

FEDERAL LAW
NO. 115-FZ OF JULY 21, 2005
ON CONCESSION AGREEMENTS

(with the Amendments and Additions of November 8, December 4, 2007, June 30, 2008, July 17, 2009, July 2, 2010, July 19, November 28, December 7, 2011, April 25, 2012, May 7, December 28, 2013, June 28, 2014)

Passed by the State Duma on July 6, 2005

Approved by the Federation Council on July 13, 2005

Chapter 1. General Provisions

Article 1. Aims and Subject Regulated under This Federal Law

1. The aims of this federal law are to attract investment in the economy of the Russian Federation, ensure the efficient use of property held in state or municipal ownership, under the terms and conditions of concession agreements, and also to improve the quality of goods, work and services provided to the users.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 2 of Article 1 of this Federal Law. The amendments shall enter into force on February 1, 2015

2. This federal law shall regulate the relationships arising in connection with preparation, conclusion, implementation and termination of concession agreements, establish guarantees of the rights and legitimate interests of the parties to a concession agreement.

Article 2. Legislation of the Russian Federation on Concession Agreements

1. The legislation of the Russian Federation on concession agreements shall comprise this Federal Law, other federal laws and other regulatory legal acts of the Russian Federation that may be adopted in accordance with those laws.

2. When an international agreement of the Russian Federation prescribes rules other than those stipulated under this Federal Law, the rules of the international agreement shall prevail.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 3 of this Federal Law
See the Article in the previous wording

Article 3. Concession Agreement

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 1 of Article 3 of this Federal Law

See the text of the Part in the previous wording

1. Under a concession agreement one party (the concessionaire) shall undertake

on its own account to construct and/or reconstruct such property (immovable property or immovable property and chattels personal technologically connected with each other and intended for the pursuance of an activity envisaged by the concession agreement) as is defined under said agreement (hereinafter referred to as the object of the concession agreement) the right of ownership to which either belongs or shall belong to another party (the conceder) and to conduct its activity by using (operating) the object of the concession agreement while the conceder shall undertake to grant to the concessionaire for a period fixed under the agreement the rights of possession and use of the object of the concession agreement for the purpose of conducting said activity.

2. The concession agreement shall be an agreement that contains elements of various agreements envisaged under federal laws. The relationships of the parties to the concession agreement shall be subject, in their relevant parts, to the rules of civil legislation on agreements whose elements are found in the concession agreement, unless otherwise follows from this Federal Law or from the essence of the concession agreement.

3. For the purposes of this Federal Law, reconstruction of the object of the concession agreement shall include activities associated with the restructuring of same on the basis of introduction of advanced technologies, mechanization and automation of production, upgrading and replacement of outdated and physically worn-out equipment with new and more productive equipment, alteration of the technological or functional purpose of the object of the concession agreement or of its individual parts, measures towards improving the characteristics the operational properties of the object of the concession agreement.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 4 of Article 3 of this Federal Law

See the Part in the previous wording

4. The subject matter of a concession agreement that is subject to reconstruction is to be owned by the awarding authority as of the time when the concession agreement is concluded. Said subject matter as of the time of its being transferred by the awarding authority to the concessionaire is to be free of third persons' rights. If the subject matter of the concession agreement is the property envisaged by Items 1 and 11 of Part 1 of Article 4 of the present Federal Law, such property as of the time of conclusion of the concession agreement may belong to a state or municipal unitary enterprise by the right of economic jurisdiction. If the subject matter of a concession agreement is the property provided for by Item 1 of Part 1 of Article 4 of this Federal Law, it may be held by a state budget-financed institution at the time of making the concession agreement on the basis of the right to day-to-day management thereof.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 3 of this Federal Law with Part 4.1

4.1. The handing over of the facility being the subject matter of the concession agreement by the awarding authority to the concessionaire shall be accomplished by means of a deed of cession signed by the parties to the concession agreement.

5. No alteration of the intended purpose of to-be-reconstructed object of the concession agreement shall be allowed.

6. Transfer by the concessionaire of the object of the concession agreement as a pledge or alienation of same shall not be allowed.

7. Any products and incomes that may be obtained by the concessionaire as a result of conducting the activity envisaged under the concession agreement shall be the property of the concessionaire unless otherwise is established under the concession agreement.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 8 of Article 3 of this Federal Law

See the text of the Part in the previous wording

8. The concessionaire shall take the risk of accidental loss of or damage to the object of the concession agreement from the time when this item is handed over to it unless otherwise is established under the concession agreement. The concession agreement may place upon the concessionaire an obligation to insure at its own expense the risk of an incidental loss and/or incidental damage of the subject matter of the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 9 of Article 3 of this Federal Law. The amendments shall enter into force on February 1, 2015

9. The concession agreement may provide that the conceder grant to the concessionaire for its possession and use property that belongs to the conceder by the right of ownership which property forms a single total with the object of the concession agreement and/or designed to be used for a common purpose to enable the concessionaire to conduct the activity as provided under the concession agreement (hereinafter referred to as "other property transferred by the awarding party to the concessionaire under the concession agreement"). In that case, the concession agreement shall specify the make-up and description of such property, goals and period for using (operation of) the same by the concessionaire, procedure for return of said property to the conceder upon the termination of the concession agreement. The concession agreement may establish the obligations of the concessionaire in respect of such property associated with its upgrading or replacement of technically outdated and physically worn-out equipment with new and more productive equipment, of other improvement of the characteristics and operational properties of said property and also of ensuring at its own expense the insurance of the risk of its incidental loss and/or incidental damage.

10. The movable property which is created and/or acquired by the concessionaire

as it carried out its activities envisaged by the concession agreement but is not included in the other property transferred by the awarding party to the concessionaire under the concession agreement is deemed the concessionaire's property, except as otherwise established by the concession agreement. The immovable property which is created by the concessionaire with the consent of the awarding party in the course of performance of the activities envisaged by the concession agreement and is not included in the other property transferred by the awarding party to the concessionaire under the concession agreement is deemed the concessionaire's property, except as otherwise established by the concession agreement. The immovable property which is created by the concessionaire without the consent of the awarding party in the course of performance of the activities envisaged by the concession agreement and is not related to the subject matter of the concession agreement and is not included in the other property transferred by the awarding party to the concessionaire under the concession agreement is deemed the awarding party's property and the value of such property is not refundable.

11. The exclusive rights to the results of the intellectual activity obtained by the concessionaire of its own expense while implementing the concession agreement shall belong to the conceder, unless is otherwise established under the concession agreement.

12. The concessionaire shall bear the costs of performance of the obligations under the concession agreement, unless otherwise is established under the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 13 of Article 3 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 amended Part 13 of Article 3 of this Federal Law

See the Part in the previous wording

13. The awarding party is entitled to bear a portion of expenses towards the creation and/or reconstruction of the subject matter of the concession agreement, the use (operation) of the subject matter of the concession agreement and provide to the concessionaire state or municipal guarantees in accordance with the budget legislation of the Russian Federation. The amount of expenses borne by the awarding party and also the amount of, procedure and terms for the provision of state or municipal guarantees by the awarding party to the concessionaire shall be specified in the decision on conclusion of the concession agreement, in tender documentation and the concession agreement. The decision to make the awarding party's payment under a concession agreement may be adopted, if the subject matter of the concession agreement is the property provided for by Item 1 of Part 1 of Article 4 of this Federal Law and the establishment of the awarding party's payment under the concession agreement is defined as a tender's criterion. With this, the concessionaire has no right to recover from other persons payment for the creation and/or reconstruction of the subject matter of the concession agreement

or for the use (operation) of the subject matter of the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 3 of this Federal Law with part 13.1. The amendments shall enter into force on February 1, 2015

14. The concessionaire shall carry out the commissioning of the object of the concession agreement which has been constructed or reconstructed in the procedure established under legislation of the Russian Federation.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 15 of Article 3 of this Federal Law

See the Part in the previous wording

15. The concessionaire's right of possessing and using the immovable property included in the facility being the subject matter of the concession agreement and the immovable property provided to the concessionaire in accordance with Part 9 of the present article are subject to state registration as an encumbrance on the right of ownership of the awarding authority. The state registration of the concessionaire's right of possessing and using such immovable property may be accomplished simultaneously with the state registration of the awarding authority's right of ownership to such immovable property. The time period for filing the documents required for the state registration of ownership of the Russian Federation, of a constituent entity of the Russian Federation or a municipal entity to the created subject matter of a concession agreement may not exceed a month from the date when the given subject matter is put in operation. The liability of the concessionaire for failure to observe this deadline shall be defined by a concession agreement.

16. The subject matter of the concession agreement and the other property transferred by the awarding party to the concessionaire under the concession agreement shall be shown on the balance sheet of the concessionaire separately from the concessionaire's property. A separate record of such subject matter and property shall be kept by the concessionaire in connection with the performance of obligations under the concession agreement, and depreciation accrual shall be carried out in respect of such subject matter and property.

17. Levy of execution for the concessionaire's debts on its right in respect of the subject matter of the concession agreement and the other property transferred by the awarding party to the concessionaire under the concession agreement is prohibited.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 4 of this Federal Law

See the Article in the previous wording

Article 4. Object of the Concession Agreement

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 1 of Article 4 of this Federal Law

See the text of the Part in the previous wording

1. The facilities being the subject matter of a concession agreement are as follows:

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 1 of part 1 of Article 4 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 reworded Item 1 of Part 1 of Article 4 of this Federal Law

See the Item in the previous wording

1) motor roads or sections of motor roads, protective road structures, artificial road structures, industrial facilities, that is, the facilities used in capital repair, repair and maintenance of motor roads, road construction facilities, the facilities intended for collecting payment (in particular payment collection points), roadside service facilities;

2) railway transport objects;

3) pipe-line transport objects;

Информация об изменениях:

Federal Law No. 246-FZ of July 19, 2011 amended Item 4 of part 1 of Article 4 of this Federal Law

See the Item in the previous wording

4) sea and river ports, including artificial land plots, hydro-engineering port facilities, their production and engineering infrastructure;

5) sea and river vessels, mixed type (river-sea) vessels and also vessels used in ice-breaking navigation, hydrographical, research activity, ferrying, floating and dry docks;

6) airfields or buildings and/or structures designed for takeoff, landing, taxiing and parking of aircraft and also the aviation infrastructure and air traffic service, navigation, landing and communication facilities created and intended for the organisation of flights of civilian aircraft;

7) objects of production and engineering infrastructures of airports;

8) abrogated;

Информация об изменениях:

See the text of Item 8 of Part 1 of Article 4

9) hydro-engineering facilities;

10) facilities for generation, transmission and distribution of electric and thermal energy;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 11 of part 1 of Article 4 of

this Federal Law. The amendments shall enter into force on February 1, 2015
Federal Law No. 417-FZ of December 7, 2011 amended Item 11 of part 1 of Article 4 of this Federal Law. The amendments shall enter into force on January 1, 2013
 Информация об изменениях:

See the Item in the previous wording

11) systems of public communal infrastructure and other objects of public utilities, including heat, gas and power supply facilities, centralised hot water supply, cold water supply systems and/or water drainage systems, and specific facilities of such systems, for processing and utilization (disposal) of domestic waste, objects designed for lighting town-type and countryside settlements, objects designed for area landscaping and beautification and also social and everyday service facilities;
 12) subway and other public use transport;
 13) public health facilities, including facilities intended for sanatorium and health-resort treatment;
 14) education, culture and sport facilities, the facilities used for organising citizens' leisure and tourism and other social and cultural facilities.

2. When an object of the concession agreement and other property not belonging to the awarding party is designed to be used for a common purpose, ensure a single technological process and conduct the activity provided under the concession agreement, the conceder shall have the right to make a civil law contract with the owner of the said property, which shall define the terms and procedure for making said property available to the concessionaire (a contract in favour of a third person), in which case it shall be obligated to stipulate that the beginning of rights and duties under said contract be dependent upon the arising of relationships under the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 4 of this Federal Law with parts from 3 to 5. The amendments shall enter into force on May 1, 2015

Federal Law No. 108-FZ of June 30, 2008 amended Article 5 of this Federal Law
See the Article in the previous wording

Article 5. Parties to the Concession Agreement

1. The parties to the concession agreement shall be:

Информация об изменениях:

Federal Law No. 145-FZ of July 17, 2009 amended Item 1 of Part 1 of Article 5 of this Federal Law

See the Item in the previous wording

1) the conceder - the Russian Federation which shall be represented by the Government of the Russian Federation or a federal body of executive authority duly authorized by the Government of the Russian Federation or a subject of the Russian Federation which shall be represented by a state power body of the subject of the Russian Federation or a municipal entity represented by a local

self-administration body. Specific rights and duties of the awarding party may be exercised by the bodies and legal entities empowered by the awarding party in accordance with federal laws, other normative legal acts of the Russian Federation, the legislation of subjects of the Russian Federation, normative legal acts of local self-government bodies, and the awarding party shall notify concessionaire of such bodies, persons and on the rights and duties exercised by them. Also the powers of the awarding party may be executed by the state company formed by the Russian Federation in accordance with the Federal Law on the "Russian Highways" State Company and on Amending Certain Legislative Acts of the Russian Federation;

2) the concessionaire shall mean either an individual entrepreneur or a Russian or foreign legal person or two or more such legal persons operating without the formation of a legal person under a contract of simple partnership (joint venture contract).

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 1.1 of Article 5 of this Federal Law

See the Part in the previous wording

1.1. If the subject matter of the concession agreement is the property which is envisaged by Items 1 and 11 of Part 1 of Article 4 of the present Federal Law and belongs to a state or municipal unitary enterprise by the right of economic jurisdiction, such enterprise shall take part on the awarding authority's side in obligations under the concession agreement and execute specific powers of the awarding authority just as the other persons which may execute them in accordance with the present Federal Law. The awarding authority's powers executed by such enterprise, for instance the powers to hand over the facility being the subject matter of the concession agreement and/or other property handed over by the awarding authority to the concessionaire under the concession agreement shall be defined by the concession agreement. In this case, such state or municipal unitary enterprise shall assign to the concessionaire the rights of possessing and using the immovable property included in the concession agreement and/or the other property handed over by the awarding authority to the concessionaire under the concession agreement, and shall sign relevant certificates of acceptance.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Article 5 of this Federal Law with Part 1.2

1.2. If the subject matter of a concession agreement is the property provided for by Item 1 of Part 1 of Article 4 of this Federal Law and possessed at the time of adoption of the decision on making the concession agreement by a state budget-financed institution on the basis of the right to day-to-day management thereof, such institution may participate on the awarding party's side in the obligations under the concession agreement and exercise the awarding party's

individual powers along with the other person that may exercise them in compliance with this Federal law, provided that as a result of this property's transfer under the concession agreement such institution is not deprived of the opportunity to exercise the activities whose goals, subject matter and kinds are defined by the rules thereof. The awarding party's powers exercised by such institution shall be defined by the decision on making the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 5 of this Federal Law with part 1.3. The amendments shall enter into force on February 1, 2015

Federal Law No. 265-FZ of July 21, 2014 amended part 2 of Article 5 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 amended Part 2 of Article 5 of this Federal Law

See the Part in the previous wording

2. Any change in the parties to the concession agreement by way of assigning the right of claim or transferring a debt shall be allowed with the consent thereto of the conceder as from the time of commissioning the object of the concession agreement. The concessionaire shall have no right to transfer into pledge its rights under the concession agreement. In the event of changing persons under a concession agreement, it is not allowed to amend the terms of the concession agreement defining the technical parameters of the subject matter of the concession agreement.

3. Transfer of rights and duties of the concessionaire which is a legal person in the case of its reorganisation to another legal person shall be effected provided the legal person which has either been reorganised or emerged as a result of such reorganisation complies with the requirements established by the present Federal Law and tender documentation as applicable to participants in the tender.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 4 of Article 5 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 amended Part 4 of Article 5 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the Part in the previous wording

4. If the subject matter of a concession agreement is the property provided for by Item 1 and 11 of Part 1 of Article 4 of this Federal Law and the concessionaire attracts borrowed assets to secure the discharge of the concessionaire's obligations under the concession agreement, the concessionaire's rights under the concession agreement may be used as a way to secure the discharge of the concessionaire's obligations towards creditors in the procedure and under the terms which are defined by the concession agreement in compliance with this Federal Law. On such occasion, the awarding party, concessionaire and creditors shall make an agreement defining the parties' rights and duties (in particular liability

in case the concessionaire's failure to discharge or improper discharge of the obligations thereof towards the awarding party and creditors). The concessionaire may be replaced without holding a tender subject to the creditors' opinion on the basis of a decision of the Government of the Russian Federation on condition that the concessionaire's failure to discharge obligations thereof under the concession agreement or their improper discharge have entailed violation of major terms of the concession agreement and/or have inflicted harm upon human life or health or there is a threat that such harm can be inflicted.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 5 of Article 5 of this Federal Law

See the Part in the previous wording

5. The replacement of the person under the concession agreement in the event of the concessionaire's default on, or the improper performance of, his obligations owing the creditor shall be effected by means of a tender conducted by the awarding authority for the purpose of replacing the person under the concession agreement (if not otherwise provided for by the concession agreement or the agreement between the concessionaire, awarding party and creditors made in compliance with Part 4 of this article), with the following requirements applicable to this tender being observed:

1) the type of the tender (public tender or non-public tender), the terms and criteria of the tender conducted for the purpose of replacing the person under the concession agreement shall be established in accordance with the awarding authority's decision on conclusion of the concession agreement on the basis of which a tender was carried out for the right to conclude the concession agreement;

2) the provisions of the tender documentation on the basis of which the tender is conducted for the purpose of replacing the person under the concession agreement shall correspond to the provisions of the tender documentation used as the basis for the tender for the right to conclude the concession agreement, except for the provisions -- including, inter alia, the parameters of such tender's criteria -- which are modified with account being taken of the obligations under the concession agreement which have been already performed by the time of such tender;

3) apart from the conditions of the tender mentioned in Item 1 of the present part a condition of the tender held for the purpose of replacing the person under the concession agreement is the undertaking of the winner in the tender to perform the obligations of the concessionaire owing the creditor in the procedure and on the terms agreed upon with the creditor and set out in the tender documentation for the tender for the purpose of replacing the person under the concession agreement.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Article 5 of this Federal Law with Part 5.1

5.1. When replacing a person under a concession agreement because of the concessionaire's failure to discharge or improper discharge of the obligations thereof toward creditors without holding a tender, the rules established by Part 7 of this article shall apply.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 5 of this Federal Law with Part 6

6. Holding a tender for the purpose of replacing the person under the concession agreement and selecting winner in such tender shall take place in accordance with Chapter 3 of the present Federal Law. An agreement on replacement of the person under the concession agreement shall be concluded between the awarding authority and the winner in the tender. The rights and duties of the concessionaire under the concession agreement shall be terminated as of the time when the agreement on replacement of the person under the concession agreement is concluded.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 5 of this Federal Law with Part 7

7. If the person under the concession agreement is replaced the terms of the concession agreement shall be modified on the basis of information on the obligations under the concession agreement that have been actually performed by the concessionaire as of the time of the tender, and also with account being taken of the proposals submitted by the winner in the tender for the purpose of replacing the person under the concession agreement as containing better terms in comparison with the terms of the concession agreement. The amendments which are made to the concession agreement and are related to modification of the terms of this agreement shall be formalised by means of an additional agreement for the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded Article 6 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 amended Article 6 of this Federal Law
See the Article in the previous wording

Article 6. Period of Validity of the Concession Agreement

The period of the concession agreement shall be fixed by the concession agreement with due regard for a period for construction and/or reconstruction of the object of the concession agreement, the amount of investment used in the construction and/or reconstruction of the object of the concession agreement and the period for recoupment of the investment and other obligations of the concessionaire and/or awarding party under the concession agreement.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 7 of this Federal Law
See the Article in the previous wording

Article 7. Payment under the Concession Agreement

1. The concession agreement provides for a payment to be made by the concessionaire to the conceder during the period of use (operation) of the object of the concession agreement (hereinafter referred to as a concessionary payment). It may be stipulated that the concessionary payment may be made either within the whole period of use (operation) of the object of the concession agreement or within individual periods of such use (operation). The amount of the concessionary payment, form, procedure and dates for making the same shall be such as envisaged under the concession agreement in accordance with the decision for making a concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded part 1.1 of Article 7 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 amended Part 1.1 of Article 7 of this Federal Law

See the Part in the previous wording

1.1. If the concessionaire sells the goods manufactured, performs works, provides services at regulated prices (tariffs) or with account being taken of established price (tariff) mark-ups and also in cases when according to the terms of a concession agreement the awarding party bears a portion of expenses towards the creation and/or reconstruction, use (operation) of the subject matter of the concession agreement a concession payment or the awarding party's payment under the concession agreement may not be envisaged by the concession agreement.

2. The concessionary payment may be fixed as:

- 1) payments set in the fixed amount to be effected either at regular intervals or as a lump sum amount to the budget of a respective level;
- 2) a fixed share of products or incomes derived by the concessionaire as a result of conduct of the activity envisaged under the concession agreement;
- 3) transfer into the conceder's ownership of property held in ownership of the concessionaire.

3. The concession agreement may include a provision for a combination of the forms of concession payment specified in Part 2 of the present Article.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 reworded title of Article 8 of this Federal Law

See the text of the title in the previous wording

Article 8. The Rights and Duties of the Concessionaire and of the Awarding Authority

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 1 of Article 8 of this Federal Law

See the Part in the previous wording

1. In executing the concession agreement the concessionaire shall have the right:

- 1) transfer on the consent of the awarding party in the procedure established by federal laws and terms of the concession agreement the subject matter of the concession agreement and/or other property transferred by the awarding party to the concessionaire under the concession agreement to third persons for use for a term not exceeding the term of use (operation) of the subject matter of the concession agreement according to the concession agreement if such persons observe the obligations of concessionaire under the concession agreement. In this case, the concessionaire is liable for the actions of such persons as if they were its own. The termination of the concession agreement is deemed grounds for termination of the third persons' right of using the subject matter of the concession agreement and/or the other property transferred by the awarding party to the concessionaire under the concession agreement;

- 2) to implement the concession agreement by its own means and/or by involving other persons according to the terms of the concession agreement. Notably, the concessionaire shall be held responsible for the actions of other persons in the same degree as for his own;

- 3) to enjoy, on an uncompensated basis in the procedure prescribed by the concession agreement and subject to the conditions of confidentiality established under said agreement, exclusive rights to results of the intellectual activity obtained by the concessionaire at its own cost when implementing the concession agreement, for the purpose of complying with its obligations under the concession agreement.

2. In performing the concession agreement the concessionaire shall be obligated:

- 1) to carry out, within the time limits set under the concession agreement, construction and/or reconstruction of object of concession agreement and start its use (operation);

- 2) to make use (to operate) object of the concession agreement for purposes and in the procedure which have been specified in the concession agreement;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 3 of part 2 of Article 8 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 3) to conduct the activity stipulated under the concession agreement and not to terminate (not to suspend) said activity without the consent thereto of the conceder;

- 4) to provide, when conducting the activity specified under the concession

agreement, for the possibility for the users to obtain appropriate goods, work and services;

5) to grant to the users such privileges as established under federal laws, laws of a subject of the Russian Federation and regulatory legal acts of local self-government bodies, including privileges in payment for goods, work and services in instances and in the procedure which have been specified under the concession agreement;

6) to maintain the object of the concession agreement in good order, to carry out, at its own expense, current renovation and overhaul and to bear the costs of maintenance of said object, unless otherwise is prescribed under the concession agreement.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 8 of this Federal Law with Part 3

3. While performing under the concession agreement the awarding authority is entitled to exercise control over the concessionaire's observance of the terms of the concession agreement in accordance with the present Federal Law.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 8 of this Federal Law with Part 4

4. Within the term set by the concession agreement the awarding authority shall hand over to the concessionaire the facility being the subject matter of the concession agreement and/or other property handed over by the awarding authority to the concessionaire under the concession agreement.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Article 8 of this Federal Law with Part 5

5. The property provided for by Item 1 of Part 1 of Article 4 of this Federal Law and held by a state budget-financed institution on the basis of the right to day-to-day management thereof may be transferred in the established procedure to the concessionaire under a concession agreement after termination for the reasons provided for by the legislation of the Russian Federation of the state budget-financed institution's right to day-to-day management of this property, provided that at least one of the following conditions is met:

1) the decision has been adopted in respect of the state budget-financed institution on its re-organisation or liquidation before making the concession agreement of which such property is the subject matter;

2) as a result of immovable property transfer under the concession agreement this institution is not deprived of the opportunity to exercise the activities whose goals, subject and kinds are defined by the rules thereof.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 9 of this Federal Law
See the Article in the previous wording

Article 9. Rights of the Conceder to Exercise Control over Execution of the Concession Agreement

1. The awarding party's monitoring of the performance of the concession agreement shall be carried out by the bodies or legal entities empowered by the awarding party in accordance with Article 5 of the present Federal Law as represented by their representatives who under the concession agreement have a right of free access to the facility deemed the subject matter of the concession agreement and also to the documentation relating to the performance of the activities set out in the concession agreement.

2. The conceder shall exercise control over compliance by the concessionaire with the terms and conditions of the concession agreement, including over fulfillment of obligations to observe the time limits for construction and/or reconstruction of the object of the concession agreement, to effect investments in its construction and/or reconstruction, to ensure the compliance of technical-economic indices of the object of the concession agreement with the technical-economic indices set under the concession agreement, to conduct the activity specified under the concession agreement, to make use of (to operate) the object of the concession agreement in accordance with the purposes envisaged under the concession agreement.

3. The representatives of the bodies or persons specified under Part 1 of this Article shall have no right:

- 1) to interfere in the conduct of the economic activity of the concessionaire;
- 2) to divulge data classified in the concession agreement as data of a confidential nature or constituting a commercial secret.

4. The procedure for control to be exercised by the conceder over compliance by the concessionaire with the terms and conditions of the concession agreement shall be established under the concession agreement.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 9 of this Federal Law with Part 5. The Part shall enter into force on January 1, 2014

5. The results of performing control over the observance by the concessionaire of conditions of concession agreements shall be formalised by the certificate on the results of control.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 9 of this Federal Law with Part 6. The Part shall enter into force on January 1, 2014

6. The certificate on the results of control shall be subject to posting by the concession provider within five business days from the date of drawing up the

particular certificate on the official site of the concession provider on the Internet or in the case of absence with the municipal formation of an official site on the Internet then on the official site on the Internet of the constituent entity of the Russian Federation in the borders of which such a municipal formation is located. Access to the aforementioned certificate shall be provided during the validity of the concession agreements and within three years of the day of the termination of its validity.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 9 of this Federal Law with Part 7. The Part shall enter into force on January 1, 2014

7. The certificate on the results of the control shall not be posted on the Internet if the data on the object of the concession agreements constitutes a state secret or the particular object has a strategic value for the maintenance of the defense and security of the state.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 10 of this Federal Law See the Article in the previous wording

Article 10. Terms and Conditions of the Concession Agreement

1. The concession agreement shall comprise the following essential terms and conditions:

- 1) obligations of the concessionaire to construct and/or reconstruct the object of the concession agreement, to observe the time periods for construction and/or reconstruction of same;
- 2) obligations of the concessionaire to conduct the activity specified under the concession agreement;
- 3) the period of validity of the concession agreement;
- 4) the description, including technical-economic indices, of the object of the concession agreement;

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Part 1 of Article 10 of this Federal Law with Item 4.1

4.1) the term for the handing over of the facility being the subject matter of the concession agreement to the concessionaire;

5) the procedure for making available to the concessionaire land plots designed to conduct the activity envisaged under the concession agreement and the period for making agreements of lease (sub-lease) of said land plots with the concessionaire (when the conclusion of agreements of lease (sub-lease) for land plots is essential for conducting the activity stipulated under the concession agreement);

6) purposes and periods of use (operation) of the object of the concession agreement;

6.1) the methods of the concessionaire's ensuring the performance of obligations under the concession agreement (the granting of an irrevocable banker's guarantee, the concessionaire's pledging the concessionaire's rights under a bank deposit contract to the awarding party, the insurance of the risk of the concessionaire's liability for a breach of obligations under the concession agreement), the amount of security provided and the term for which it is provided;
 6.2) the rate of concession payment, the form(s) of, the procedure and term for, making the payment, except for the cases set out in Part 1.1 of Article 7 of the present Federal Law;

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Part 1 of Article 10 of this Federal Law with Item 6.3

6.3) the procedure for reimbursing the parties' expenses in the event of early rescission of the concession agreement;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented part 1 of Article 10 of this Federal Law with Items 6.4 and 6.5. The amendments shall enter into force on February 1, 2015

7) other essential terms and conditions as may be stipulated under federal laws.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 1.1 of Article 10 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the Part in the previous wording

1.1. If in the course of the concessionaire's activity envisaged by the concession agreement the sale of produced goods, the performance or works or the provision of services by the concessionaire takes place at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups and object of the concession agreements are not the facilities of heat supply, the centralised systems of hot water supply, cold water supply and (or) water removal, certain facilities of such systems the concession agreement shall contain the following apart from the substantial terms described in Part 1 of the present article: an undertaking to raise investments in the amount which the concessionaire undertakes to ensure for the purpose of creating and/or renovating the facility being the subject matter of the concession agreement within the entire effective term of the concession agreement, and also the procedure for reimbursing the concessionaire's expenses which are reimbursable in accordance with the legislation of the Russian Federation in the area of price (tariff) regulation and had not been reimbursed for the concessionaire as of the time of expiry of the effective term of the concession agreement. In this case, the amounts of the security envisaged by Item 6.1 of Part 1 of the present article for the concessionaire's performance of obligations under the concession agreement shall be determined

on the basis of the investments the concessionaire undertakes to raise for the purpose of implementing the concessionaire's investment programme which has been approved in the procedure established by the legislation of the Russian Federation in the area of price (tariff) regulation, except for the expenses which under the concession agreement have to be realised at the expense of funds of the budgets of the budget system of the Russian Federation and at the expense of the concessionaire's proceeds from the sale of produced goods, the performance or works or the provision of services by the concessionaire at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 10 of this Federal Law with Part 1.2. The Part shall enter into force on January 1, 2014

1.2. In cases when the object of the concession agreement are facilities of heat supply, the centralised systems of hot water supply, cold water supply and (or) water removal, certain facilities of such systems, the concession agreement alongside the substantial conditions envisaged by part 1 of this Article shall contain the following essential conditions:

- 1) values of long-term indices of regulation of the concessionaire's activity (long-term indices of tariffs regulation determined according to normative legal acts of the Russian Federation in the sphere of water supply and water removal, long-term indices of state regulation of the prices (tariffs) in the sphere of heat supply, determined according to normative legal acts of the Russian Federation in the sphere of heat supply);
- 2) task and the basic measures determined according to Article 22 of this Federal Law, with the description of the main characteristics of such measures;
- 3) limit amount of charges on the creation and (or) reconstruction of the object of the concession agreement which are intended to be carried out by the concessionaire during the whole term of the term of operation of the concession agreement;
- 4) scheduled values of the reliability, quality and power efficiency indices of the facilities of the centralised systems of hot water supply, cold water supply and (or) water removal, scheduled values of the reliability and power efficiency indices of the facilities of heat supply, scheduled values of other technical and economic indices of the particular systems envisaged by the tender documentation and (or) facilities (hereinafter referred to as scheduled values of indices of the concessionaire's activity);
- 5) procedure for the reimbursement of the concessionaire's charges subject to compensation according to the normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal and not compensated to it as the moment of the termination of the validity of the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 1.3 of Article 10 of this

Federal Law. The amendments shall enter into force on February 1, 2015
Federal Law No. 103-FZ of May 7, 2013 supplemented Article 10 of this Federal Law with Part 1.3. The Part shall enter into force on January 1, 2014

1.3. The procedure aforementioned in Item 5 of part 1.2 of this Article may envisage the reimbursement of the concessionaire's charges within more than one year subject to the extension of the concession agreement's validity for the period sufficient for the compensation of the aforementioned charges of the concessionaire, but no more than for five years or subject to the compensation of the aforementioned charges in view of the normative invested capital rate of return.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 2 of Article 10 of this Federal Law. The amendments shall enter into force on January 1, 2014
See the Part in the previous wording

2. Besides the essential terms stipulated under Parts 1, 1.1 and 1.2 of this Article, the concession agreement may provide for other conditions not conflictory with the legislation of the Russian Federation, including:

- 1) the volume of production of goods, execution of work or provision of services in conducting the activity envisaged under the concession agreement;
- 2) the procedure and terms for setting and modifying the prices (tariffs) of produced goods, performed works and provided services, price (tariff) mark-ups, the long-term parameters of regulation of the activities of the concessionaire which have been approved by the executive governmental bodies according to the procedure established by the Government of the Russian Federation with the bodies of the executive power or the institutions of local self-government that carry out the regulation of prices (tariffs) according to the legislation of the Russian Federation in the sphere of the regulation of prices (tariffs);
- 3) the amount of investment in the construction and/or reconstruction of the object of the concession agreement;
 - 3.1) the composition of the subject matter of the concession agreement;
- 4) the dates for turning over for operation the constructed and/or reconstructed object of the concession agreement featuring the technical-economic indices pre-set under the concession agreement;
- 5) the concessionaire's obligations associated with the realisation of goods to be produced, execution of work, provision of services in the domestic market within the period fixed under the concession agreement;
- 6) the concessionaire's obligations to realize goods to be produced, execute work or render services at regulated prices (tariffs) and in accordance with the specified surcharges to the prices (tariffs);
- 7) the concessionaire's obligations to grant to the users privileges established under federal laws, laws of the subject of the Russian Federation or regulatory legal acts of the local self-government body, including privileges in payment for goods, work and services;
- 8) the concessionaire's obligations to insure at its expense the risk of incidental

loss and/or incidental damage of the subject matter of the concession agreement or of the other property transferred by the awarding party to the concessionaire under the concession agreement;

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Item 9 of Part 2 of Article 10 of this Federal Law

See the Item in the previous wording

9) the conceder's obligations to finance a portion of costs of the construction and/or reconstruction of the object of the concession agreement, costs of use (operation) of said object, the provision of state or municipal guarantees to the concessionaire, the amount of expenses to be borne by the awarding party, the rate of payment of the awarding party under the concession agreement, and also the amount of, and the procedure and terms for the granting of, state or municipal guarantees to the concessionaire by the awarding party;

10) the amount of money used by the concessionaire for upgrading and replacement of the other property transferred by the awarding party to the concessionaire under the concession agreement, and for improving its characteristics and operating properties;

11) the procedure for amending the concession agreement;

12) the concessionaire's obligations to prepare design documentation for the subject matter of the concession agreement;

Информация об изменениях:

According to Federal Law No. 265-FZ of July 21, 2014, Item 13 of part 2 of Article 10 of this Federal Law shall be abrogated from February 1, 2015

13) the obligations of the awarding party and/or the concessionaire to prepare the area required for the purpose of creating and/or reconstructing the subject matter of the concession agreement and/or pursuing the activities envisaged by the concession agreement;

14) abrogated;

Информация об изменениях:

See the text of Item 14 of Part 2 of Article 10

Federal Law No. 38-FZ of April 25, 2012 reworded Item 15 of Part 2 of Article 10 of this Federal Law

See the Item in the previous wording

15) the amount, terms, procedure for and time of payment of the forfeit money for the parties' non-observance of obligations under the concession agreement;

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Part 2 of Article 10 of this Federal Law with Item 16

16) a procedure for determining the amount of compensation for the parties' losses in case of termination of the concession agreement ahead of time in compliance with Items 2-4 of Part 5 of Article 13 of this Federal Law.

3. When the legislation of the Russian Federation envisages that the provision of goods, work and services to citizens and other users shall fully at the expense of budget funds of the budgetary system of the Russian Federation, the concession agreement may not stipulate that the payment for those goods, work and services be effected by using the funds of citizens and other users.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 4 of Article 10 of this Federal Law. The amendments shall enter into force on February 1, 2015

4. The Government of the Russian Federation shall approve standard concession agreements in relation to individual objects of concession agreements specified under Part 1 of Article 4 of this Federal Law. The requirements applicable to the concessionaire in respect of the banks that provide irrevocable banker's guarantees, the banks where the concessionaire's bank deposit may be opened for which rights may be pledged by the concessionaire to the awarding party and in respect of the insurance organisations with which the concessionaire may conclude a contract of insurance of the risk of liability for the non-observance of obligations under the concession agreement shall be established by the Government of the Russian Federation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 10 of this Federal Law with Part 4.1. The Part shall enter into force on January 1, 2014

4.1. In cases when the object of the concession agreement is the property aforementioned in part 1.2 of this Article, the irrevocable bank guarantee shall be non-negotiable and correspond to the other requirements endorsed by the Government of the Russian Federation to such guarantees.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 10 of this Federal Law with Part 5

5. If in the course of the concessionaire's activities envisaged by the concession agreement the concessionaire's sale of produced goods, performance or works or provision of services takes place at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups, a list of the facilities created and/or renovated during the effective term of the concession agreement, the amount and sources of the investments raised for the purpose of creating and/or renovating these facilities shall be established in accordance with the concessionaire's investment programmes approved in the procedure established by the price (tariff) regulation legislation of the Russian Federation.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 11 of this Federal Law
See the Article in the previous wording

Article 11. The Provision of a Land Plot, Forest Tract, Body of Water or Subsoil Tract to a Concessionaire and the Use Thereof by the Concessionaire

Информация об изменениях:

Federal Law No. 180-FZ of June 28, 2014 amended part 1 of Article 11 of this Federal Law

See the part in the previous wording

1. The land plot on which the facility which is the subject matter of a concession agreement is located and/or which is required for a concessionaire to carry out the activity envisaged by a concession agreement; a land plot (the construction of hydro-engineering installations, sea ports, sea terminals, river ports and piers, electric power transmission lines, communication lines, roads, protective road structures (except for landscape gardening elements), artificial road structures (except for winter roads, ice river crossings and tunnels), industrial facilities, that is, the facilities used in capital repair, repair and maintenance of motor roads, road construction facilities, the facilities intended for collecting payment (in particular payment collection points), roadside service facilities, pipelines and other linear facilities, physical-training and health-rehabilitation, sport and sport-technical installations), a body of water (the construction of piers, vessel-hoist and vessel-repair installations, immovable and/or floating platforms and artificial islands, hydro-engineering installations, bridges, viaducts and similar structures, underwater and underground passages, pipelines, underwater communication lines, other linear facilities, underwater service lines, dredging, blasting, drilling and other works relating to the modification of the bed and banks of bodies of water), a subsoil tract (the construction and operation of underground installations not relating to mining) which are required for the creation and/or reconstruction of the subject matter of the concession agreement and/or for the pursuance of the activities envisaged by the concession agreement shall be leased (subleased) to the concessionaire or provided thereto on other legal grounds in accordance with the land, forest, water and subsoil legislation of the Russian Federation for the term which is set in the concession agreement in accordance with the land, forest, water and subsoil legislation of the Russian Federation and which cannot exceed the effective term of the concession agreement. A contract of lease (sublease) of the land plot shall be concluded with the concessionaire within 60 working days after the signing of the concession agreement, except as another term is set by the tender documentation or in the concession agreement envisaged by Article 38 of the present Federal Law. The concessionaire's use of the land plot, forest tract, body of water or subsoil tract that has been provided thereto shall be carried out in compliance with the land, forest, water and subsoil legislation of the Russian Federation.

1.1. The contract for the lease (sublease) of the land plot pointed out in Item 4 of the first part of Article 4 of the present Federal Law, shall be concluded with the concessioner no later than in sixty working days after the performance of the state cadastre recording of the land plot.

2. The concessionaire shall have no right to assign its rights under the contract of lease (sublease) of the land plot to other person or to let the land plot out for sublease, unless otherwise is provided under the contract of lease of the land plot.

3. Termination of the concession agreement shall be grounds for terminating the granting of rights to the concessionaire in respect of a land plot, forest tract, body of water or subsoil tract.

Article 12. Responsibility of the Concessionaire for the Quality of the Object of the Concession Agreement

1. The concessionaire shall answer to the conceder in case of any infringement of the requirements set under the concession agreement and/or requirements of technical regulations, of design documents, of other obligatory requirements for the quality of the constructed and/or reconstructed object of the concession agreement which has been committed in the construction and/or reconstruction of the object of the concession agreement.

2. In case a infringement has been perpetrated of the requirements specified under Part 1 of this Article, the conceder shall have the right to demand that the concessionaire make good said infringement free of charge within a reasonable time limits set by the conceder.

3. The conceder shall have the right to claim that the concessionaire reimburse the losses that have been inflicted when the infringement of the requirements specified under Part 1 of this Article has not been made good within a reasonable period fixed by the conceder or is substantial.

4. The responsibility for the quality of the object of the concession agreement shall be born by the concessionaire to the conceder within the period set under the concession agreement or, when no such period has been set, within five years from the day of turning the object over to the conceder. When the period set under the concession agreement is less than five years and infringement of the requirements for the quality of the constructed or reconstructed object of the concession agreement is detected after the expiration of said period, then, the concessionaire shall, within five years from transfer of the object to the conceder, be held responsible to the conceder, provided that the conceder has proved that such infringement was committed prior to the day of transfer of that object to the conceder or for reasons that arose prior to such transfer.

Article 13. Conclusion, Amendment and Termination of the Concession Agreement

1. The concession agreement shall be made by holding a tender for the right to make a concession agreement, except for the cases envisaged under Article 37 of this Federal Law.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 2 of Article 13 of this

Federal Law. The amendments shall enter into force on February 1, 2015
Federal Law No. 38-FZ of April 25, 2012 amended Part 2 of Article 13 of this
Federal Law
See the Part in the previous wording

2. Concession agreements shall be concluded in compliance with the model agreements envisaged by Part 4 of Article 10 of the present Federal Law, they shall include the essential conditions established by the present Federal Law, other federal laws and they may include conditions that are not regulated by these model agreements and are consistent with the legislation of the Russian Federation and the tender documentation. The requirements for making concession agreements in compliance with the model agreements provided for by Part 4 of Article 10 of this Federal Law may not apply to the concession agreements made in respect of the facilities provided for by Item 1 of Part 1 of Article 4 of this Federal Law, as regards the federal property items.

Информация об изменениях:
Federal Law No. 38-FZ of April 25, 2012 reworded Part 3 of Article 13 of this
Federal Law
See the Part in the previous wording

3. A concession agreement may be terminated as agreed by the parties thereto. The terms of a concession agreement formulated on the basis of the decision on making the concession agreement and the concessionaire's competitive bid according to the tender criteria may be amended as agreed by the parties to the concession agreement on the basis of the decision of the Government of the Russian Federation (as regards a concession agreement in which the Russian Federation is the awarding party), the state power body of a constituent entity of the Russian Federation (as regards a concession agreement in which the constituent entity of the Russian Federation is the awarding party) or local authority (as regards a concession agreement in which the municipal entity is the awarding party), and also as provided for by Part 3.1 of this article, Part 7 of Article 5, Parts 1, 3 and 4 of Article 20 and by Article 38 of this Federal Law.

Информация об изменениях:
Federal Law No. 337-FZ of November 28, 2011 amended Part 3.1 of Article 13 of
this Federal Law. The amendments shall enter into force from April 1, 2012
See the part in the previous wording

3.1. If the concession agreement is implemented within the framework of an investment project included in the list of investment projects of national significance approved by the Government of the Russian Federation, the awarding authority in this concession agreement is the Russian Federation or a subject of the Russian Federation and according to this concession agreement the concessionaire has the duty to prepare design documentation for the facility being the subject matter of the concession agreement, the terms of the concession agreement which have been

defined on the basis of a tender bid and establish the amount of investments and the technical characteristics of the facility being the subject matter of the concession agreement may be modified by agreement of the parties to the concession agreement for the purpose of applying more effective technological solutions, provided there is a positive statement resulting from an expert examination of the design documentation of the facility being the subject matter of the concession agreement and the following requirements are simultaneously met:

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 reworded Item 1 of Part 3.1 of Article 13 of this Federal Law

See the Item in the previous wording

- 1) the amount of the awarding party's expenses towards the creation and/or renovation of the facility being the subject matter of the concession agreement and the amount of the awarding party's payment under a concession agreement may be reduced in the event of reduction of the estimated cost of the subject matter of the concession agreement at the suggestion of the persons with which it is decided to make the concession agreement;
- 2) the provisions governing the quality and consumer properties of the facility being the subject matter of the concession agreement are not subject to modification;
- 3) the other terms of the concession agreement defined on the basis of a tender bid are not subject to modification.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 13 of this Federal Law with Part 3.2. The Part shall enter into force on January 1, 2014

3.2. In the case when the object of the concession agreements is the property aforementioned in part 1.2 of Article 10 of this Federal Law, for amending the conditions of the concession agreement, including the conditions subject to the amendment by agreement of the parties on the basis of decisions of the bodies of state power or institutions of the local self-government determined on the basis of the decision on the conclusion of the concession agreement, tender documentation and the competitive proposal of the concessionaire according to the criteria of tender, the consent of the antimonopoly body received according to the procedure and on the conditions established by the Government of the Russian Federation shall be necessary. The aforementioned consent shall be required also in the cases of amending the conditions of the concession agreements on the grounds envisaged by parts 1, 3 and 4 of Article 20 of this Federal Law. For amending the conditions of the concession agreements in the cases envisaged by part 3.1 of this Article, part 7 of Article 5 and Article 38 of this Federal Law the preliminary consent of the antimonopoly body shall not be required.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 13 of this Federal

Law with Part 3.3. The Part shall enter into force on January 1, 2014

3.3. For amending the conditions envisaged by Item 1 of part 1.2 of Article 10 of this Federal Law the obtaining shall be needed of the preliminary consent of the body of executive power or the institution of the local self-government that carries out the regulation of prices (tariffs) according to the legislation of the Russian Federation in the sphere of the regulation of prices (tariffs) according the procedure established by normative legal acts of the Russian Federation in the field of tariffs regulation in the sphere of heat supply, in the sphere of water supply and water removal.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 13 of this Federal Law with part from 3.4 to 3.9. The amendments shall enter into force on February 1, 2015

4. The concession agreement shall, at the request of either party thereto, may be amended by court decision on the grounds provided under the Civil Code of the Russian Federation.

5. The concession agreement shall be terminated:

- 1) upon the expiration of the term of validity of the concession agreement;
- 2) by agreement of the parties;
- 3) in the event of early dissolution of the concession agreement on the basis of a court decision.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Part 5 of Article 13 of this Federal Law with Item 4

4) where it is provided for by the concession agreement, its early termination on the basis of a decision of the Government of the Russian Federation or of the federal executive power body authorized by it (as regards a concession agreement in which the Russian Federation is the awarding party), of the state power body of a constituent entity of the Russian Federation (as regards a concession agreement in which the constituent entity of the Russian Federation is the awarding party) or local authority (as regards a concession agreement in which the municipal entity is the awarding party), of the concessionaire's failure to discharge or improper discharge of obligations under the concession agreement have entailed the infliction of harm to human life or health or there a threat of such harm's infliction.

Article 14. Consequences of Termination of the Concession Agreement

1. The concessionaire shall be obligated to pass over to the conceder the object of the concession agreement and other property stipulated under the concession agreement and specified in line with Part 9 of Article 3 of this Federal Law, within the time limits fixed under the concession agreement.

2. The object of the concession agreement and such other property as is envisaged under the concession agreement and specified under Part 9 of Article 3

of this Federal Law to be handed over to the conceder shall be in a state as established under the concession agreement, suitable for conducting the activity stipulated under the concession agreement and in compliance with the requirements set under this Federal Law and also shall not be encumbered with the rights of any third persons.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 3 of Article 14 of this Federal Law

See the text of the Part in the previous wording

3. The handing over of the object of the concession agreement and of other property envisaged under the concession agreement and defined in accordance with Part 9 of Article 3 of this Federal Law by the concessionaire and the taking over of same by the conceder shall be effected under a deed of cession to be signed by the parties to the concession agreement.

4. Unless otherwise is stipulated by federal law or the concession agreement, the obligation of the concessionaire to pass, as is envisaged under the concession agreement, the object of the concession agreement and other property stipulated by the concession agreement and defined under Part 9 of Article 3 of this Federal Law over to the conceder shall be considered to be fulfilled after such object and property has been taken over by the conceder and after the parties to the concession agreement have signed an appropriate document of transfer. Evasion by either party to the concession agreement from signing a document of transfer shall be considered to be a refusal of that party to the concession agreement to comply with its obligations under the concession agreement.

5. Termination of the rights of ownership and use of the object of the concession agreement and of other immovable property stipulated under the concession agreement and defined in accordance with Part 9 of Article 3 of this Federal Law shall be subject to state registration in the procedure envisaged under the laws of the Russian Federation.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 15 of this Federal Law

See the Article in the previous wording

Article 15. Dissolution of the Concession Agreement on the Basis of Court Decision

1. The concession agreement may be dissolved on the basis of a court decision at the request of a party to the concession agreement in the case of substantial violation of the terms and conditions of the concession agreement by the other party to the concession agreement, substantial change in the circumstances which the parties to the concession agreement proceeded from when making said agreement and also for other grounds as may be envisaged under this federal law, other federal laws or the concession agreement.

1.1. If a party to the concession agreement defaults on or improperly performs its obligation under the concession agreement the other party to the concession

agreement shall send a warning in writing thereto stating the need to perform the obligation within a reasonable term. A demand for amending or rescinding the concession agreement before the due date may be presented to a court by the other party to the concession agreement only if the performance of the obligation was not appropriately completed within said term.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 2 of Article 15 of this Federal Law

See the text of the Part in the previous wording

2. Violations of the terms and conditions of the concession agreement by the concessionaire that are considered substantial shall be:

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 1 of part 2 of Article 15 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 1) lagging behind the time limits for the construction and/or reconstruction of the subject matter of the concession agreement;
- 2) use (operation) of the object of the concession agreement for purposes not established under the concession agreement, violation of the procedure for using (operating) the object of the concession agreement;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded Item 3 of part 2 of Article 15 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 3) failure by the concessionaire to comply with its obligations to conduct the activity stipulated under the concession agreement;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded Item 4 of part 2 of Article 15 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 4) termination or suspension by the concessionaire the activity provided under the concession agreement without the consent thereto of the conceder;
- 5) non-fulfillment or inappropriate fulfillment by the concessionaire of obligations established under the concession agreement associated with provision to citizens and other users of goods, work and services, including services of water, heat, gas and electric power supply, services of water drainage, services of public transport.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 15 of this Federal Law with Part 2.1

2.1. The following shall be deemed a substantial breach of the terms of the concession agreement by the awarding authority:

- 1) default when due on the duty to hand over the facility being the subject matter of the concession agreement to the concessionaire;
- 2) the handing over to the concessionaire of the facility being the subject matter of the concession agreement which does not comply with the terms of the concession agreement (for instance with the description, technical and economic specifications, the intended purpose of the facility being the subject matter of the concession agreement) if such non-compliance is discovered within one year after the parties to the concession agreement signed a deed of cession of the facility being the subject matter of the concession agreement but could not be discovered when it was handed over to the concessionaire and has come into being through the fault of the awarding authority;

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 reworded Item 3 of Part 2.1 of Article 15 of this Federal Law

See the Item in the previous wording

- 3) default on the realisation of the undertakings the awarding party has assumed in terms of financing a part of the expenses towards the creation and/or renovation of the facility being the subject matter of the concession agreement, the use (operation) of the facility being the subject matter of the concession agreement or making the awarding party's payment under the concession agreement.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 3 of Article 15 of this Federal Law

See the text of the Part in the previous wording

3. The concession agreement may, apart from substantial violations of its terms and conditions specified in Parts 2 and 2.1 of this Article, also define actions (inaction) of the conceder or the concessionaire which constitute substantial violation of the terms and conditions of the concession agreement.

4. Grounds for dissolving the concession agreement shall be failure of the legal person-the concessionaire that has been reorganised or resulted from reorganisation to comply with the requirements to the participants in the tender established by the present Federal Law and the tender documentation.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 15 of this Federal Law with Part 5

5. In the event of early rescission of the concession agreement the concessionaire is entitled to claim reimbursement from the awarding authority for expenses towards the creation and/or renovation of the facility being the subject matter of the

concession agreement, except for the expenses incurred by the awarding authority for the creation and/or renovation of the facility being the subject matter of the concession agreement. If in the course of the concessionaire's activities envisaged by the concession agreement the concessionaire's sale of produced goods, performance or works or provision of services takes place at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups then reimbursement of expenses towards the creation and/or renovation of the facility being the subject matter of the concession agreement shall be based on the amount of the concessionaire's expenses which are reimbursable in accordance with the price (tariff) regulation legislation of the Russian Federation and have not been reimbursed for the concessionaire as of the time of rescission of the concession agreement. The procedure and term for said reimbursement shall be defined in accordance with the terms of the concession agreement.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 16 of this Federal Law
See the Article in the previous wording

Article 16. Responsibility of the Parties to the Concession Agreement

1. The parties to the concession agreement shall bear property-related responsibility in case of non-fulfilment or inadequate fulfillment of their obligations under the concession agreement, as envisaged under this Federal Law, other federal laws and the concession agreement.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Part 2 of Article 16 of this Federal Law

See the text of the Part in the previous wording

2. The compensating of a loss and paying forfeit money by the parties to the concession agreement, in the event of a default on or improper performance of an obligation under the concession agreement shall not relieve the concessionaire from the duty to perform the obligation in kind.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 17 of this Federal Law
See the Article in the previous wording

Article 17. Procedure for Settling Disputes

Disputes between the conceder and the concessionaire shall be settled in accordance with the legislation of the Russian Federation in courts, arbitration courts, courts of private arbitration of the Russian Federation.

Chapter 2. Guarantees of the Rights and Legitimate Interests of Concessionaires

Article 18. Guarantees for Conducting the Activity Stipulated under the Concession Agreement

1. In conducting the activity stipulated under the concession agreement, the concessionaire shall be guaranteed protection of its rights and legitimate interests as is established under the Constitution of the Russian Federation, international agreements of the Russian Federation, this Federal Law, other federal laws, and other regulatory legal acts of the Russian Federation.

2. The concessionaire shall have the right to compensation for the losses inflicted thereupon as a result of illegal actions (inaction) of state bodies, local self-government bodies or officials of those bodies as is envisaged under the Civil Code of the Russian Federation.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 supplemented Article 18 of this Federal Law with Part 3

3. If the concessionaire sells the goods manufactured, performs works, provides services at regulated prices (tariffs) or with account being taken of established price (tariff) mark-ups the price (tariff) regulation bodies shall establish prices (tariffs) and price (tariff) mark-ups for the goods manufactured and sold by the concessionaire, the works performed and services provided on the basis of the investment amount defined by the concession agreement and the term set for the accomplishment of the investment in the creation and/or reconstruction of the subject matter of the concession agreement and also in upgrading or replacing the other property transferred by the awarding party to the concessionaire under the concession agreement, and improving its characteristics and operating properties.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 18 of this Federal Law with Part 4

4. The assignment of the right of ownership to the facility being the subject matter of the concession agreement to another owner shall not be deemed a ground for amending or terminating the concession agreement.

Article 19. Guarantees of Equal Rights of Concessionaires

Concessionaires, including concessionaires that are foreign legal persons, shall be guaranteed equal rights stipulated under the legislation of the Russian Federation and the legal regime of activity excluding the application of discriminatory and other measures that may prevent the concessionaires from freely disposing of investments and also of products and incomes obtained as a result of conducting the activity stipulated under the concession agreement.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended title of Article 20 of this Federal Law

See the text of the title in the previous wording

Article 20. The Guarantees of the Concessionaire's Rights

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded part 1 of Article 20 of this Federal Law. The amendments shall enter into force on February 1, 2015

1. Should during the period of validity of the concession agreement, the legislation the Russian Federation, the legislation of the subjects of the Russian Federation or regulatory legal acts of local self-government bodies establish norms that may worsen the situation of the concessionaire in such a way that it is significantly deprived of what it was entitled to expect when making the concession agreement, the parties to the concession agreement shall amend the terms and conditions of the concession agreement for the purpose of ensuring the property interests of the concessionaire existing on the day of signing the concession agreement. The procedure for making such amendments shall be such as defined in the concession agreement.

2. The provision specified under Part 1 of this article regarding the amendment of the terms and conditions of the concession agreement shall not apply when amendments are made to the technical regulations or other regulatory legal act of the Russian Federation governing the relations of conservation of the subsoil, environment and health of citizens.

3. Should, during the period of validity of the concession agreement under which the concessionaire provides the users with goods, work and services at regulated prices (tariffs) and/or with due regard for regulated surcharges to the prices (tariffs), norms be established or amendments be made as envisaged under Parts 1 and 2 of this article, the terms of such the concession agreement shall be appropriately amended at the request of the concessionaire.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 20 of this Federal Law with Part 4

4. If within the effective term of the concession agreement under which the concessionaire provides consumers with goods, works or services at regulated prices (tariffs) and/or with account being taken of regulated price (tariff) mark-ups, the regulated prices (tariffs) and price (tariff) mark-ups shall be established through the use of long-term parameters of regulation of the concessionaire's activities which do not correspond to such parameters set out in the concession agreement the terms of the concession agreement shall be modified on the concessionaire's request.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 20 of this Federal Law with Part 5. The Part shall enter into force on January 1, 2014

5. In cases when the object of the concession agreement is the property

aforementioned in part 1.2 of Article 10 of this Federal Law the investment programs of the concessionaire approved according to the legislation of the Russian Federation shall contain the actions included in the concession agreement according to Item 2 of part 1.2 of Article 10 of this Federal Law. The amount of the financial needs necessary for the implementation of separate measures of the investment programs of the concessionaire shall be determined according to normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 20 of this Federal Law with Part 6. The Part shall enter into force on January 1, 2014

6. In cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law the establishment, change, adjustment of regulated prices (tariffs) on the goods made and sold by the concessionaire, rendered services shall be carried out according to the rules in operation at the moment of the conclusion of such a concession agreement and envisaged by federal laws, other normative legal acts of the Russian Federation, laws of the constitutive entities of the Russian Federation, other normative legal acts of the constitutive entities of the Russian Federation, legal acts of the institutions of local self-government.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 20 of this Federal Law with Part 7. The Part shall enter into force on January 1, 2014

7. Under an agreement of the parties of the concession agreement and in coordination with the body of executive power or the institution of the local self-government which carries out the regulation of prices (tariffs) according to the legislation of the Russian Federation in the sphere of the regulation of prices (tariffs), the establishment, change, adjustment of regulated prices (tariffs) on the goods made and sold by the concessionaire, rendered services shall be carried out to the end of the term of operation of the concession agreement by the rules in operation at the moment respectively of the establishment, change, adjustment of prices (tariffs) and envisaged by federal laws, other normative legal acts of the Russian Federation, laws of the constitutive entities of the Russian Federation, other normative legal acts of the constitutive entities of the Russian Federation, legal acts of the institutions of local self-government. The procedure for the aforementioned coordination and its criteria shall be determined by the normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal.

Chapter 3. Procedure for Concluding a Concession Agreement

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 21 of this Federal Law
See the Article in the previous wording

Article 21. Tender for the Right to Conclude a Concession Agreement

1. Tender for the right to conclude a concession agreement (hereinafter referred to as the tender) may be an advertised one (when applications for the tender may be filed by any persons) or closed (when applications for the bidding at the tender may be filed by the persons invited to take part in said tender as stipulated by the decision for concluding a concession agreement).

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 2 of Article 21 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 amended Part 2 of Article 21 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the Part in the previous wording

2. A closed tender shall be held when a concession agreement is made in respect of an object of the concession agreement whose data constitute a state secret and also an object of the concession agreement which is of strategic significance for ensuring the defense capability and safety of the state, except for the cases envisaged by the legislation of the Russian Federation in the sphere of water supply and water removal. The conceder, tender commission and bidders at the tender shall, in conducting a closed tender, comply with the requirements of the legislation of the Russian Federation on state secrecy. Data classified under the legislation of the Russian Federation as a state secret, shall not be published in mass media outlets, nor posted on the Internet network nor included in the announcement about holding a tender forwarded to persons as provided by the decision for concluding a concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 reworded part 3 of Article 21 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 reworded Part 3 of Article 21 of this Federal Law. The new wording shall enter into force on January 1, 2014

See the Part in the previous wording

3. When holding an open tender the information and the reports of the tender commission envisaged by Articles 24 - 26, 28, 29, 31, 33 - 35 of this Federal Law shall be subject to posting on the official site of the Russian Federation on the Internet for posting of the information on tenders at www.torgi.gov.ru, as well as on the official site of the concession provider on the Internet or in the case of the absence with the municipal formation of an official site on the Internet then on the official site in the Internet of the constituent entity of the Russian Federation in the borders of which such a municipal formation is located, (hereinafter referred to as posting on the official site on the Internet). The information on the holding of an

open the tender shall be accessible for review to any persons at no charge.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 3.1 of Article 21 of this Federal Law. The amendments shall enter into force on February 1, 2015

3.1. The minutes of the tender commission mentioned in Articles 28, 29, 31, 33 and 34 of the present Federal Law shall be placed on an official internet website in the procedure established by Part 3 of the present Article within three days after being signed.

4. Abrogated from January 1, 2014.

Информация об изменениях:

See the text of part 4 of Article 21

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 21 of this Federal Law with part 5. The amendments shall enter into force on February 1, 2015

Article 22. Decision to Conclude a Concession Agreement

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 1 of Article 22 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 438-FZ of December 28, 2013 amended part 1 of Article 22 of this Federal Law

See the part in the previous wording

1. Decision to conclude a concession agreement shall be taken:

- 1) in respect of objects of the concession agreement the rights of ownership in which belong to the Russian Federation, except for the objects of the concession agreement provided under Item 2 of this Part - by the Government of the Russian Federation;
- 2) in respect of objects of the concession agreement being of strategic significance for ensuring the defense capability and safety of the state - by the Government of the Russian Federation at instructions from the President of the Russian Federation;
- 3) in respect of objects of the concession agreement the rights of ownership in which belong to a subject of the Russian Federation - by the state power body of the subject of the Russian Federation;
- 4) in respect of objects of the concession agreement the rights of ownership in which belong to a municipal entity - by a local self-government body.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 reworded Part 2 of Article 22 of this Federal Law

See the Part in the previous wording

2. A decision on conclusion of a concession agreement shall establish the

following:

- 1) the terms of the concession agreement in accordance with Article 10 of the present Federal Law (hereinafter referred to as "the terms of a tender");
- 2) tender criteria and the parameters of the tender criteria;
- 3) the type of tender (a public tender and a closed tender);
- 4) a list of the persons to which invitations are sent for participation in the tender - in the event of a closed tender;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 5 of part 2 of Article 22 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 5) the term for the publication in an official publication or the placement in an official internet website of an announcement of a public tender or in the case of a closed tender the term for sending a message about the holding of the closed tender together with an invitation to take part in the closed tender to the persons designated by the decision on conclusion of a concession agreement;
- 6) the body empowered by the awarding party to:
 - a) approve the tender documentation, amend the tender documentation, except for the provisions of the tender documentation established in compliance with the decision on conclusion of a concession agreement;
 - b) set up a tender commission to conduct the tender (hereinafter referred to as "tender commission") and confirm the members of the tender commission.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 2.1 of Article 22 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the Part in the previous wording

2.1. If in the course of the concessionaire's activities envisaged by the concession agreement the sale of goods, performance of works or provision of services by the concessionaire takes place at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups then the decision of the awarding authority on conclusion of the concession agreement may establish long-term parameters of regulation of the concessionaire's activities approved according to the procedure established by the Government of the Russian Federation by the executive governmental bodies or local self-government bodies responsible for price (tariff) regulation in accordance with the price (tariff) regulation legislation of the Russian Federation.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Article 22 of this Federal Law with Part 2.2

2.2. Where there is a need for transfer to the concessionaire of the property provided for by Item 1 of Part 1 of Article 4 of this Federal Law and forming part of

the subject matter of the concession agreement and/or of other property to be transferred by the awarding party to the concessionaire which at the time of making the concession agreement is held by a state budget-financed institution on the basis of the right to day-to-day management thereof, the decision on making the concession agreement must provide for the time of adoption by the authorized state power body exercising the functions of rendering the state services and of the state property management in the appropriate area of activities of the decision on termination of the right to day-to-day management of the cited property enjoyed by such institution. The decision to terminate the right to day-to-day management of the cited property enjoyed by such institution shall be adopted subject to the requirements established by Part 5 of Article 8 of this Federal Law.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 22 of this Federal Law with Part 2.3. The Part shall enter into force on January 1, 2014

2.3. In the case when the object of the concession agreements is the property aforementioned in part 1.2 of Article 10 of this Federal Law by decision of the concession provider on the conclusion of the concession agreements alongside with the information envisaged by part 2 of this Article shall be established:

- 1) task formed according to part 2.4 of this Article and the minimally allowable scheduled values of indices of the concessionaire's activity;
- 2) requirement on the indication by the participants of a tender in the composition of the tender offer of actions for the creation and (or) reconstruction of the object of the concession agreements ensuring the achievement of the purposes envisaged by the task minimally allowable scheduled values of indices of the concessionaire's activity, with the description of the basic characteristics of such actions.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 22 of this Federal Law with Part 2.4. The Part shall enter into force on January 1, 2014

2.4. The task shall be compiled on the basis of endorsed network of heat supply, circuits of water supply and water removal of settlements and city districts regarding the fulfillment of tasks and achievement of target indices of the development of systems of heat supply and (or) systems of water supply and water removal of settlements and city districts, zones of the centralised and non-centralised water supply, borders of planned zones of placing of the facilities of heat supply and (or) facilities of the centralised systems of hot water supply, cold water supply and (or) water removal, as well as on the basis of the data of the forecast of consumption of thermal energy, the heat transfer agent and (or) hot water, potable water, service water, amount and composition of sewage. The task shall contain the values of the necessary thermal capacity, the necessary capacity (load) of water supply systems, sewer networks and construction on them at certain locations of points of delivery, points of connection (technological connection), reception points, points of distribution, points of drainage, the terms of

putting capacities into operation and their retirement from service. The task shall not contain the requirements limiting the access of any participant of tender to participation in tender and (or) creating for certain of the bidders at the tender preferential terms of the participation in the tender.

3. When federal law provides that a concession agreement shall be made without holding a tender, the decision on concluding a concession agreement shall specify terms and conditions of the concession agreement, procedure for conclusion of the concession agreement and requirements upon the concessionaire.

4. The decision on concluding the concession agreement may be appealed in the procedure stipulated under the legislation of the Russian Federation.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 23 of this Federal Law
See the Article in the previous wording

Article 23. Tender Documents

1. The tender documents shall contain:

1) the terms of the tender;

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Item 2 of Part 1 of Article 23 of this Federal Law

See the text of the Item in the previous wording

2) the make-up and description, including technical-economic indices of the object of the concession agreement and other property handed over by the awarding authority to the concessionaire under the concession agreement;

3) the requirements made upon the bidders at the tender (including the requirements upon their qualifications, professional and business qualities) in accordance with which preliminary selection of bidders at the tender shall be made;

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 reworded Item 4 of Part 1 of Article 23 of this Federal Law. The new wording shall enter into force on January 1, 2014

See the Part in the previous wording

4) the tender's criteria and the indices of the tender's criteria established according to parts 2.2, 3 and 4 of Article 24 of this Federal Law;

5) an exhaustive list of documents and materials and the forms in which they are to be submitted by applicants and participants in the tender, for instance the documents and materials that confirm:

a) the compliance of applicants with the requirements established by the tender documentation as applicable to participants in the tender;

b) the compliance of applications for participation in the tender and of bids with the requirements established by the tender documentation;

c) the information contained in a bid;

- 6) the period for publication and posting an announcement on holding a tender or for sending the announcement to persons as prescribed under the decision on concluding a concession agreement along with an invitation to take part in the tender;
- 7) procedure for filing applications for participation in the tender and requirements set therefore;
- 8) the place and time limits for submission of applications for bidding at the tender (date and time of commencement and expiration of that period);
- 9) procedure, place and time limits for submission of tender documents;
- 10) procedure for supply of explanations of the provisions of tender documents;

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 reworded Item 11 of Part 1 of Article 23 of this Federal Law. The new wording shall enter into force on January 1, 2014
See the Part in the previous wording

- 11) indication on ways of ensuring by the concessionaire of the liabilities performance under the concession agreement and in cases where the object of the concession agreement is the property aforementioned in Part 1.2 of Article 10 of this Federal Law the requirement of presentation by the winner of the tender of the irrevocable bank guarantee with a view to ensuring the liabilities performance under the concession agreement according to the requirements established by parts 4 and 4.1 of Article 10 of this Federal Law, but no less than in the amount determined by the tender documentation;
- 12) the amount of the deposit to be paid as security for fulfillment of the obligations associated with the conclusion of a concession agreement (hereinafter referred to as the deposit), procedure and time limits for payment of same, requisites of accounts into which the deposit is paid;
- 13) the rate of concession payment, the form(s), procedure and term for making the payment, except for the cases envisaged by Part 1.1 of Article 7 of the present Federal Law (provided the rate of concession payment is not a tender criterion);
- 14) the procedure, place and time limits for making tender offers (dates and time of commencement and expiration of those time limits);
- 15) the procedure and period for amendment and/or withdrawal of applications for the tender and of tender offers;
- 16) procedure, place, date and time for opening envelopes with tender applications;
- 17) procedure and time limits for conducting preliminary selection of bidders at the tender, date of signing a protocol on conducting preliminary selection of bidders at the tender;
- 18) procedure, place, date or date if according to the tender documentation bids are to be submitted in two separate sealed envelopes in accordance with Part 1 of Article 30 of the present Federal Law, and time for opening envelopes with tender bids;
- 19) procedure for examining and assessing tender bids;
- 20) procedure for determining the winner of the tender;

- 21) dates for signing a protocol on the results of holding a tender;
- 22) dates for signing a concession agreement;

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 reworded Item 23 of Part 1 of Article 23 of this Federal Law

See the text of the Item in the previous wording

23) the provisions according to which the winner in the tender is to provide documents confirming that there is security for the performance of obligations of the concessionaire under the concession agreement in accordance with the methods established by the present Federal Law for the provision of security for performance of the obligations of the concessionaire under the concession agreement and also the requirements applicable to such documents;

24) abrogated.

Информация об изменениях:

See the text of Item 24 of Part 1 of Article 23

Federal Law No. 152-FZ of July 2, 2010 supplemented Part 1 of Article 23 of this Federal Law with Item 25

25) the term for the awarding authority to hand over to the concessionaire the facility being the subject matter of the concession agreement and/or other property handed over by the awarding authority to the concessionaire under the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented part 1 of Article 23 of this Federal Law with Item 26. The amendments shall enter into force on February 1, 2015

Federal Law No. 152-FZ of July 2, 2010 supplemented Article 23 of this Federal Law with Part 1.1

1.1. If in the course of the concessionaire's activities envisaged by the concession agreement the concessionaire's sale of produced goods, performance of works or provision of services takes place at regulated prices (tariffs) and/or with account being taken of established price (tariff) mark-ups and a decision of the awarding authority has established long-term parameters of regulation of the concessionaire's activities the tender documentation shall contain such parameters.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 1.2. The Part shall enter into force on January 1, 2014

1.2. In the case where the object of the concession agreement is the property

aforementioned in Part 1.2 of Article 10 of this Federal Law, the tender documentation shall also include:

- 1) the minimally allowable scheduled values of indices of the concessionaire's activity and long-term indices of regulation of the concessionaire's activity according to Part 1.4 of this Article;
- 2) draft concession agreement and the task compiled in accordance with Part 2.4 of Article 22 of this Federal Law;
- 3) requirement on the indication by the participants of the tender in the composition of the tender offer of the main actions providing for the achievement of the purposes envisaged by the task and minimally allowable scheduled values of indices of the concessionaire's activity, with the description of the main characteristics of such actions;
- 4) amount of net generation of thermal energy (capacity) and (or) of the heat transfer agent or the amount of the water delivery and (or) water removal during the year preceding the first year of operation of the concession agreement, as well as the forecast of the amount of net generation of thermal energy (capacity) and (or) the heat-carrier, forecast of the amount of water delivery and (or) water removal for the term of the operation of the concession agreement;
- 5) prices for power resources in the course of the year preceding the first year of the operation of the concession agreement, and the forecast of the prices for power resources for the term of operation of the concession agreement;
- 6) losses and specific consumption of power resources per unit of the amount of net generation of thermal energy (capacity) and (or) the heat-carrier, per unit of amount of water delivery and (or) water removal in the year preceding the first year of operation of the concession agreement (by each kind of power resource used);
- 7) amount of non-variable expenditures determined according to the normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal (except for charges on power resources, concession payments and the company profit tax);
- 8) one of the methods of regulating tariffs envisaged by part 1.3 of this Article;
- 9) limit (minimum and (or) maximum) values of the criteria of tender envisaged by Items 2 - 5 of part 2.3 of Article 24 of this Federal Law;
- 10) limit (maximum) growth of the necessary total proceeds of the concessionaire from the performance of the regulated kinds of activity envisaged by normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal in relation to the previous year;
- 11) other prices, amounts, values and indices, the use of which for the calculation of tariffs is envisaged by normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal;
- 12) a copy of the report on the technical inspection of property prepared according to requirements of normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal transferred by the concession provider to the concessionaire under the concession agreement;
- 13) copies of the annual accounting (financial) reports for the last three accounting periods of the organisation that carried out the operation of the property transferred by the concession provider to the concessionaire under the concession agreement

in cases when the particular organisation carried out the operation of the property at any moment during the aforementioned periods and was obliged to conduct book keeping according to the legislation of the Russian Federation on book keeping;

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 14 of part 1.2 of Article 23 of this Federal Law. The amendments shall enter into force on February 1, 2015

14) copies of offers on the establishment of prices (tariffs) posted on an official site on the Internet sent to bodies of executive power or the institutions of local self-government carrying out the regulation of prices (tariffs) according to the legislation of the Russian Federation in the sphere of the regulation of prices (tariffs), for the last three periods of regulation of activity of the organisation which carried out the operation of the property transferred by the concession provider to the concessionaire under the concession agreement, in case such offers are present. Prices, amounts, values and indices mentioned in Items 1, 4 - 7, 9 - 11 of this part shall be determined according to normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal. The authorised body of the executive power of the constituent entity of the Russian Federation shall present upon the request of the concession provider according to the procedure established by normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal, the prices, amounts, values and indices specified in Items 1, 4 - 7, 9 - 11 of this Part.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 1.3. The Part shall enter into force on January 1, 2014

1.3. The concession provider shall establish in the tender documentation in agreement with the authorised body of the executive power of the constituent entity of the Russian Federation a method of ensuring invested capital rate of return, a method of invested capital rate of return or a method of indexation of the established tariffs, a method of indexation. The aforementioned coordination shall be carried out according to the procedure established by the Government of the Russian Federation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 1.4. The Part shall enter into force on January 1, 2014

1.4. In the tender documentation also shall be established in agreement with the authorised body of the executive power of the constituent entity of the Russian Federation or the institutions of the local self-government carrying out the regulation of prices (tariffs) according to the legislation of the Russian Federation in

the sphere of state regulation of prices (tariffs), the following long-term indices of regulation of the concessionaire's activity:

- 1) amount of the invested capital, term of repayment of the invested capital if the method of the maintenance of the invested capital rate of return or the method of invested capital rate of return is envisaged by the tender documentation;
- 2) other long-term indices of the regulation of the concessionaire's activity (except for the trends in the change of the expenditures connected with deliveries of the appropriate goods, services) that are not, according to part 2.4 of Article 24 of this Federal Law, the tender's criteria for the method of tariffs regulation envisaged by the tender documentation according to the normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 1.5. The Part shall enter into force on January 1, 2014

1.5. The coordination of the long-term indices of the regulation of the concessionaire's activity aforementioned in part 1.4 of this Article shall be carried out according the procedure established by the Government of the Russian Federation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 1.6. The Part shall enter into force on January 1, 2014

1.6. In the case when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, the demands which are envisaged by Item 3 of part 1 of this Article and are made to participants of the tender, shall not be established.

2. In the event of establishment of the criteria envisaged by Part 2.2 of Article 24 of the present Federal Law the tender documentation shall establish requirements applicable to the submission of a bid by a participant in the tender containing architectural, functional-technological, structural and engineering-technical solutions to ensure the creation and/or reconstruction of the subject matter of the concession agreement and also requirements applicable to the documents and materials confirming the compliance of a bid with the requirements established by the tender documentation and confirming the information contained in the bid.

3. The tender documents shall not contain any requirements upon bidders at the tender that unjustifiably restrict access of any bidder at the tender to bid at the tender and/or create preferential conditions for the bidding at the tender for any tenderer.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 4 of Article 23 of this Federal Law. The amendments shall enter into force on February 1, 2015

4. When a public tender is being conducted the awarding party shall place the tender documentation on an official internet website within the term envisaged by Part 1 of Article 26 of the present Federal Law simultaneously with the placement of an announcement of the public tender. The tender documentation placed on an official internet website shall be available free of charge. Starting from the date of publication of an announcement in the official publication designated by the awarding party on the public tender the awarding party and the tender commission shall do the following on the basis of an application in writing filed by any person concerned: providing the tender documentation to that person in the procedure and within the term specified in the announcement of the public tender. When a closed tender is being conducted the awarding party and the tender commission shall provide the tender documentation to the persons to which an invitation has been sent for participation in the closed tender, in the procedure and within the term established by the tender documentation. In this case the tender documentation shall be provided in writing after a payment has been made for the provision thereof, if such payment is established and an instruction concerning it is contained in the message about the tender.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 5 of Article 23 of this Federal Law. The amendments shall enter into force on February 1, 2015

5. The conceder or tender commission shall supply, in writing, explanations of the provisions of the tender documents at the request of the applicants when such requests are received either by the conceder or tender commission not later than 10 (ten) working days prior to the expiration of the term for filing applications for the tender. The explanations of the provisions of the tender documents shall be forwarded by the conceder or tender commission to each applicant within the term established by the tender documentation but not later than 5 (five) working days prior to the expiration of the deadline for submission of applications for the tender, by enclosing the content of the request without reference to the applicant who made the request. In the case of holding an advertised tender, explanations of the provisions of the tender documents enclosing the content of the request without naming the applicant who made the request shall also be posted on an official Internet site. The requests from the applicants mentioned under this part and explanations of the provisions of the tender documents at the request of the applicants enclosing the content of the request without naming the applicant who made the request, may also be forwarded to them by electronic mail.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 6 of Article 23 of this Federal Law. The amendments shall enter into force on February 1, 2015

6. The conceder shall have the right to make amendments to the tender documents subject to obligatory extension of the period for submission of

applications for participation in the tender or of tender offers, by no less than thirty working days from the day of making said amendments, the information on amending the tender documents shall be published within three working days from the day of introduction of same in an official outlet designated by the conceder or posted on an official Internet site or sent to persons to which invitations have been sent for participation in the closed tender.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 7 of Article 23 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 23 of this Federal Law with Part 7. The Part shall enter into force on January 1, 2014

7. In the case when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, while proposals come in to the concession provider or to the tender commission on amendments of the tender documentation, including on amending the draft concession agreement, they shall be posted on an official site in the Internet or directed to all persons to whom invitations were directed to take part in the closed tender, within three business days from the date of receipt of the aforementioned proposals the information on acceptance or rejection of the submitted proposals on amending the tender documentation with an indication of the reasons by their acceptance or rejection. In the case of acceptance by the concession provider of the submitted proposals it shall introduce the respective amendments to the tender documentation. In the course of three business days from the date of introducing the respective amendments a communication on their having been introduced shall be published by the tender commission in the official publication determined by the concession provider and posted on the official site on the Internet or sent to persons to whom invitations to take part in the closed the tender were directed. In so doing the time term of the presentation of application forms for the participation in the tender or tender offers shall be extended for no less than thirty business days from the date of entering the respective amendments.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 14 of this Federal Law
See the Article in the previous wording

Article 24. Criteria for the Tender

1. The criteria for the tender shall be set in the decision on conclusion of the concession agreement and used to assess tender offers in the procedure prescribed under Articles 32 and 33 of this Federal Law.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 2 of Article 24 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the part in the previous wording

2. As the criteria of tender, except for cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, may be established:

- 1) the time limits for construction and/or reconstruction of the object of the concession agreement;
- 2) period since the day of signing a concession agreement until the day when the constructed and/or reconstructed object of the concession agreement will be consistent with the technical-economic indices specified under the concession agreement;
- 3) technical-economic indices of the object of the concession agreement;
- 4) the volume of output of goods, execution of work, provision of services when conducting the activity stipulated under the concession agreement;
- 5) the lead time from the signing of the concession agreement until the day when the production of goods, execution of work, provision of services in conducting the activity stipulated under the concession agreement, is effected in the scope fixed by the concession agreement;
- 6) the amount of the concessionary payment;

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 amended Item 7 of Part 2 of Article 24 of this Federal Law

See the text of the Item in the previous wording

7) the maximum prices (tariffs) for goods to be produced, work to be executed and services to be rendered and also surcharges to those prices (tariffs) in conducting the activity stipulated under the concession agreement and/or long-term parameters of regulation of the concessionaire's activities.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Part 2 of Article 24 of this Federal Law with Item 8

8) the obligations assumed by the concessionaire in case of not receiving in full the planned income to be derived from using (operating) the facility being the subject matter of the concession agreement, making additional outlays while constructing and/or renovating the facility being the subject matter of the concession agreement or using (operating) the facility being the subject matter of the concession agreement.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 reworded Part 2.1 of Article 24 of this Federal Law

See the Part in the previous wording

2.1. If a concession agreement contains the clause according to which the

awarding party bears a portion of expenses towards the creation and/or reconstruction of the facility being the subject matter of the concession agreement, the use (operation) of the facility being the subject matter of the concession agreement or it provides for the awarding party's making payment under the concession agreement, the amount of the portion of the expenses to be borne by the awarding party and the awarding party's payment under the concession agreement must be established as tender criteria.

2.2. If the concessionaire's obligation to prepare design documentation for the subject matter of the concession agreement is a clause in the concession agreement then the following may be established as a tender criterion: the qualitative characteristics of the architectural, functional-technological, structural or engineering-technical solution to ensure the creation and/or reconstruction of the subject matter of the concession agreement. In this case, a coefficient taking into account the significance of such criterion shall not exceed 0.2.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 24 of this Federal Law with Part 2.3. The Part shall enter into force on January 1, 2014

2.3. If the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law as the tender's criteria shall be established:

- 1) limit amount of charges on the creation and (or) reconstruction of the object of the concession agreement which are expected to be carried out by the concessionaire for each year of the validity of the concession agreement;
- 2) amount of the charges financed by the concession provider on the creation and (or) reconstruction of the object of the concession agreement for each year of the term of operation of the concession agreement in cases when by the decision on the conclusion of the concession agreements or the tender documentation the assumption is stipulated by the concession provider of charges on the creation and (or) reconstruction of the particular object;
- 3) amount of the charges financed by the concession provider on the use (operation) of the object of the concession agreement for each year of the term of operation of the concession agreements in cases when by the decision on the conclusion of the concession agreement or the tender documentation the assumption is stipulated by the concession provider of charges on the creation and (or) reconstruction of the particular object;
- 4) long-term indices of the regulation of the concessionaire's activity according to part 2.4 of this Article;
- 5) scheduled values of indices of the concessionaire's activity.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented part 2.3 of Article 24 of this Federal Law with Item 6. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 24 of this Federal

Law with Part 2.4. The Part shall enter into force on January 1, 2014

2.4. To long-term indices of the regulation of the concessionaire's activity which according to part 2.3 of this Article are established as the tender's criteria belong:

- 1) base level of operational charges;
- 2) indices of power saving and power efficiency;
- 3) rate of return of the invested capital, the normative of the net working capital in the case where the tender documentation stipulates a method of ensuring the invested capital rate of return or a method of the invested capital rate of return;
- 4) normative profit level in cases when by the tender documentation is envisaged a method of indexation of the established tariffs or a method of indexation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 3 of Article 24 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the part in the previous wording

3. For each of the criterion of tender envisaged by part 2 or 2.1 of this Article the following indices shall be established:

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Item 1 of Part 3 of Article 24 of this Federal Law

See the Item in the previous wording

- 1) the initial condition as a numerical value (hereinafter referred to as the initial value of the tender criterium);
- 2) a decrease or increase in the initial value of the tender criterium of the tender bid;
- 3) a coefficient setting the significance of the tender criterium.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 reworded Part 4 of Article 24 of this Federal Law. The new wording shall enter into force on January 1, 2014

See the part in the previous wording

4. The values of the factors which are taking into account the importance of the criteria of tender aforementioned in parts 2, 2.1 and 2.2 of this Article can vary from zero to one, and the sum of values of all the factors shall be equal to one. For the criteria of tender aforementioned in part 2.3 of this Article the indices of the criteria of tender envisaged by part 3 of the present Article shall not be established.";

5. If the tender criterion envisaged by Part 2.2 of the present Article is established the assessment of the bids submitted in accordance with such criterion shall be made in points in the procedure established by Article 32 of the present Federal Law.

6. The use of tender criteria other than those envisaged by the present Article is

prohibited.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 25 of this Federal Law
See the Article in the previous wording

Article 25. Tender Commission

1. A tender commission shall be set up for the purpose of conducting the tender in accordance with Article 22 of the present Federal Law. The number of members of the tender commission may not be less than five persons. The tender commission shall be authorized to take decisions provided the meeting of the tender commission is attended by no less than fifty per cent of the total number of its members understanding that each commission member has one vote. Decisions of the tender commission shall be taken by a majority of votes of the number of votes of the tender commission members who took part in the meeting. In the case of parity of the number of votes, the chairperson of the tender commission shall have a deciding vote. Decisions of the tender commission shall be formalized as protocols which shall be signed by the members of the tender commission who took part in the meeting of the tender commission. The tender commission is entitled to recruit independent experts to take part in its deliberations.

2. Members of the tender commission, independent experts may not include citizens who filed applications for participation in the tender or who are staff employees of organisations that filed such applications for participation in the tender or citizens who are shareholders (members) of those organisations or members of the governing bodies of same or affiliated persons of participants in the tender. When such persons are identified among the members of the tender commission, independent experts, the conceder shall replace them with other persons.

3. The tender commission shall perform the following functions;

1) publish and place information on holding a tender (in the case of an open tender);

2) supply persons with information as provided by the decision on concluding the concession agreement on holding a tender along with an invitation to take part in the tender (in the case of a closed tender).

3) publish and place information about amendments made to the tender documents and also forward said information to persons as provided by the decision on concluding the concession agreement;

4) accept applications for bidding at the tender;

5) provide the tender documentation, explanations concerning the provisions of the tender documentation in accordance with Article 23 of the present Federal Law;

6) open envelopes with applications for participation in the tender and also consider such applications in the procedure established by Article 29 of the present Federal Law;

6.1) verify the documents and materials submitted by applicants and participants in the tender in accordance with the requirements established by the tender documentation on the basis of Item 5 of Part 1 of Article 23 of the present Federal

Law and the reliability of the information contained in these documents and materials;

6.2) establish if the applicants, and the applications for participation in the tender submitted by them, meet the requirements established by the present Federal Law and the tender documentation, and if bids meet the tender criteria and said requirements;

6.3) if necessary request and obtain information from relevant bodies and organisations for the purposes of verifying the reliability of the information that has been provided by applicants and participants in the tender;

7) take decisions on admitting an applicant for participation in the tender and on deeming an applicant a participant in the tender or on refusing to admit an applicant for participation in the tender and send a relevant notice to the applicant;

8) designate bidders at the tender;

9) distribute invitations to bidders at the tender to submit tender offers, examine and assess tender offers, for instance, assess bids in points according to the tender criterion envisaged by Part 2.2 of Article 24 of the present Federal Law;

10) appoint the winner of the tender and send a notice declaring it the winner;

11) sign minutes on the opening of envelopes with applications for participation in the tender, minutes on the preliminary selection of participants in the tender, minutes on the opening of envelopes with bids, minutes on the consideration and assessment of bids and minutes on the results of the tender;

12) notify tender bidders of the results of the tender;

13) publish and place information about the results of the tender.

Article 26. Information on Holding a Tender

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 1 of Article 26 of this Federal Law. The amendments shall enter into force on February 1, 2015

1. The information on holding a tender shall be published by the tender commission in an official periodical to be designated by the conceder and posted on an Internet official site (in the case of holding an open tender) or sent to persons in accordance with the decision on concluding the concession agreement along with an invitation to take part in the tender (in the case of holding a closed tender) within the time limits to be fixed under tender documents, however, not less than within 30 (thirty) working days prior to the expiration of the period set for filing applications for the tender.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 2 of Article 26 of this Federal Law. The amendments shall enter into force on February 1, 2015

2. The tender commission shall have the right to publish information on holding a tender in any mass media outlets, including electronic ones, provided such publication may not be effected instead of the publication stipulated under Part 1 of

this Article in an official periodical and of posting it on an Internet official site.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 3 of Article 26 of this Federal Law

See the Part in the previous wording

3. The information on holding a tender shall specify:

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended Item 1 of part 3 of Article 26 of this Federal Law. The amendments shall enter into force on February 1, 2015

- 1) the name, location, postal address, account details and phone numbers of the awarding party, the address of its official internet website, the details of officials and other similar information;
- 2) object of the concession agreement;
- 3) period of validity of the concession agreement;
- 4) requirements upon bidders in the tender;
- 5) criteria and parameters of the tender;
- 6) procedure, place and period for supply of tender documents;
- 7) the amount of fee charged by the conceder for supply of tender documents, procedure and dates for making the payment when such a fee is charged. The amount of such fee shall not exceed the costs of making copies of tender documents and of mailing same;
- 8) the location, postal address and phone numbers of the tender commission and other similar information about it;
- 9) procedure, place and period for submission of a tender application (date and time of commencement and expiration of that period);
- 9.1) the amount of earnest money, the procedure and term for the delivery thereof, the details of the accounts into which the earnest money is to be paid;
- 10) procedure, place and period for submission of tender offers (date and time of commencement and expiration of that period);
- 11) place, date and time for opening envelopes with applications to participate in the tender;
- 12) place, date and time for opening envelopes with tender offers;
- 13) procedure for appointing the winner of the tender;
- 14) the term for the signing by the members of the tender commission of a protocol on the results of holding the tender;
- 15) time limits for signing a concession agreement.

Article 27. Submission of Applications for the Tender

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 1 of Article 27 of this Federal Law

See the Part in the previous wording

1. Applications for bidding at the tender shall be consistent with the requirements set for such applications under tender documents and comprise documents and materials envisaged by the tender documentation and to confirm the compliance of the applicants with the requirements for bidders at the tender. The persons specified in Item 2 of Part 1 of Article 5 of the present Federal Law may act as applicants.

2. The period for submission of applications for the tender shall be no less than 30 (thirty) working days from the day of publication and placing of information on holding a tender or from the day of supply of such information to persons as envisaged under the decision on concluding a concession agreement along with an invitation to make bids at the tender.

3. The application for the tender shall be drawn up in the Russian language in writing in free form in duplicate (an original and a copy), each one of which shall be certified with the signature of the applicant and submitted to the tender commission in the procedure prescribed under tender documents, in a separate duly sealed envelope. The application for the tender shall enclose a list, duly certified with the signature of the applicant, of documents and materials that have been submitted whose original shall be kept by the tender commission and a copy of same - by the applicant.

4. The application for the tender submitted to the tender commission shall be registered in an applications log-book under an ordinal number, indicating the date and exact time of submission of same (hours and minutes) to avoid that the time coincide with the time of submission of other applications for the tender. A copy of the list of documents and materials submitted by the applicant shall bear a note of the date and time of submission of the application to participate in the tender indicating the number of that application.

5. The envelope with a tender application filed with the tender commission upon the expiration of the term for submitting applications for the tender shall not be opened but returned to the applicant who submitted it together with the list of documents and materials presented by it which list shall bear a note about refusal to accept the application.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 6 of Article 27 of this Federal Law

See the Part in the previous wording

6. In the event that, upon the expiration of the term for submitting applications for the tender, less than two applications for the tender have been submitted, the tender shall, by decision of the conceder to be made on the next day following the expiration of that term, be declared as having not taken place.

7. The applicant shall have the right to amend or withdraw its application for the tender at all times prior to the expiration of the term for submitting applications for the tender to the tender commission. Amendments to the application for the tender

or a notice of withdrawal of same shall be considered valid provided such amendment or such notice was received by the tender commission prior to the expiration of the term for submitting applications for the tender.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 28 of this Federal Law
See the Article in the previous wording

Article 28. Opening Envelopes with Tender Applications

1. Envelopes with applications to participate in the tender shall be opened at the meeting of the tender commission in the procedure, on the day, at the time and place established by the tender commission. In so doing, the denomination (family name, name and patronymic) and the location (residence) of each applicant whose envelope with an application for the tender is being opened, and also information on the availability in that application of the documents and materials supposed to be submitted by the applicant according to the tender documentation shall be announced and entered in the protocol on the opening of envelopes with applications for the tender.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 2 of Article 28 of this Federal Law. The amendments shall enter into force on January 1, 2014
See the part in the previous wording

2. Applicants or their representatives shall have the right to be present at the opening of envelopes with applications for the tender. Applicants or their representatives shall be entitled to carry out audio recording, video recording, photographing.

3. All envelopes with applications for the tender that have been presented to the tender commission prior to the expiration of the term established by the tender documentation for submitting applications for the tender shall be opened.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 29 of this Federal Law
See the Article in the previous wording

Article 29. Preliminary Selection of Tenderers

1. The preliminary selection of bidders at the tender shall be conducted in the procedure established under tender documents by the tender commission which shall determine:

1) the compliance of the tender application with the requirements specified in the tender documents. Notably, the tender commission shall have the right to demand that the applicant supply explanations of the provisions of application for the tender submitted by it;

2) the compliance of the applicant being an individual entrepreneur, legal entity or the legal entities acting as the applicant as being party to a simple partnership

agreement with the requirements applicable to participants in the tender established by the tender documentation. Notably, the tender commission shall have the right to demand that the applicant clarify the provisions of documents and materials submitted by it to confirm its compliance with the specified requirements;

3) the applicant's compliance with the requirements applicable to a concessionaire under Item 2 of Part 1 of Article 5 of the present Federal Law;

4) the lack of a decision on liquidation of the legal entity being the applicant or on termination of the activities as an individual entrepreneur of the natural person being the applicant;

5) the lack of a decision on deeming the applicant bankrupt or on commencing winding-up proceedings in respect of the applicant.

2. The tender commission shall, on the basis of the results of preliminary selection of tender bidders, make a decision to either admit or deny admission to the applicant as a bidder at the tender and formalize that decision as a protocol on the conduct of preliminary selection of bidders at the tender, including the denomination (in case of a legal person) or family name, first name and patronymic (in case of an individual entrepreneur) of the applicant who has passed preliminary selection of bidders at the tender and has been admitted as a bidder at the tender and also the denomination (in the case of a legal person) or family name, first name and patronymic (in case of an individual entrepreneur) of the applicant who has failed to pass preliminary selection of bidders at the tender and has not been admitted as a bidder at the tender, providing reasons for the decision taken by the tender commission.

3. A decision to deny admission to the applicant as a bidder at the tender shall be made by the tender commission when:

1) the applicant fails to satisfy the requirements made upon bidders at the tender and established by Part 1 of the present Article;

2) the application for the tender is not consistent with the requirements made upon applications for the tender and established by the tender documentation;

3) documents and materials submitted by the applicant are either incomplete and/or inaccurate;

4) the earnest money of the applicant was not received in the account when due and in the amount established by the tender documentation, provided earnest money is to be paid before the deadline for submission of applications for participation in the tender according to the tender documentation.

4. The tender commission shall, within 3 (three) working days from the signing by the members of the tender commission of a protocol on the conduct of preliminary selection of bidders at the tender but not later than within sixty working days prior to the expiration of the term for submitting tender offers to the tender commission, send a notice to bidders at the tender with an invitation to submit tender offers. Participants not admitted as bidders at the tender shall receive a notice that they are denied admission to the tender enclosing a copy of said protocol and be paid back the amounts of deposits contributed by them, within 5 (five) working days from the signing of said protocol by members of the tender commission provided earnest money is to be paid before the deadline for submission of applications for participation in the tender according to the tender documentation.

5. The decision not to admit an applicant to bid at the tender may be appealed in the procedure established under the legislation of the Russian Federation.

6. If the tender is announced to be unaccomplished in keeping with Part 6 of Article 27 of the present Federal Law the awarding party is entitled to open the envelope with the only application for participation in the tender submitted and consider this application in the procedure established by the present article within three working days after the date of the decision on deeming the tender unaccomplished. If the applicant and the submitted application for participation in the tender meet the requirements established by the tender documentation the awarding party is entitled to do the following within ten working days after the date of the decision on deeming the tender unaccomplished: offer the applicant the opportunity to submit an offer to conclude a concession agreement on terms that comply with the tender documentation. The offer shall be submitted within 60 working days after the applicant's receiving the awarding party's offer. The term for the awarding party to consider the offer submitted by the applicant shall be set by a decision of the awarding party but it shall not exceed 15 working days after the day on which the applicant submitted the offer. According to the results of the applicant's offer submitted the awarding party shall take a decision - if the offer meets the requirements set out in the tender documentation, including tender criteria - on conclusion of a concession agreement with the applicant.

7. The awarding party shall return to the applicant that has filed the only application for participation in the tender the earnest money that the applicant has paid if:

- 1) It was not suggested that applicant submitted an offer to the awarding party to conclude a concession agreement - within 15 working days after the date of the decision on deeming the tender unaccomplished;
- 2) the applicant did not submit an offer to the awarding party to conclude a concession agreement - within five working days after the expiry of the established term for submission of an offer for conclusion of a concession agreement;
- 3) according to the results of consideration of the offer for conclusion of a concession agreement submitted by the applicant the awarding party did not take a decision to conclude a concession agreement with such applicant - within five working days after the expiry of the established term for the awarding party to consider an offer for conclusion of a concession agreement.

Article 30. Submission of Tender Offers

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 1 of Article 30 of this Federal Law

See the Part in the previous wording

1. A tender offer shall be drawn up in the Russian language in writing in duplicate (an original and a copy) each copy of which shall be certified with the signature of a tenderer and submitted to the tender commission in the procedure prescribed under tender documents in a separate duly sealed envelope. The tender offer shall enclose a list of documents and materials furnished by the tenderer in duplicate

duly certified with its signature, the original of which shall be retained by the tender commission and a copy - by the tenderer. If the criterion envisaged by Part 2.2 of Article 24 of the present Federal Law is established as a tender criterion a provision may be made in the tender documentation for participants in the tender to submit a bid in two separate sealed envelopes, one containing a bid in accordance with the tender criteria envisaged by Parts 2 and 2.1 of Article 24 of the present Federal Law and the other one a bid in accordance with the tender criterion envisaged by Part 2.2 of Article 24 of the present Federal Law.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Part 2 of Article 30 of this Federal Law

See the Part in the previous wording

2. The tender offer submitted to the tender commission shall be registered in a tender offers registration log-book under an ordinal number, indicating the date and exact time when it was submitted (hours and minutes) to avoid that time coinciding with the time of submission of other tender offers. The copy of the list of documents and materials submitted by the tenderer shall bear a note of the date and time of making a tender offer stating the number of that tender offer. If according to the tender documentation earnest money is to be paid after the deadline for submission of applications for participation in the tender a participant in the tender shall pay earnest money in the procedure, in the amount and within the term established by the tender documentation. In this case, the participant in the tender shall not pay earnest money after the expiry of the term for submission of bids.

3. The tenderer shall have the right to make a tender offer at a meeting of the tender commission at the time of opening envelopes with tender offers which is the time of expiration of the term for making tender offers.

4. The tenderer shall have the right to amend or withdraw its tender offer at all times prior to the expiration of the term for submission of tender offers to the tender commission. Amendment of the tender offer or a notice of withdrawal of same shall be considered valid when such amendment or notice of withdrawal was received by the tender commission prior to the expiration of the term for submission of tender offers.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 5 of Article 30 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the part in the previous wording

5. The tender offer shall indicate in respect of each tender criterium a value in the form of a digit attached to a condition offered by the tenderer. In the case when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of the present Federal Law, in the tender offer for each criterion of tender the value of a condition offered by the participant shall be indicated as numerical value for each year of the term of operation of the concession agreement.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 31 of this Federal Law
See the Article in the previous wording

Article 31. Opening Envelopes with Tender Offers

1. Envelopes with bids shall be opened at a meeting of the tender commission in the procedure and on the day, at the time and place established by the tender documentation. If bids are submitted in two separate sealed envelopes in accordance with Part 1 of Article 30 of the present Federal Law such envelopes shall be opened on different days. The following shall be done when envelopes with bids are opened: the name and location (for a legal entity) or the surname, first name, patronymic and place of residence (for an individual entrepreneur) of each participant in the tender, information on the availability in the bid of the documents and materials that have to be submitted by participants in the tender according to the tender documentation shall be announced and entered in the minutes on the opening of envelopes with bids. When envelopes with bids are opened in accordance with the tender criterion set out in Part 2.2 of Article 24 of the present Federal Law the following information shall be entered in the minutes on the opening of envelopes with bids: on the fact that the participant in the tender has a bid in compliance with such tender criterion and on the content of the bid. When envelopes with bids are opened in accordance with the tender criteria envisaged by Parts 2 and 2.1 of Article 24 of the present Federal Law the following shall be entered in the minutes on the opening of envelopes with bids: the meaning of the conditions contained in bids in compliance with such tender criteria.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 2 of Article 31 of this Federal Law. The amendments shall enter into force on January 1, 2014
See the part in the previous wording

2. The tenderers who submitted tender offers to the tender commission or their representatives shall be entitled to be present at the opening of envelopes with tender offers. The participants of a tender who presented tender offers to the tender commission or their representatives shall be entitled to carry out audio recording, video recording, photographing.

3. All the envelopes with tender offers that were submitted by tenderers to copy prior to the expiration of the term for making tender offers shall be opened, except for envelopes with bids submitted by the participants in the tender which have not observed the procedure, amount and/or term for paying earnest money established by the tender documentation.

4. An envelope with a tender offer submitted to the tender commission upon the expiration of the term for making tender offers and also the envelope with a bid submitted by a participant in the tender that has not observed the procedure, amount and/or term for paying earnest money established by the tender documentation shall not be opened but returned to the tenderer who submitted it

together with a list of documents and materials presented by it which list shall bear a note of refusal to accept the tender offer.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 32 of this Federal Law
See the Article in the previous wording

Article 32. Procedure for Examining and Assessing Tender Offers

1. The bids submitted by the participants in the tender whose envelopes with bids are subject to opening in accordance with Article 31 of the present Federal Law shall be considered and assessed in the procedure established by the tender documentation by the tender commission which shall find out if the bid meets the requirements set out in the tender documentation and assess the bids in respect of which it is decided that they meet the requirements set out in the tender documentation so as to select the winner in the tender.

2. On the basis of the results of consideration of bids the tender commission shall decide if the bid meets or does not meet the requirements set out in the tender documentation.

3. A decision on the non-compliance of a bid with the requirements set out in the tender documentation shall be taken by the tender commission if:

1) the participant in the tender has defaulted on submitting the documents and materials envisaged by the tender documentation confirming the compliance of the bid with the requirements set out in the tender documentation and confirming the information contained in the bid;

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 reworded Item 2 of Part 3 of Article 32 of this Federal Law. The new wording shall enter into force on January 1, 2014
See the Item in the previous wording

2) the condition contained in the tender offer does not correspond to the established indices of the tender's criteria and (or) to the limit values of the tender's criteria;

3) the documents and materials submitted by the participant in the tender are not reliable.

4. A decision on non-compliance of a tender offer with the requirements set out in the tender documentation may be appealed in the procedure established under the legislation of the Russian Federation.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 5 of Article 32 of this Federal Law
See the Part in the previous wording

5. An assessment of bids according to the tender criteria envisaged by Items 1 - 7 of Part 2 and Part 2.1 of Article 24 of the present Federal Law shall be carried out

in the following procedure:

- 1) when the initial value of a tender criterium is to be increased, the value calculated on the basis of the condition found in the tender offer and said criterium, shall be arrived at by multiplying the coefficient of that criterium by the ratio of the difference between the value of the condition found in the tender offer and an initial value of that criterium to the difference between the highest value of conditions found in all tender offers and the least of the values of conditions contained in all bids;
- 2) when the initial value of a tender criterium is to be decreased, the value calculated on the basis of a condition found in the tender offer and said criterium shall be arrived at by multiplying the coefficient of that criterium by the ratio of the difference between the largest of the values of conditions contained in all bids and the value of the condition found in the tender offer to the difference between the initial value of that criterium and the lowest value of conditions found in all tender offers;
- 3) in respect of each tender offer, the values calculated for all criteria of the tender in accordance with the provisions of Items 1 and 2 of this Part shall be added up and the bottomline value shall be determined.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 5.1 of Article 32 of this Federal Law

See the Part in the previous wording

5.1. Tender bids shall be assessed by the tender commission in compliance with the tender criteria provided for by Item 8 of Part 2 and by Part 2.2 of Article 24 of this Federal Law in the following procedure:

- 1) points shall be assigned to the bid - ranging from one to ten;
- 2) the value computed according to such criteria shall be calculated by way of multiplying the coefficients established by the tender documentation and taking into account the significance of such criteria by the ratio of the number of points assigned to the given bid to ten points.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.2. The Part shall enter into force on January 1, 2014

5.2. The appraisal of tender offers according to the tender's criteria aforementioned in part 2.3 of Article 24 of this Federal Law shall be carried out by the tender commission by means of comparison of conditions contained in tender offers. The best conditions contained in tender offers correspond to:

- 1) discounted proceeds of the bidder at the tender for whom its minimum value is determined in the case when the discounted proceeds of the bidder at the tender for which its minimal value is determined differ from the discounted proceeds of another bidder at the tender for whom the next amount by value of the discounted proceeds was determined after its minimal value by more than two percent

exceeding the minimal value of the discounted proceeds;

2) the greatest number of best scheduled values of the indices of activity of the concessionaire contained in the tender offer in comparison with the corresponding values contained in the tender offers of the other bidders at the tender, the discounted proceeds of which exceed less than by two percent the minimum value of the discounted proceeds, determined on the basis of all tender offers, or are equal to it in cases when the discounted proceeds of the bidder at the tender for which its minimum value is determined differ from the discounted proceeds of another bidder at the tender for which the next value by amount of the discounted proceeds was determined after its minimum value, less than by two percent exceeding the minimum value of the discounted proceeds or equal to it.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.3. The Part shall enter into force on January 1, 2014

5.3. Discounted proceeds of the bidder at the tender are equal to the sum of the following amounts calculated in the prices of the first year of the term of operation of the concession agreement with the application of the discounting factor of (hereinafter referred to as discounting of values):

1) necessary total proceeds from deliveries of goods, rendering of services at regulated prices (tariffs) for each year of the term of operation of the concession agreements;

2) amount of the charges financed by the concession provider on the use (operation) of the object of the concession agreement, for each year of the term of operation of the concession agreements;

3) charges of the concessionaire subject to compensation according to the normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal and not compensated to it on the expiry date of the concession agreement.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented part 5.3 of Article 32 of this Federal Law with Items 4 and 5. The amendments shall enter into force on February 1, 2015

Federal Law No. 265-FZ of July 21, 2014 amended part 5.4 of Article 32 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.4. The Part shall enter into force on January 1, 2014

5.4. Discounted proceeds of the bidder at the tender shall be determined with the use of the computer program posted on the official site on the Internet for posting of information on tendering by the authorised federal body of the executive power which carries out functions on the maintaining an official site. Requirements to the form and contents of such a program shall be established by the aforementioned federal body of the executive power.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.5. The Part shall enter into force on January 1, 2014

5.5. The factor of discounting shall be taken equal to the rate of return of the invested capital established by the federal body of the executive power in the field of state tariff regulation according to normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal. The procedure for discounting of amounts shall be established by the Government of the Russian Federation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.6. The Part shall enter into force on January 1, 2014

5.6. In the case when during the assessment of tender offers the intended change of the necessary total proceeds of the participant of the tender determined in accordance with part 5.7 of this Article for each year of the prospective validity of the concession agreements, in some year in relation to the previous year will exceed the limit (maximum) growth of the necessary total proceeds established by the tender documentation of the concessionaire from the performance of regulated kinds of activity according to normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal, the bidder at the tender shall be excluded from the tender.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 32 of this Federal Law with Part 5.7. The Part shall enter into force on January 1, 2014

5.7. In the case the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, the necessary total proceeds from deliveries of goods, rendering of services at the regulated prices (tariffs) shall be calculated according to methodical instructions on the calculation of the regulated prices (tariffs) envisaged by normative legal acts of the Russian Federation in the sphere of heat supply, in the sphere of water supply and water removal, for the methods of tariffs regulation envisaged by part 1.3 of Article 23 of this Federal Law. While calculating the necessary total proceeds shall be used the prices, amounts, values and indices contained in the tender offer and established by the tender documentation.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 6 of Article 32 of this Federal Law. The amendments shall enter into force on January 1, 2014
See the part in the previous wording

6. The conditions contained in bids shall be assessed by the tender commission by comparing the results of summing up the bottomline value calculated in the procedure set out in Item 3 of Part 5 of the present Article and the value calculated in the procedure set out in Part 5.1 of the present Article. In cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, conditions contained in tender offers shall be appraised by the tender commission according the procedure established by part 5.2 of this Article.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 amended Part 7 of Article 32 of this Federal Law

See the Part in the previous wording

7. By a decision of the awarding party the tender is announced to be unaccomplished if less than two bids have been submitted to the tender commission or if the tender commission has recognised less than two bids as meeting the requirements set out in the tender documentation, including the criteria of the tender. The awarding party is entitled to consider the bid submitted by only one participant in the tender and if it meets the requirements set out in the tender documentation, including the criteria of the tender to take a decision on conclusion of a concession agreement with this participant in the tender in compliance with the conditions contained in the bid submitted by the participant, within 30 days after the date of the decision on deeming the tender unaccomplished. If, according to the results of consideration of the bid submitted by only one participant in the tender, no decision has been taken on concluding a concession agreement with this participant in the tender the earnest money paid by this participant in the tender shall be refunded thereto within 15 days after the expiry of said 30-day term. Where a tender is declared frustrated by the awarding party's decision or as a result of consideration of the competitive bid filed by the only tender participant the awarding party has not decided to make a concession agreement with this tender participant, the decision on making the concession agreement is subject to reversal or modification as regards the time of transfer to the concessionaire the facility being the subject matter of the concession agreement and, if necessary, as regards other terms of the concession agreement.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 33 of this Federal Law

See the Article in the previous wording

Article 33. Procedure for Determining a Winner of the Tender

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 1 of Article 33 of this Federal Law. The amendments shall enter into force on January 1, 2014

See the part in the previous wording

1. The winner of the tender shall be the bidder at the tender who offered the best conditions defined in the procedure established under Part 6 of Article 32 of this Federal Law. In cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law, the best conditions shall be determined according the procedure established by part 5.2 of Article 32 of this Federal Law.

2. When two and more tender offers contain the same best conditions, the winner of the tender shall be a bidder at the tender who submitted a tender offer earlier than other said bidders.

3. The decision appointing the winner of the tender shall be formalized as a protocol of examination and assessment of tender offers which shall indicate:

1) criteria of the tender;

2) terms and conditions contained in tender offers;

3) results of examination of tender offers with reference to the tender offers in whose respect a decision was taken about non-compliance of same with the requirements set out in the tender documentation;

4) results of assessment of tender offers as provided under Parts 5, 5.1 and 6 of Article 32 of this Federal Law;

5) denomination and location (in the case of a legal person) or family name, first name, patronymic and residence (in the case of an individual entrepreneur) of the winner of the tender and substantiation of the decision taken by the tender commission on declaring a tenderer the winner of the tender.

4. The decision to declare a tenderer the winner of the tender may be appealed in the procedure established under the legislation of the Russian Federation.

Article 34. The Content of the Protocol on the Results of Holding a Tender and the Term for Its Signing

1. The tender commission shall, not later than after the lapse of five working days from signing of the protocol on examination and assessment of tender offers, sign a protocol on the results of holding a tender which protocol shall comprise:

1) a decision to conclude a concession agreement, stating the type of the tender;

2) information on holding a tender;

3) a list of persons who, under a decision on concluding an concession agreement, received information on holding a tender along with an invitation to take part in the tender (when holding a closed tender);

4) tender documents and amendments thereto;

5) requests of bidders at the tender for clarification of the provisions of tender documents and relevant explanations of the conceder or the tender commission;

6) a protocol on opening envelopes with applications for the tender;

7) originals of applications for the tender submitted to the tender commission;

8) a protocol on conducting preliminary selection of bidders at the tender;

9) a list of the bidders at the tender who received notices with an invitation to submit tender offers;

10) a protocol of opening envelopes with tender offers;

11) a protocol of examination and assessment of tender offers.

2. The protocol on the results of holding a tender shall be kept by the conceder within the period of validity of the concession agreement.
3. The amounts of deposits paid by the bidders of the tender shall be returned to all the tenderers, except for the winner of the tender within five working days from the signing of a protocol on the results of holding a tender.

Article 35. Publication and Posting of Information on the Results of Holding a Tender, Notification of Tenderers of the Results of Holding a Tender

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 1 of Article 35 of this Federal Law. The amendments shall enter into force on February 1, 2015

1. The tender commission shall, within fifteen working days from the signing of a protocol on the results of holding a tender or the taking by the conceder of a decision to declare a tender invalid, be obligated to publish information on the results of holding a tender indicating the denomination (in the case of a legal person) or family name, first name, patronymic (in the case of an individual entrepreneur) of the winner of the tender or decision to declare the tender invalid by substantiating that decision in the official periodical that published information on holding the tender and post such information on the official Internet site.
2. The tender commission shall, within fifteen working days from the signing of a protocol on the results of holding a tender or the adoption by the conceder of a decision to declare the tender invalid, be obligated to send a notice to bidders of the tender about the results of holding the tender. Said notice may also be sent electronically.
3. Any bidder at the tender shall have the right to apply to the conceder for explanations of the results of holding a tender and the conceder shall be obligated to provide in writing appropriate explanations within thirty days from receipt of such application.

Информация об изменениях:

Federal Law No. 108-FZ of June 30, 2008 amended Article 36 of this Federal Law
See the Article in the previous wording

Article 36. Procedure for Concluding a Concession Agreement

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 amended Part 1 of Article 36 of this Federal Law. The amendments shall enter into force on January 1, 2014
See the part in the previous wording

1. Within five working days after the day on which the members of the tender commission signed the minutes on the results of the tender the awarding party shall send the following to the winner in the tender: a copy of said minutes, a draft concession agreement including the terms of the agreement defined by the

decision on the conclusion of the tender agreement, the tender documentation and the bid submitted by the winner in the tender and also the other conditions envisaged by the present Federal Law and other federal laws. The concession agreement shall be signed within the term set by the tender documentation and specified in the announcement of the tender. Unless before the date of signing of concession agreement established by the tender documentation or by the draft concession agreement envisaged by Article 38 of the present Federal Law the winner of the tender has submitted to the awarding authority the documents envisaged by the tender documentation and/or said draft concession agreement as confirming the availability of security for the performance of obligations under the concession agreement the awarding authority shall take a decision on refusal to conclude a concession agreement with said person. In cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law the terms and conditions of concession agreements shall not include the prices, amounts, values and indices comprised in the tender documentation according to Items 4 - 7, 9 - 11 of part 1.2 of Article 23 of this Federal Law.

Информация об изменениях:

Federal Law No. 38-FZ of April 25, 2012 supplemented Article 36 of this Federal Law with Part 1.1

1.1. After signing by the tender commission members of a record as to the tender results the body authorised by the awarding party shall hold talks on the basis of the decision on making the concession agreement in the form of joint conferences with the tender winner or with the other person in respect of which the decision has been taken to make the concession agreement in compliance with this Federal Law for the purpose of discussing the terms of the concession agreement and their probable modification on the basis of the talks' results. The terms of the agreement may not be modified on the basis of the talks' results, if the cited terms were the tender criteria and/or their content was defined on the basis of the competitive bid of the person in respect of which it has been decided to make the concession agreement. The time of and procedure for holding talks shall be determined by the tender documentation. The tender documentation shall provide for the terms of the concession agreement which are not subject to modification in the course of talks and/or the terms which are subject to modification with the observance of the procedure provided for by the tender documentation. A report on making a concession agreement is subject to publication in the procedure and at the time which are established by the Government of the Russian Federation, the state power body of a constituent entity of the Russian Federation or local authority in the decision on making the concession agreement.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 36 of this Federal Law with Part 1.2. The Part shall enter into force on January 1, 2014

1.2. The provisions on the conduct of negotiations and amendment of terms and conditions of concession agreement envisaged by part 1.1 of this Article and part 3 of Article 13 of this Federal Law shall not apply in cases when the object of the concession agreement is the property aforementioned in part 1.2 of Article 10 of this Federal Law.

2. In the case of refusal or evasion by the winner of the tender to sign a concession agreement on the specified dates, the conceder shall have the right to propose that a concession agreement be made by a tenderer whose tender offer, by the results of examination and assessment of tender offers, contains the next best conditions after the conditions offered by the winner of the tender. The conceder shall send to such tenderer a draft concession agreement including the terms of agreement defined by the decision on conclusion of the concession agreement, the tender documentation and the bid submitted by such participant in the tender, and also the other conditions envisaged by the present Federal Law and other federal laws. The concession agreement shall be signed within the term set by the tender documentation, specified in the announcement of the tender and counted from the day on which a draft concession agreement was sent to such participant in the tender. The winner of the tender that failed to sign a concession agreement at the specified dates, shall not receive back the deposit paid by it. If before the date of signing of the concession agreement set by the tender documentation the participant in the tender to which the awarding party has offered in accordance with the present part to conclude the concession agreement has not submitted to the awarding party the documents envisaged by the tender documentation and confirming the availability of a security for the performance of obligations under the concession agreement the awarding party shall take a decision on refusal to conclude the concession agreement with such participant in the tender and on declaring the tender unaccomplished.

3. If the concession agreement is concluded in compliance with Part 6 of Article 29 of the present Federal Law within five working days after the awarding party's decision to conclude the concession agreement with the applicant that has submitted the only application for participation in the tender the awarding party shall send the following to such applicant: a draft concession agreement including the terms of the agreement defined by the decision on conclusion of the concession agreement, the tender documentation and the other conditions envisaged by the present Federal Law and other federal laws. If the concession agreement is concluded in accordance with Part 7 of Article 32 of the present Federal Law within five working days after the awarding party's decision on conclusion of the concession agreement with the only participant in the tender the awarding party shall send the following to such participant in the tender: a draft concession agreement including the terms thereof defined by the decision on conclusion of the concession agreement, the tender documentation and the bid submitted by such participant in the tender and also the other conditions envisaged by the present Federal Law and other federal laws. In these cases the concession agreement shall be signed within the term established by the tender documentation, specified in the announcement of the tender and counted from the day on which the draft concession agreement was sent to such applicant or to such

participant in the tender. If before the date of signing of the concession agreement set by the tender documentation such applicant or such participant in the tender has not submitted to the awarding party the documents envisaged by the tender documentation and confirming the availability of security for the performance of obligations under the concession agreement the awarding party shall take a decision on refusal to conclude the concession agreement with such applicant or such participant in the tender.

3.1. If, after the awarding party has sent to a winner in the tender, other participant in the tender in accordance with Part 2 of this Article or an applicant or participant in the tender when a concession agreement was concluded in accordance with Part 6 of Article 29 or Part 7 of Article 32 of the present Federal Law the documents envisaged by Parts 1-3 respectively of the present Article it is established that a decision has been taken in respect of such person on the liquidation thereof or on the termination of the person's activity as an individual entrepreneur or a decision has been taken by an arbitration court on deeming such person bankrupt or on commencing winding-up proceedings in respect of the person the awarding party shall take a decision on refusal to conclude a concession agreement with such person and within five days after the date of the decision shall send it to that person. Within 30 days after the decision is received by such person it may be disputed by the person in judicial proceedings.

3.2. If a decision is taken in respect of the winner in the tender on refusal to conclude a concession agreement with the winner the awarding party is entitled to offer to conclude a concession agreement with the participant in the tender whose bid, according to the results of consideration and assessment of bids, contains the best conditions next to the conditions offered by the winner in the tender.

4. The concession agreement shall be concluded in writing with the winner in the tender or with the other persons specified in Parts 2, 3 and 3.2 of the present Article on the condition that they have provided the documents envisaged by the tender documentation and confirming the availability of security for the performance of obligations under the concession agreement. The concession agreement shall enter into force as of the time when it is signed.

Информация об изменениях:

Federal Law No. 152-FZ of July 2, 2010 reworded Article 37 of this Federal Law
See the text of the Article in the previous wording

Article 37. Concluding a Concession Agreement without a Tender

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 amended part 1 of Article 37 of this Federal Law. The amendments shall enter into force on February 1, 2015

Federal Law No. 38-FZ of April 25, 2012 amended Part 1 of Article 37 of this Federal Law

See the Part in the previous wording

1. In the cases envisaged by Part 6 of Article 29, Part 7 of Article 32 of the present

Federal Law, Part 2 of the present article and also in the other cases envisaged by a federal law a concession agreement may be concluded without a tender with the concessionaire determined by decision of the Government of the Russian Federation.

2. A concession agreement may be concluded without a tender with a person whose rights of possessing and using the property which may be deemed according to the present Federal Law the facility being the subject matter of the concession agreement and is needed for the pursuance of an activity envisaged by the concession agreement have come into being under a contract of lease, provided the following conditions are simultaneously observed:

1) the facility being the subject matter of the concession agreement being concluded is a piece of property which has been handed over to the lessee under a contract of lease, has been created and/or renovated by the lessee under such contract and may be the facility being the subject matter of a concession agreement according to the present Federal Law;

2) the contract of lease in accordance with which the lessee started to have the rights of possessing and using the property being the facility being the subject matter of the concession agreement had been concluded before July 1, 2010.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 37 of this Federal Law with parts 2.1 and 2.2. The amendments shall enter into force on February 1, 2015

Federal Law No. 265-FZ of July 21, 2014 amended part 3 of Article 37 of this Federal Law. The amendments shall enter into force on February 1, 2015

3. The concession agreement concluded without a tender in accordance with Part 2 of the present article shall meet the following requirements:

1) the effective term of the concession agreement does not extend the effective term of the contract of lease in accordance with which the lessee has started to have the rights of possessing and using the property being the facility being the subject matter of the concession agreement;

2) the conclusion of the concession agreement does not entail a deterioration of the situation of the parties to the contract of lease and also of the consumers of the products produced, works performed or services provided by the lessee;

3) the concession agreement being concluded contain all the substantial terms of a concession agreement which are established by Article 10 of the present Federal law and the duties of concessionaire established by Article 8 of the present Federal Law, for instance the concessionaire's duty to create and/or renovate the facility being the subject matter of the concession agreement and pursue activities through the use (operation) of such facility;

4) the concession agreement being concluded cannot envisage a reduction in the concessionaire's investment obligations in terms of creating and/or renovating the facility being the subject matter of the concession agreement in comparison with the lessee's investment obligations set out in the contract of lease.

Информация об изменениях:

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 37 of this Federal Law with Part 4. The Part shall enter into force on January 1, 2014

4. In cases when during the performance of the concession agreement the object of which is the property aforementioned in part 1.2 of Article 10 of this Federal Law, unowned facilities of heat supply, unowned facilities of the centralised systems of hot water supply, cold water supply and (or) water removal technologically connected with the object of the concession agreement are detected being a part of systems of heat supply, systems of water supply and (or) water removals related to the object of the concession agreement the transfer shall be permitted by the concession provider to the concessionaire of the rights of possession and (or) use of the facilities which are state or municipal property and the assessment of the cost of which in the aggregate does not exceed ten percent of the balance sheet cost of the object of the concession agreement determined on the date of the conclusion of the concession agreement without the holding of a tender. The aforementioned restriction of balance sheet cost of property the right to which may be transferred without the holding of a tender shall be extended to all contracts or agreements concluded by the legal owner without the holding of a tender and presupposing the transition of rights of possession and (or) use concerning each object of heat supply and each object of centralised systems of hot water supply, cold water supply and (or) water removals in the aggregate.

Информация об изменениях:

Federal Law No. 265-FZ of July 21, 2014 supplemented Article 37 of this Federal Law with parts from 4.1 to 4.12. The amendments shall enter into force on May 1, 2015

Federal Law No. 103-FZ of May 7, 2013 supplemented Article 37 of this Federal Law with Part 5. The Part shall enter into force on January 1, 2014

5. In the case when during the performance of the concession agreement the object of which is the property specified in part 1.2 of Article 10 of this Federal Law, unowned facilities of heat supply, unowned facilities of the centralised systems of hot water supply, cold water supply and (or) water removal technologically connected with the object of the concession agreement are detected being a part of systems of heat supply, systems of water supply and (or) water removals related to the object of the concession agreement the transfer shall be permitted by the concession provider to the concessionaire of the rights of possession and (or) use of the facilities which are the state or municipal property vested with the status of the single heat supplying organisation, a guaranteeing organisation, without taking into account the requirements established by part 4 of this Article shall be permitted.

Информация об изменениях:

Federal Law No. 145-FZ of July 17, 2009 supplemented this Federal Law with

Article 38

Article 38. Conclusive Provisions

1. If before December 31, 2008 the Government of the Russian Federation had taken a decision on concluding a concession agreement according to the result of a public tender for the right to conclude a concession agreement in respect of the subject matter of concession agreement envisaged by Item 1 of Part 1 of Article 4 of the present Federal Law the awarding authority -- on the basis of a decision of the Government of the Russian Federation and in accordance with proposals of the person with which a decision has been taken to conclude a concession agreement -- is entitled to modify the terms of the draft concession agreement and of the draft contract of lease of the land plot that have been sent to such person in accordance with Part 1 of Article 36 of the present Federal Law in as much as it concerns the following:

- 1) the term and priority rating of the provision of the land plots intended for the pursuance of the activity envisaged by the concession agreement;
- 2) the stages of the creation and/or renovation of the subject matter of the concession agreement;
- 3) the technical characteristics of specific parts and structural components of the subject matter of the concession agreement, if there is a reduction in the awarding authority's expenses relating to the creation and/or renovation of the subject matter of the concession agreement, if it complies with the requirements set out in technical regulations or the normative technical documents that had been effective until the date of their entry into force and if the consumer properties of the subject matter of the concession agreement keep intact;
- 4) a reduction in the cost-estimate value of the subject matter of the concession agreement in the amount proposed by the person with which a decision is taken to conclude the concession agreement;
- 5) the term for submitting documents to the awarding authority to confirm that borrowed funds are provided to the concessionaire and/or the concessionaire has its own funds in the amount needed for implementing the concession agreement but for not more than nine months;
- 6) the term for submitting documents to confirm the availability of security for the performance of the concessionaire's obligations under the concession agreement (an irrevocable banker's guarantee, a contract of the concessionaire's pledge of rights under a contract of bank deposit or a contract of insurance of the risk of the concessionaire's liability under the concession agreement). As this is being done, said term shall not exceed the term for which the awarding authority provides the concessionaire with the land plots intended for the pursuance of the activity envisaged by the concession agreement, and the term for the awarding authority to provide the concessionaire with the funds envisaged by the concession agreement;
- 7) the bids submitted by the person with which a decision on concluding the concession agreement has been taken, except for the bids being tender criteria.

2. A modification of the terms of the draft concession agreement which are not mentioned in Part 1 of the present Article but are contained in the tender documentation as defined under the decision on the conclusion of the concession

agreement or the bid of the person with which a decision on concluding the concession agreement has been taken or a modification of the substantial terms of the concession agreement which are envisaged by the draft concession agreement in accordance with Items 1-3, 6, 6.2 and 7 of Part 1 of Article 10 of the present Federal Law is hereby prohibited.

President of the Russian Federation

V. Putin

The Kremlin, Moscow