

Alert



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Azerbaijan reinforces privileges to local goods (works and services) in public procurement

On July 27, 2016, the Azerbaijani Cabinet of Ministers issued Decision No. 285 ("Decision No. 285" or the "New Decision") amending the existing Decision No. 165 *On Scope of subsidies and their implication procedure, approval of calculation methods to reveal impact of change of prices for goods (works and services) in procurement contracts and determination of the amount of divisible parts*, dated October 28, 2002 ("Decision No. 165" or the "Previous Decision"). Decision No. 285 expands the scope of available subsidies (discounts) and approves the procedure for the application of such discounts during public procurements.

The amendments can be summarized as follows:

1. During the evaluation of tender proposals, a purchaser is required to give preference to local goods (works and services), provided they meet all the quality requirements set forth in the tender announcement, and apply a 20% add-on to the proposed price of similar goods (works and services) imported from abroad.
2. Local content requirements are now more stringent compared to Decision No. 165. Thus, while the Previous Decision applied even a small discount (up to a maximum of 15%) to goods (works and services) comprising as low as 50% local origin, the New Decision raises the discount to 20% which applies to goods (works and services) comprising more than 80% of local content.
3. The amount of discount applied to local goods (works and services) is equal to 20% off the proposed price (including all applicable customs duties, transportation and insurance expenses, applicable taxes and other disbursements) for similar goods (works and services) imported from abroad.

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4. *Goods* will be confirmed as local by a respective certificate of origin, issued by the State Service on Antimonopoly Policy and Protection of Consumers' Rights under the Ministry of Economy (the "Service"). The certificate of origin is issued by the Service upon the request of bidders, be them individuals or legal entities.
5. *Works* are considered local if both of the following conditions are met:
 - (i) at least 80% of the goods involved in the works are purported to be local; and
 - (ii) at least 80% of payroll for those works is considered to be paid to Azerbaijani nationals.
6. *Services* are deemed to be local if at least 80% of the payroll for those services is assumed to be paid to Azerbaijani nationals.
7. Bidders must submit the following documents to prove the local origin of their works and services:
 - (i) with regard to works, a certificate of origin for the goods to be used;
 - (ii) with regard to works and services, document evidencing payroll information and a list of employees from the Electronic Information System of the Ministry of Labour and Social Protection of Population; and
 - (iii) a calculation record sheet to determine point (i) above, with regard to works, and point (ii) above, with regard to services.
8. The following are grounds for refusal to apply the discount:
 - (i) if the documents presented for application of the discount include irreparable shortcomings; and
 - (ii) if goods (works and services) are not local.

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