

## Public Procurement Authority issued a communiqué and regulation outlining principles for determining the most economically advantageous tender

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The Public Procurement Authority has issued a communiqué and regulation outlining principles for determining the most economically advantageous tender where the lowest price is offered by more than one bidder. The communiqué amends Article 70 of the General Communiqué on Public Procurement ("**Communiqué**"), while the regulation amends Article 63 of the Regulation for Implementation of Service Procurement Tenders ("**Regulation**"). The communiqué and regulation were both published Official Gazette number 29428 on 28 July 2015.

Prior to the amendments, Article 63 of the Regulation outlined elimination criteria for public tenders. The amendments introduce a mechanism whereby bidders are rated against three criteria to determine the top two most economically advantageous tenders. If there are two or more bidders with the same rating, the first and second bidder will be decided by drawing lots.

If the bidder is a joint venture, all partners must meet the criteria. If the bidder submits a certificate of experience for a partner which holds more than 50% of shares, such partner will also be included in the evaluation.

The new rating mechanism considers:

- Contracts executed in the last two years

The price of the contracts executed under the Public Procurement Contracts Code numbered 4735 within two years of the tender's announcement or invitation date will be taken into consideration. The bidder will be rated by comparing the total price of the contracts to the approximate cost of the current project (subject to tender). If the bidder is a joint venture, contracts executed by each partner will be taken into consideration, as well as contracts executed by their respective partners for whom certificates of experience have been submitted.

- Registration with Chamber of Commerce and/or Industry or Relevant Trade Association

The price of the contracts executed under the Public Procurement Contracts Code numbered 4735 within two years of the tender's announcement or invitation date will be taken into consideration. The bidder will be rated by comparing the total price of the contracts to the approximate cost of the current project (subject to tender). If the bidder is a joint venture, contracts executed by each partner will be taken into consideration, as well as contracts executed by their respective partners for whom certificates of experience have been submitted.

- Due and prompt payment to employees

The bidder will be granted one point if the tendering authority has not detected any failure to duly and promptly pay employees during service procurement work undertaken for such authority within two years of the tender's announcement or invitation date. A bidder will also be granted one point if it has not undertaken any service procurement work for the tendering authority during those two years.

Please refer to the links for the full text of the amendments made to the [Communiqué](#) and the [Regulation](#) (only available in Turkish).

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## Related Attorneys

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