basis of the lowest price as the sole award criterion,

- or on the basis of the *best price-quality ratio* where award criteria other than price are also used

# SIX PILLARS OF THE REFORM STRATEGY

- 1. Strategic Procurement: GPP, social, and innovation criteria as the norm
- 2. Professionalization.
- 3. SME Access: Division into lots ("apply or explain") and self-declaration (ESPD).
- 4. Data Quality and Digitalization: Transition to EU eForms for open reporting; Full integration of Prozorro with state and EU registries.
- 5. Governance: Clear separation of roles: Policy (ME), Control (SASU), and Appeals (AMCU)
- 6. Communication.

# Provisions on Non-Price Criteria in the Draft Law

- Non-price criteria shall be linked to the subject-matter of the procurement, including quality, environmental and/or social aspects.

Award criteria shall be considered to be linked to the subject-matter of the contract where, by their application, they confer an additional advantage for the contracting authority or for the persons in whose interest the procurement is carried out, in relation to the subject-matter of the contract, in terms of the performance, characteristics or conditions defined by the contracting authority, during the use of the supplies, services or the results of the works.

- Where criteria other than price are applied, the contracting authority shall apply the methodology for the application of award criteria to tenders as approved by the Cabinet of Ministers of Ukraine.

# SECONDARY LEGISLATION ROADMAP

- Methodology for determining the estimated value of a procurement procedure.
- Methodology for determining the estimated value of a direct contract.
- Tender proposal evaluation methodology.
- Methodology for applying non-price criteria and Life Cycle Costing (LCC).
- Procurement Official's Code of Ethics.
- Rules for procurement under framework agreements.
- Methodology for determining model Key Performance Indicators (KPIs) and guidelines for procurement efficiency analysis.
- Model regulation on the organisation of a buyer's procurement activities.
- Regulation of matters related to the awarding of reserved contracts.

# Localization Provisions in the Draft Law - 1

## 1. The List of Localized Goods

The Authorized Body (Ministry of Economy) creates and maintains a list of localized goods and publishes it on its web portal. Documents used as the basis for including goods in this list are stored within the electronic procurement system. The Cabinet of Ministers determines the procedure for forming and maintaining this list.

## 2. Confirmation of Localization Degree

The Authorized Body confirms the production localization degree based on data and documents submitted directly by the manufacturer. This is subject to the manufacturer performing specific technological operations defined by a list developed by the Authorized Body and approved by the Cabinet of Ministers.

## 3. Oversight and Compliance

Compliance with localization requirements is monitored by the state financial control body (State Audit Service). Companies whose goods are on the list must provide all necessary documents upon request, including proof of component origin and calculation of the localization degree.

# Localization Provisions in the Draft Law - 2

## 4. Penalties and "Blacklisting"

Failure to provide documents or providing them late is grounds for removal from the list. The Authorized Body also maintains a Register of Dishonest Manufacturers who provided false information.

The Ban: Buyers are strictly prohibited from procuring goods from manufacturers on this "blacklist" (even if the goods are part of a larger works or services contract).

## 5. The Commission's Powers

A special Commission is established to oversee the list. Its powers include:

- Conducting audits and analyzing calculations/documents.
- Proposing the inclusion or exclusion of goods.
- Handling complaints regarding non-compliance.
- Making recommendations on the confirmation of localization degrees.

Thank You!

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