



1 June 2023

(23-3751)

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Committee on Government Procurement

Original: English

**NOTIFICATION OF DOMESTIC LEGISLATION RELEVANT
TO THE AGREEMENT ON GOVERNMENT PROCUREMENT 2012**

NOTIFICATION FROM UKRAINE

The following notification, dated 26 May 2023, is being circulated at the request of the delegation of Ukraine.

Notifying Party	UKRAINE
Legal Basis	<input checked="" type="checkbox"/> ARTICLE XXII:5 OF THE GPA 2012 <input type="checkbox"/> COMMITTEE'S DECISION ON NOTIFICATION REQUIREMENTS UNDER ARTICLES XIX AND XXII:5 OF THE REVISED GPA (PARA. 1 OF GPA/113, ANNEX A OF APPENDIX 2, PP. 436-437)
Title of the notified legal text	Resolution of the Cabinet of Ministers of Ukraine (CMU) of 12 October 2022 No. 1178 "On the approval of the specifics of public procurement of goods, works and services for contracting authorities provided for by the law of Ukraine "on public procurement" for the period of the legal regime of martial law in Ukraine and within 90 days from the date of its termination or cancellation" with changed introduced by the resolution of the CMU No. 471, dated 12 May 2023
Link to legal text	Ukrainian version: https://members.wto.org/crnattachments/2023/GPA/UKR/23_09851_00_x.pdf https://zakon.rada.gov.ua/laws/show/1178-2022-%D0%BF#Text
Notification status	<input type="checkbox"/> First notification (i.e. new domestic legislation) <input type="checkbox"/> Change, amendment or revision to notified legal text <input checked="" type="checkbox"/> Replacement or consolidation of notified legal text(s)
Previous notification(s) referred to	GPA/LEGIS/UKR/6
Brief description of the notified legal text The Resolution No. 169 on "Some aspects of defence and public procurement of goods, works and service in conditions of martial law" has been replaced by the Resolution No. 1178 "On the approval of the specifics of public procurement of goods, works and services for contracting authorities provided for by the law of Ukraine "On public procurement" for the period of the legal regime of martial law in Ukraine and within 90 days from the date of its termination or cancellation" which has entered into force starting from 19.10.2022.	

The Resolution No. 1178 simplifies the conduct of public procurement in the conditions of martial law and the post-war period due to the reduction of the terms of the procurement procedure, open bidding (with the possibility to appeal the decisions, actions or inaction of the contracting authority), reduction of requirements for potential bidders (respectively, the number of documents required by the contracting authority during procurement from bidders), and also provides an opportunity to use the electronic catalogue to purchase goods without a price limit.

With several amendments introduced in Resolution No. 1178, the up-to-date version being notified is accommodating the changes introduced by the latest Resolution of the CMU No. 471 dated 12.05.2023.

The most important of these changes include:

- by default, in open bidding where there are 2 or more tenders (offers), e-procurement system "Prozorro" will operate a three-round price reduction auction;
- at the same time, the Resolution provides that, based on a well-founded decision of the contracting authority, open bidding can be held without the use of a three-round electronic auction. In such a case, only a "blind auction" is held at the stage of submitting an offer. "Blind auction" involves bidders having only one attempt to bid and success with their proposed price;
- the optionality of the auction in "Prozorro" will make it possible to flexibly respond to the situation with energy supply or other force majeure events that may be caused by the war of Russian Federation against Ukraine;
- the rules of the three-round auction in "Prozorro" remain unchanged. The date and time of its holding are automatically determined by the system, each bidder has three steps to lower his price, and the right to the last step goes to the one who submitted the lowest price when submitting an offer;
- The State Audit Service of Ukraine received the right to monitor procurements under direct contracts;
- Procurements using credit funds of international organizations can be carried out in the "Prozorro" system, but taking into account additional conditions and requirements of these organizations.

Language(s) of notified legal text	Ukrainian
Date of adoption	12 May 2023
Entry into force	19 May 2023
Other information	The initial version of the Resolution No. 1178 has been adopted on 12.10.2022, entering into force starting from 19.10.2022.
Agency or authority responsible	The Ministry of Economy of Ukraine Telephone: +38-044-200-47-53 Fax: +38-044-253-63-71