



**PRIORITY OF GOODS OF RUSSIAN ORIGIN, WORKS AND SERVICES
PERFORMED AND RENDERED BY RUSSIAN ENTITIES IN PROCUREMENT
BY GOVERNMENT-CONTROLLED ENTITIES**



On 1 January 2017 the Resolution of the Government of the Russian Federation No. 925 dated 16 September 2016 that established the priority of goods of Russian origin, works and services performed and rendered by Russian entities over the goods originating from a foreign country, works and services performed or rendered by foreign entities for the purposes of procuring goods, works and services through a tender, auction and other procurement procedures (except for the single source procurement procedure) by certain legal entities (hereinafter - "customers") became effective.

The Resolution No. 925 applies, in particular, to the following entities:

1. state corporations, state companies, public-private companies, natural monopolies, organizations engaged in regulated activities in certain spheres (i.e. electricity, gas, heat and water supplies), companies the aggregate stake of the Russian Federation, a constituent entity of the Russian Federation, a municipality in the authorized capital of which exceeds 50%;
2. subsidiaries of the entities mentioned in p. 1 above, in the authorized capital of which the aggregate stake of the latter exceeds 50%;
3. subsidiaries of the companies mentioned in p. 2 above, in the authorized capital of which the aggregate stake of the latter exceeds 50%.

The priority is applied subject to the provisions of the General Agreement on Tariffs and Trade 1994 and the Treaty on the Eurasian Economic Union dated 29 May 2014.

The procedure for granting a priority is similar to the procedure established by the Order of the Ministry of Economic Development of the Russian Federation No. 155 dated 25 March 2014 'On the Conditions of Admission of Goods Originating from Foreign Countries for the Purposes of Procurement of Goods, Works and Services for State and Municipal Needs':

1. in procurement through a tender or otherwise, when the winner is determined on the basis of assessment and comparison of bids, or where the winner is a person that offered the lowest price of the contract, the bids containing a proposal to supply goods of Russian origin, perform or render works, services by Russian entities shall be assessed and compared according to the price given in such bids reduced by 15%, while the contract with the winner shall be entered into at the price offered thereby in the respective bid;
2. in procurement through an auction or otherwise, when the winner is determined by reducing the initial (maximum) contract price specified in the procurement notice, by a 'point' as provided in the procurement documentation, if the winner's bid contains a proposal to supply of goods originating from foreign countries or to perform or render works, services by foreign entities, the contract with the winner shall be entered into at the offered contract price reduced by 15%;
3. in procurement through an auction or otherwise, when the winner is determined by reducing the initial (maximum) contract price specified in the procurement notice, by a 'point' as provided in the procurement documentation, if in the course of the procurement the price of the contract is reduced to zero and the winner's bid contains a proposal to supply of goods originating from foreign countries or to perform or render works, services by foreign entities, the contract with the winner shall be entered into at the offered contract price increased by 15%;

A priority shall be granted provided that certain information is included in the procurement documentation, in particular:

- an indication of the country of origin of the supplied goods based on the information contained in the bid submitted with the bidder with whom the contract is entered into;
- liability of bidders for submitting false information about the country of origin of the goods specified in the bid;

- classification of a bidder as Russian or foreign entity based on the bidder's documents containing information on its registration (for legal entities and individual businessmen), and based on ID documents (for individuals);
- the condition stating that in performing a contract concluded with a bidder, which is granted a priority, the replacement of the country of origin is not allowed, except for the case, where such a replacement results in the supply of Russian goods instead of foreign ones which are of the same quality, technical and functional characteristics (consumer properties) as the goods specified in the contract.

The cases where a priority cannot be granted include, in particular: the procurement is declared as invalid and the contract is concluded with a single bidder; a bid does not contain proposals for the supply of goods of Russian origin, performance of works, or rendering services by Russian entities and/or proposals for the supply of goods of foreign origin, performance of works, rendering services by foreign entities.

In addition, the Resolution No. 925 does not apply to procurements which are announced through a uniform information system in the area of procurement, or invitations to which are sent before the entry into force of the Resolution.

Best Regards,

GRATA International Law Firm (Moscow)

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What we do:

- advising and legal support in participating in public procurement;
- advising on the statutory requirements and restriction regarding the import and circulation of various goods in Russia and other states;
- advising on legal compliance of advertising and marketing materials and events, marking, packing, and labels;
- development/review of distribution agreements, supply contracts, agent agreements, contract agreements, services and other contracts;
- development/review of the procedure for selection of counter-parties, commercial/trade policies, in view of the requirements of antitrust and tax authorities;

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