

# GOVERNMENT PURCHASES: RELOADED. Build 20.14



On April 8, 2013, Federal Law No. 44-FZ «On contractual system in the procurement of products, works and services to satisfy state and municipal needs» (Hereafter referred to as the Contractual System Law) was published; from January 1, 2014, it is to replace the current law on orders placement.

## New reality

The current law on purchases concerns mostly the order placement stage, which creates challenges for the customers during contract fulfillment.

In this respect, the idea of the new Law is to enforce protection of Customers' interests by standardizing all the stages of purchasing: from planning to actual contract fulfillment.

However, the main focus is still on the lowest price, while the quality is left to vague and arbitrary categories «product reputation in the market» and «vendor's (executor's, contractor's) experience» introduced by the Law.

Given the above, the new regulation of state purchases will become significantly more complicated. Those involved in the purchasing will need to apply not only the massive and complex Contractual System Law, but to re-train in finding their way through the numerous by-laws that have to be made to «tune» the above Law to our environment. The main function of such «tuning» is delegated to the RF Government: before the Law becomes effective, over 30 specifying resolutions that may quickly and frequently change in future will need to be adopted. Moreover, the scope of regional authorities in the sphere of government purchases has significantly increased.

This will radically change the general outlook on the usual system of purchases and will make vendors revise their market strategy.

## Update & Upgrade

The new law not only changes the process of purchases, but also establishes a number of absolutely new aspects. The key of those are:

- a system of long-term planning of purchases, containing the rationale for the maximum contract price and the chosen method of purchase;
- methods of determining the starting price of the contract, based on market price analysis, the regulatory, tariff, project and budget, cost and other methods justified by the Customer;
- the responsibility of those involved in the purchases, under certain conditions, to disclose information about their governance bodies, beneficiaries, sub-contractors and co-executors;
- a system of banking support for the contracts;
- procedures of monitoring, audit, control of purchases etc.

The List of the existing methods of purchases will be supplemented with new ones: a competitive bidding with limited participation, two-stage competition and request for offers.

The sphere of tender procedures application will expand. Starting from 2014, orders for property rent, as well as orders made by private companies using budget investments will be placed.

## Information transparency

Currently only information about orders placement, contracts made and unscrupulous vendors is published online.

The Contractual System Law classifies the following as public information:

- on actual fulfillment of contracts;
- on plans of purchases and implementation thereof;
- on typical forms of contracts;
- bank guarantees register;
- register of complaints, inspections and results thereof, etc.

## Preferences and prohibitions

The Contractual System Law introduces a number of benefits for certain participants of purchases:

- organizations of the disabled and affiliated companies thereof;
- Institutions and agencies of the penal system;
- small enterprises; and
- socially oriented NGOs.

The first two categories receive preferences on the contract price suggested thereby in the amount of up to 15%. The last two receive preferences in the form of guaranteed participation in at least 15% of the annual volume of purchases.

Given the above, the Government of Russia may, also «for the purposes of the national economy development» set restrictions for purchases of products, services and works of foreign origin. However, the Law does not disclose what is understood under such purposes.

The RF Government is also likely to set additional (currently absent from the Law) requirements for all those involved in purchases. Such restrictions may affect the availability of sufficient financial, production and/or labor resources, work experience etc.

## CONTACT INFORMATION:

---



MAXIM  
GRIGORYEV

Head  
of Krasnodar Office

[grigoryev@vegaslex.ru](mailto:grigoryev@vegaslex.ru)



ILYA  
SHENGELIYA

Junior Associate of  
South Directorate

[shengeliya@vegaslex.ru](mailto:shengeliya@vegaslex.ru)

Additional information about the products and services of VEGAS LEX can be found at [www.vegaslex.ru](http://www.vegaslex.ru).

Current issue contains an overview of the recent legislative changes. The presented material should be treated as general information and not as professional advice.

VEGAS LEX recommends seeking professional advice on any matter

© Law firm VEGAS LEX



VEGAS LEX is one of the largest law firms headquartered in Russia, with over 100 lawyers based in Moscow, Volgograd and Krasnodar.

Since 1995 we have been providing services in every region of Russia, as well as in other countries of the world.

## PRACTICE AREAS:

- Capital Markets, Securities, Listings
- Competition & Antitrust
- Compliance. Anti-bribery compliance.
- Corporate and M&A
- Dispute resolution and pretrial conflict settlement. Mediation
- Environment
- Energy
- Forensics
- Innovative Projects
- International Arbitration
- International Property
- International Taxation
- Investments. Project Finance
- PPP & Infrastructure
- Real Estate, Land & Construction
- Taxation
- Regulatory and GR issues. Law-Making

## KEY INDUSTRIES:

- Automotive
- Aviation
- Chemical & Petrochemical Industries
- Energy & Natural Resources
- Finance & Securities Markets
- Food Products & Agriculture
- Housing & Utilities
- Information Technology
- Infrastructure & PPP
- Insurance
- Life sciences
- Metallurgy & Mining
- Nanotechnology
- Public sector
- Real Estate & Construction
- Telecommunications

## RECOMMENDATIONS & RECOGNITION:

- European Legal Experts 2012
- Best Lawyers 2012
- International Financial Law Review 2012
  - ▷ Restructuring and insolvency
  - ▷ Corporate and M&A
  - ▷ Project finance
- Chambers Europe 2012
  - ▷ PPP
  - ▷ Competition/Antitrust
  - ▷ Dispute Resolution
  - ▷ Tax
- PLC which lawyer? 2012
  - ▷ Competition/Antitrust
  - ▷ Insurance
- The Legal 500 EMEA 2012
  - ▷ Dispute Resolution
  - ▷ Real Estate
  - ▷ PPP
  - ▷ Corporate and M&A
  - ▷ Tax
  - ▷ Energy & Natural Resources
- Russia's leading rankings "Pravo.ru-300", 2012
  - ▷ Competition/Antitrust
  - ▷ Dispute resolution
  - ▷ Tax
  - ▷ Real Estate
  - ▷ Energy & Natural Resources
  - ▷ Intellectual property
  - ▷ International arbitration

## OUR CLIENTS:

Bank of Communications China, Belon, Brevan Howard Fund, British Airways, Fitch Design Consultants Ltd., Gazprom dobycha Astrakhan, Gazprom neft, Vnesheconombank, HOCHTIEF, Ilyushin Finance Co., Interregional Distribution Grid company of Volga, Lamnalco, MAN, Mosenergosbyt, MTD Products Inc., MTS, M.Video, PhosAgro AG, R-Quadrat, RESO Holding, RusHydro, Rockwool, ROSNANO, ROSNO, Russian Funds, SITRONICS, Sun InBev, Unilever, Vitkovice Power Engineering, WABCO, WPP

## COOPERATION:

Ministry of Economic Development, Ministry of Transportation of the Russian Federation, Ministry of Regional Development, Federal Antimonopoly Service, Federal Tariff Service, Federal Financial Markets Service, Committees of the State Duma and the Federation Council, Vnesheconombank, various federal agencies, PPP and Investment Commission of the Russian Union of Industrialists and Entrepreneurs, Protection Committee of the National Securities Market Association, Agency of Strategic Investments and Initiatives, IMEDA, Agency for Strategic Initiatives (ASI), etc.

### MOSCOW

Tel.: +7 (495) 933 0800  
 Fax: +7 (495) 933 0802  
 vegaslex@vegaslex.ru

### VOLGOGRAD

Tel.: +7 (8442) 266 312/313/314/315  
 Fax: +7 (8442) 266 316  
 volgograd@vegaslex.ru

### KRASNODAR

Tel.: +7 (861) 274 7408  
 Fax: +7 (861) 274 7409  
 krasnodar@vegaslex.ru