item

**DECISION**

**approving the Regulation on procurement of**

**goods and services through therequest for proposal (RFP) process**

**no. 666 of 27.05.2016**

*Official Gazette no.150/710 of 31.05.2016*

\* \* \*

Pursuant to art.55 para.(7) of [Law no.131 of 3 July 2015](lex:LPLP20150703131) on public procurement (Official Gazette of the Republic of Moldova, 2015, no.197-205, art.402), the Government

**DECIDES:**

**1.**to approvethe Regulation on procurement of goods and services through the request for proposal (RFP) process, according to Annex No.1.

**2.**Certain Government Decisions shall be repealed, according to Annex No.2.

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| **PRIME-MINISTER** | **Pavel FILIP** |
| **Countersigned by:** |  |
| **Minister Finance** | **Octavian Armaşu** |
| **No.666. Chisinau, 27 May 2016.** | |

Annex no.1

To Government Decision

no.666 of 27 May 2016

**REGULATION**

**on procurement of goods and services through the request for proposal (RFP) process**

**I. GENERAL PROVISIONS**

**1.**For the purpose of this Regulation, the following definitions shall apply:

*call for competition* – information to be published in the Public Procurement Bulletin in accordance with the model set out in Annex 2 to this Regulation, including the information provided for in Annex no.3to [Law no.131 of 3 July 2015](lex:LPLP20150703131) on public procurement;

*request for proposal* – the process for the award of procurement contracts for goods and / or services, to be submitted in accordance with the concrete specifications;

*invitation to tender* – information to be provided by the contracting authority directly to the economic operator, including information concerning the name and location of the contracting authority, the technical characteristics and the quality of the goods or services requested, the manner in which the tenders were drafted, the manner, the place and deadline for submission of tenders, the term of validity of the tenders, the main terms of the procurement contract, the tenderers' qualification requirements, the tender evaluation criteria, etc.

**2.**The Regulation on procurement of goods and services through the request for proposal (RFP) process (hereinafter – Regulation) establishes the legal grounds for organizing and carrying out the request for proposal process, to ensure: procurement savingand efficiency, meeting the needs of contracting authorities for goods and services, the wide participation of economic operators in public procurement procedures and the development of competition between them.

**3.**The procurement contract shall be concluded in accordance with the annual procurement plans, drawn up and approved in the established manner.

**4.**The contracting authority shall not be entitled to divide the acquisition by concluding separate contracts for the purpose of applying a procurement procedure other than the procedure that would have been used in accordance with [Law no.131 of 3 July 2015](lex:LPLP20150703131) on public procurement, if the acquisition had not been split. This rule shall not apply to the procurement of seasonal goods and services, which involves the conclusion of separate contracts for different time periods and whose purchase conditions modify in accordance with the time period when they are purchased.

**5.**Procurement contracts shall be concluded for a budget year, but for purchases of goods and services exceeding one year, the contract may be concluded for the entire procurement but their acquisition shall be ensured within the limits of the annual allocations provided for these purposes and specified annually in the contract.

**II. CONDITIONS OF APPLICATION**

**6.**Procurement through the request for proposal (RFP) processshall apply to any contracting authority aiming to purchase the necessary goods or services under its annual procurement plan, where the value of the acquisition, net of value added tax, does not exceed 400000 MDL.

**7.**When purchasing goods and / or services whose estimated value does not exceed, value added tax free, 150000 MDL, the contracting authority shall send an invitation to tender, applying also the List of Qualified Economic Operators, so as at least three offers are registered until the expiry of the registration deadline.

**8.**When purchasing goods and / or services whose estimated value exceeds 15000 MDL value added tax free, the contracting authority shall publish in advance a call for competition in the Public Procurement Bulletin.

**III. PREPARATION AND TRANSMISSION OF**

**THE INVITATION TO TENDER / CALL FOR COMPETITION**

**9.**The Contracting Authority shall draw up the invitation to tender in the State language or, as the case may be, in one of the languages of international circulation, in accordance with the model set out in Annex 1 to this Regulation.

**10.**The contracting authority shall issue a registration number with the appropriate date to the invitation to tender.

**11.**The invitation to tender may be sent by post, by direct upload, by fax, by electronic means, or by a combination of these means. In all cases, that fact shall be registered.

**12.**The invitation to tender shall be sent free of charge to all economic operators at the same time.

**13.**For the purposes of point 8, the contracting authority shall, in printed and electronic form, submit to the Public Procurement Agency the notice of participation in accordance with the model set out in Annex 2 to this Regulation.

**14.**Requirements relating to the qualification of economic operators shall be expressly provided for in the invitation / notice.

**15.**The economic operator may request from the contracting authority explanations on the invitation / notice of participation, at least 3 calendar days before the deadline for the submission of tenders. In any initiative of this kind, the contracting authority shall respond within one calendar day, but no later than one day before the deadline for submission of tenders.

**16.**The tender shall be submitted by the interested economic operator at the headquarters of the contracting authority by any means provided for in point 11 of this Regulation.

**IV. TENDERS’ SUBMISSION AND EXAMINATION**

**17.**Any economic operator shall be entitled to engage / not to engage in such a procurement process.

**18.** The contracting authority shall set a deadline for the submission of tenders in the invitation / notice, so that the economic operators have sufficient time to draw up the tender and the other documents requested.

**19.**Tenders submitted late shall be recorded in the appropriate manner and returned to bidders without consideration in the evaluation stage.

**20.**The deadline for tenders’ submission shall be at least 7 calendar days - for goods and 12 calendar days - for services.

**21.**The deadline specified in paragraph 20 of this Regulation shall be calculated from the date of submission of the invitation to tender by the contracting authority or, in the situations referred to in point 8 of this Regulation, from the publication of the call for competition in the Public Procurement Bulletin.

**22.**Tenders shall be drawn up in the State language, except where the invitation to tender / call for competition provides for another language for the submission of tenders.

**23.**Economic operators shall follow the guidelines of invitation to tender / call for competition and shall submit the tender and the qualification documents in compliance with the deadline and time limit specified therein.

**24.**The offer shall be clearly drafted, without any corrections, with the exit number and date, with the signature of the responsible person and the stamp of the economic operator.

**25.**Where the tender and, where applicable, the qualification documents required in the invitation to tender / call for competition are submitted by fax or electronic means, the original tender duly stamped and signed and, where appropriate, the original qualification documents shall be submitted by the winning economic operator, within 5 working days from the request bythe contracting authority.

**26.**Tenders’ evaluation shall be performed during their validity period.

**27.**Prior to the expiry of the tender validity term, the contracting authority may propose the tenderer to extend this period. The tenderer is entitled to accept or reject the proposal.

**28.**Where the tenderer has not informed the contracting authority in writing of the extension of the tender validity period, it shall be deemed to have refused to extend it.

**29.**The contracting authority shall be required to specify the award criterion of the public procurement contract in the invitation to tender / call for competition.

**30.**The award criterion can be:

1) the most advantageous offer in technical and economic terms;

or

2) the lowest price.

**31.**The contracting authority shall examine and evaluate the tenders only according to the qualification documents / requirements and the criterion set out in the invitation to tender / call for competition.

**32.**The request for proposal process for which the call for competition has not been published in the Procurement Bulletin shall be deemed as carried out if only at least 3 offers have been submitted.

**33.**Where, as a result of the invitation to tender, the necessary number of tenders has not been submitted, as set out in point 32, the results of the procurement procedure shall be cancelled and it shall be repeatedly organised with the prior publication of a call for competition in the Procurement Notice.

**34.**Tenders submitted by economic operators must be recorded by the contracting authority at the time of filing.

**35.**Each economic operator shall submit a single proposal without the right to modify it both after the submission deadline and for the entire period of the contract performance.

**36.**No negotiations shall be held between the contracting authority and the economic operators during the evaluation of the submitted tenders.

**37.**The winner shall be the tenderer that meets all the requirements established according to the qualifications documents / requirements and the award criterion provided for in the invitation to tender.

**38.**The contracting authority shall disqualify the tenderer in case of erroneous or incomplete qualification data and shall reject the offer when it is abnormally low, does not meet the requirements set out in the invitation to tender, the tenderer does not accept the correction of the arithmetical mistakes or the commission of certain corruption acts.

**V. CONTRACT TERMINATION**

**39.**The contracting authority shall, within 3 days the earliest after determining the winning bid, inform in writing all the participants about the results of the request for proposal process as well as the reasons for rejection / disqualification of the rejected / disqualified offers.

**40.**The contract shall be concluded within the deadline and under the terms of the invitation to tender, but not earlier than 6 days from the date of the communication of the outcome of the award procedure.

**41.**Within 5 days from the date of the contract conclusion or of the additional agreement (regarding the modification / termination of the contract), the contracting authority shall draw up and submit a report to the Agency for examination.

**42.**If no tender has been submitted in the request for proposal process and if cancelled, the contracting authority shall, within 5 days of the deadline for the submission of tenders indicated in the invitation to tender / call for competition, notify the Agency.

**43.**Following the report examination, the procurement contract shall be submitted for registration in one of the Treasuries of the Ministry of Finance, where the management of the financial resources is carried out through the treasury system.

**VI. FINAL PROVISIONS**

**44.**Disputes arising in connection with the organisation and performance of the procurement process, provided for in this Regulation, shall be settled in accordance with the provisions of [Law no.131 of 3 July 2015](lex:LPLP20150703131).

**45.**The Public Procurement Agency shall cancel the results of the request for proposal process where found that it was not carried out in accordance with the provisions of the public procurement legislation.

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| *Annex no.1*  *To the Regulationon*  *procurement of goods and services*  *through the request for proposal (RFP) process*  **Invitation to tender**  (The document format shall not be modified)    *No. \_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*    **Dear Director,**    Please be informed that the request for proposal process is being organized  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (scope of procurement)    Taking into account your company’s experience and competence in the relevant area, we kindly request you to participate in the tender for the delivery of goods and / or services as described below.    **Name of contracting authority:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **IDNO:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Type of procurement process:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Scope of procurement:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **CPV Code:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | |
| **Ord. No.** | **CPV Code** | **Name of the goods / services requested** | **Unit of measurement** | **Quantity** | **Full required technical specification, reference standards** |
|  |  | *(Goods / services required)* |  |  |  |
|  |  |  |  |  |  |
| **1. Required delivery/provision deadline and the place of final destination:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    **Qualification documents / requirements for economic operators shall include the following:** | | | | | |

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| **Ord. no.** | **Name of the document / requirement** | **Additional document requirements** |
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| Interested economic operators may obtain additional information or request clarification from the contracting authority at the address indicated below:  **Name of contracting authority:**\_\_\_\_\_\_**\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Address:**  **Tel:**  **Fax:**  **E**-**mail:**  **Name and position of the responsible person**:  **Preparing tenders**: The requested tender and qualification documents shall be clearly drafted, without any corrections, with the exit number and date, signed by the responsible person and shall be submitted:  - before*(exact time):*  - on*(date):*  - at the address (name of the contracting authority and place of tenders’ submission*)):*  **Delayed tenders**shall be rejected.  **The award criterion is** *(The most economically advantageous tender or the lowest price):*  **Tenders’ validity term***(Number of days):*  **Offer Guarantee** *(to be filled in only in cases where not required or indicated "Not required”):*  *All tenders must be accompanied by an offer guarantee worth \_\_\_\_%, in the form of:*  -***bank guarantee****or*  - ***transfer to the authority account***  *Wire transfer shall be made at the address (company name), with the note „Offer guaranty to tender no.\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”, according to the following details:*  *a) payee (indicate);*  *b) bank details (indicate);*  *c) tax code (indicate);*  *d) settlement account (indicate);*  *e) treasury account (indicate);*  *f) bank account (indicate);*  *g) territorial treasury (indicate)*  **Complaints submitted under the request for proposal process shall be submitted at the headquarters of the National Agency for Settlement of Complaints at:** *(indicate the address)* | | |
| The contracting authority    P.S.,  Ex. \_\_\_\_\_\_\_\_\_  Tel.\_\_\_\_\_\_\_\_\_ | | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (signature) |

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| *Annex no.2*  *To the Regulation on*  *procurement of goods and services*  *through the request for proposal (RFP) process*  **Call for competition**  (The document format shall not be changed)  **1. Name of contracting authority: \_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **2. IDNO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **3. Type of procurement procedure:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **4. Scope of procurement: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **5. CPV code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_**\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    This call for competition is drawn up for the purpose of purchase of \_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (scope of procurement)    as required \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (the name of the contracting authority)    (hereinafter – Purchaser) for the budget period 20\_\_\_\_, the necessary amount is allocated from:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  (source of public money)    The purchaser invites the interested economic operators,who can meet his/her needs, to participate in the procurement process for the delivery of the following goods / services: | | | | | |
| **Ord. no.** | **CPV code** | **Name of the goods / services requested** | **Unit of measurement** | **Quantity** | **Full required technical specification, reference standards** |
|  |  | *(Goods / services required)* |  |  |  |
|  |  |  |  |  |  |
| **6. Required delivery/provision deadline and the place of final destination:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Qualification documents / requirements for economic operators shall include the following:** | | | | | |

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| **Ord. no.** | **Name of the document / requirement** | **Additional document requirements** |
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| Interested economic operators may obtain additional information or request clarification from the contracting authority at the address indicated below:  **Name of contracting authority:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Address**:  **Tel**:  **Fax**:  **E-mail:**  **Name and position of the responsible person**:  **Preparing tenders**: The requested tender and qualification documents shall be clearly drafted, without any corrections, with the exit number and date, signed by the responsible person and shall be submitted:  - before *(exact time):*  - on *(date):*  - at the address (name of the contracting authority and place of tenders’ submission*)):*  **Delayed tenders** shall be rejected.  **The award criterion is** *(The most economically advantageous tender or the lowest price):*  **Tenders’ validity term** *(Number of days):*  **Offer Guarantee** *(to be filled in only in cases where not required or indicated "Not required”):*  *All tenders must be accompanied by an offer guarantee worth \_\_\_\_%, in the form of:*  - ***bank guarantee*** *or*  - ***transfer to the authority account***  *Wire transfer shall be made at the address (company name), with the note „Offer guaranty to tender no.\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”, according to the following details:*  *a) payee (indicate);*  *b) bank details (indicate);*  *c) tax code (indicate);*  *d) settlement account (indicate);*  *e) treasury account (indicate);*  *f) bank account (indicate);*  *g) territorial treasury (indicate)*  **Complaints submitted under the request for proposal process shall be submitted at the headquarters of the National Agency for Settlement of Complaints at:** *(indicate the address)* | | |

Annex no.2

to Government Decision

no.666 of 27 May 2016

**LIST**

**Of Government Decision to be repealed**

**1.**[Government Decision No.245 of 4 March 2008](lex:HGHG20080304245) „approving the Regulationon the procurement of goods and services through the request for proposal process” (Official Gazette of the Republic of Moldova, 2008, no.49-50, art.314).

**2.** Point 16 of the amendments and supplements to be operated in certain Government Decisions, approved by[Government Decision No.661 of 10 November 2009](lex:HGHG20091110661) (Official Gazette of the Republic of Moldova, 2009, No. 163-164, art.729).

**3.**Point 41 of the amendments and supplements to be operated in certain Government Decisions, approved by[Government Decision No.341 of 3 May 2010](lex:HGHG20100503341) (Official Gazette of the Republic of Moldova, 2010, No. 70-71, art.418).

**4.**[Government Decision No.19 of 11 January 2012](lex:HGHG2012011119) „on theamendments and supplements to the Regulationonthe procurement of goods and services through the request for proposal process, approved by [Government Decision No.245 of 4 March 2008](lex:HGHG20080304245)” (Official Gazette of the Republic of Moldova, 2012, No. 15, art.44).

**5.**Point 1 of the amendments and supplements to be operated in certain Government Decisions, approved by[Government Decision No.723 of 28 September 2012](lex:HGHG20120928723) (Official Gazette of the Republic of Moldova, 2012, No. 208, art.781).

**6.**Point 29 of the amendments and supplements to be operated in certain Government Decisions, approved by[Government Decision No.928 of 12 December 2012](lex:HGHG20121212928) (Official Gazette of the Republic of Moldova, 2012, No. 263-269, art.1001).

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Government Decisions  
666/27.05.2016 Decisionapproving the Regulation on the procurement of goods and services through the request for proposal process*//Official Gazette 150/710, 31.05.2016*